

STATE OF NEW MEXICO
ENVIRONMENTAL IMPROVEMENT BOARD

EIB 25-23

IN THE MATTER OF PROPOSED
ADOPTION OF 20.2.92 NMAC –
Clean Transportation Fuel Program

No. EIB 25 - __ (R)

PETITION FOR REGULATORY CHANGE TO ADOPT
20.2.92 NMAC, CLEAN TRANSPORTATION FUEL PROGRAM

The New Mexico Environment Department (“Department”), pursuant to 20.1.1.300 NMAC, *Rulemaking Procedures*, respectfully petitions the Environmental Improvement Board (“Board”) to adopt the proposed new rule of 20.2.92 NMAC, *Clean Transportation Fuel Program* (“Petition”). As required by 20.1.1.300(B) NMAC, the Department’s statement of reasons in support of this Petition is attached as **Exhibit A** and the text of the proposed new rule of 20.2.92 NMAC is attached in legislative-edit format as **Exhibit B**.

The Department respectfully requests the Board consider this Petition at a special meeting on or after June 2, 2025, and by June 10, 2025. *See* NMSA 1978, § 74-1-9(A) (“the Board shall determine within 60 days whether to hold a hearing for the proposed regulations”); *see also* 20.1.1.300(C) NMAC (“The board shall determine, at a public meeting occurring at least 15 days and no later than 60 days, after receipt of the petition, whether or not to hold a public hearing on the proposal.”).¹ The Department respectfully requests approximately 20 minutes for the Department to present this Petition at the special meeting in addition to any time necessary for the Board members to ask questions and deliberate. The Department respectfully requests the Board agree at the special meeting to hold a hearing on this Petition and its proposal to adopt **Exhibit B**,

¹ Fifteen days after the filing date of this petition is June 2, 2025.

new rule 20.2.92 NMAC, *Clean Transportation Fuel Program*. The Department respectfully requests the Board issue orders pursuant to 20.1.1.300(D) NMAC for a hearing on adoption of proposed new rule of 20.2.92 NMAC, *Clean Transportation Fuel Program*, as discussed at the special meeting, by June 11, 2025.²

The Department anticipates the hearing to adopt the proposed new rule of 20.2.92 NMAC, *Clean Transportation Fuel Program*, will take approximately 14 business days. The Department respectfully requests the Board schedule the hearing to begin on September 29, 2025, with no proceedings to take place on October 13, 2025, in recognition of Indigenous Peoples' Day, and continue through October 17, 2025, or as long as required to hear all testimony, evidence, and public comment.

Due to the complexity of the issues that are likely to arise in this rulemaking, the Department requests the Board appoint an administrative hearing officer to conduct the rulemaking proceeding, which will allow all Board members to devote their full attention to the substantive testimony and comment, and will help prevent potential procedural challenges to any final regulation adopted by the Board. *See* NMSA 1978, § 74-1-9(F); *see also* 20.1.1.107(B) NMAC.

JURISDICTION

The Board is authorized to adopt regulations regarding carbon intensity of transportation fuels pursuant to the Environmental Improvement Act, NMSA 1978, Sections 74-1-5, 74-1-8(A)(15) and 74-1-18(A) ("The board shall promulgate rules to implement a clean transportation fuel standard program no later than July 1, 2026"), in accordance with the requirements and

² The New Mexico Register submittal deadline for the public notice of the hearing is June 12, 2025, which will allow for publication of the hearing notice on June 24, 2025. *See* STATE RECORDS CENTER AND ARCHIVES, *2025 New Mexico Register, Submittal Deadlines and Publication Dates, Volume XXXVI, Issues 1-24*, available at <https://www.srca.nm.gov/nmac/nmregister/pdf/2025%20New%20Mexico%20Register%20Schedule.pdf>; *see also* 20.1.1.301(A) (public notice requirements).

process set forth in Environmental Improvement Act, NMSA 1978, Section 74-1-9 and 20.1.1 NMAC.

WHEREFORE, the Department requests the Board:

- A. Include the Petition on the agenda for the Board's next meeting, such as proposed by the Department, and consider this Petition at the meeting, such as on the dates requested by the Department;
- B. Authorize a hearing to consider the merits of this Petition, such as in the manner requested by the Department;
- C. Timely issue the necessary and appropriate orders for the hearing on this Petition, such as in the timeframe requested by the Department;
- D. Schedule the hearing to begin on a date certain and continue as long as required to hear all testimony, evidence, and public comment, such as in the manner requested by the Department; and
- E. Appoint a hearing officer.

Filed: May 16, 2025

Respectfully submitted,

**NEW MEXICO ENVIRONMENT
DEPARTMENT**

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CERTIFICATION

I hereby certify that on May 16, 2025, an electronic copy of this Petition for Regulatory Change to Adopt 20.2.92 NMAC, *Clean Transportation Fuel Program*, and its exhibits, were filed with the Board via email at:

Board
Pam Jones
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**STATE OF NEW MEXICO
ENVIRONMENTAL IMPROVEMENT BOARD**

**IN THE MATTER OF PROPOSED
ADOPTION OF 20.2.92 NMAC –
*Clean Transportation Fuel Program***

No. EIB 25 - __ (R)

**STATEMENT OF REASONS IN SUPPORT OF
PETITION FOR REGULATORY CHANGE TO ADOPT
20.2.92 NMAC, CLEAN TRANSPORTATION FUEL PROGRAM**

The Climate Change Bureau of the New Mexico Environment Department (“Department”), pursuant to 20.1.1.300(B) NMAC, respectfully submits to the Environmental Improvement Board (“Board”) this Statement of Reasons as **Exhibit A** to the Department’s Petition for Regulatory Change to Adopt 20.2.92 NMAC, *Clean Transportation Fuel Program* (“Petition”), in support of the regulatory changes proposed in the Petition for adoption of proposed new rule of 20.2.92 NMAC. *See* Petition, **Exhibit B**.

AUTHORITY AND BACKGROUND

1. Executive Order 2019-003m “On Addressing Climate Change,” (Jan. 29, 2019) directs New Mexico to establish a “comprehensive market-based program that sets emission limits to reduce carbon dioxide, and other greenhouse gas pollution, across New Mexico.”

2. The passage of House Bill 41 in March 2024 codified a new section into the Environmental Improvement Act, NMSA 1978, Section 74-1-18, directing the establishment of a market-based clean transportation fuel program to decrease the carbon intensity of transportation fuels over time.

3. The Board is authorized to adopt rules regarding the carbon intensity of

transportation fuel pursuant to the Environmental Improvement Act, NMSA 1978, Sections 74-1-5, 74-1-8(A)(15) and 74-1-18, in accordance with the requirements and process set forth in Environmental Improvement Act, NMSA 1978, Section 74-1-9 and 20.1.1 NMAC.

4. Section 74-1-18(A) of the Environmental Improvement Act directs that the Board “shall promulgate rules to implement a clean transportation fuel standard program no later than July 1, 2026.”

5. Proposed new rule 20.2.92 NMAC establishes the market-based Clean Transportation Fuel Program (“CTFP”) that sets the Clean Transportation Fuel Standard (“CTFS”) to reduce the carbon intensity of transportation fuel produced in New Mexico, imported into New Mexico or dispensed for use in New Mexico by a minimum of 20% below 2018 carbon intensity levels by 2030 and by a minimum of 30% below 2018 carbon intensity levels by 2040 in accordance with NMSA 1978, Section 74-1-18(B)(2).

SUMMARY OF THE PROPOSED RULE

6. Proposed new rule 20.2.92 NMAC assigns a carbon intensity to a transportation fuel based on the fuel’s greenhouse gas (“GHG”) lifecycle analysis.

7. As used in proposed new rule 20.2.92 NMAC, “transportation fuel” means “electricity or a liquid, gaseous or blended fuel, including gasoline, diesel, liquefied petroleum gas, natural gas and hydrogen, sold, supplied, used or offered for sale to power vehicles or equipment for the purposes of transportation.” NMSA 1978, § 74-1-3(I).

8. As required by Section 74-1-18(C)(1), proposed new rule 20.2.92 NMAC establishes a statewide technology-neutral CTFS based on annual carbon intensity targets. Proposed new rule 20.2.92 NMAC implements the CTFS through the CTFP.

9. Proposed new rule 20.2.92 NMAC recognizes three 2018 baseline carbon

intensities for transportation fuel used in New Mexico: gasoline, diesel, and jet fuel. Each baseline fuel has substitutes as observed under normal conditions.

10. Proposed new rule 20.2.92 NMAC sets conditions for how the CTFP assesses the carbon intensity of a transportation fuel against an applicable 2018 baseline and allows any transportation fuel with a carbon intensity below the standard to earn credits, including innovative gasoline, diesel, and jet fuel variations.

11. As required by Section 74-1-18(C)(1), proposed new rule 20.2.92 NMAC includes a CTFS based on a schedule for annually decreasing the carbon intensity of transportation fuel used in the state. The CTFS decreases annually to achieve the statutorily mandated 30% reduction below the 2018 baseline by 2040.

12. As required by Section 74-1-18(C)(2), proposed new rule 20.2.92 NMAC provides science-based, technology-neutral methodology to calculate fuel carbon intensities by accounting for the GHGs emitted throughout the “well-to-wheels” lifecycle, including production, blending, distribution, and use. A fuel lifecycle is “an assessment of the aggregate [GHG] emissions based on science-based models or protocols, including direct emissions and significant indirect emissions from indirect land use change, all stages of fuel and feedstock production and distribution, feedstock generation or extraction through the distribution, delivery and use of the finished fuel by the consumer, including consideration of storage, transportation and combustion.” NMSA 1978, § 74-1-3(D).

13. As required by Section 74-1-18(C)(3), proposed new rule 20.2.92 NMAC establishes technology-neutral mechanisms under the CTFP for generating, obtaining, trading, selling, and retiring credits to offset any balance of deficits that a person incurs during an applicable year.

14. Pursuant to Section 74-1-18(C)(3), proposed new rule 20.2.92 NMAC outlines how the CTFP will use the carbon intensities and each year's CTFS for pathways assigned to regulated fuel and opt-in fuel, as defined in proposed new rule 20.2.92.101(B) NMAC, and their substitutes to determine the deficits and credits each transportation fuel generates per unit produced, imported, or dispensed for use in New Mexico. Proposed new rule 20.2.92 NMAC establishes how producers, importers, and dispensers will incur deficits or credits based on a transportation fuel's carbon intensity, each year's CTFS, and the quantity of transportation fuel supplied during the applicable year.

15. As required by Section 74-1-18(C)(4), proposed new rule 20.2.92 NMAC establishes "mechanisms, including cost-containment mechanisms and credit holding limits," that allow regulated parties to bank credits for future compliance periods "to stabilize and incentivize investment in the transportation fuel credit market, verify the validity of compliance obligations, maximize savings and limit consumer costs, ensure CTFP compliance, trade credits and allow for market participation by persons who register in the market to facilitate credit generation."

16. As required by Section 74-1-18(C)(5), proposed new rule 20.2.92 NMAC requires that an utility electing to participate in the CTFP invest all revenues from the sale of credits, excluding administrative program costs, into distribution, grid modernization, infrastructure, and other projects that support transportation decarbonization. Proposed new rule 20.2.92 NMAC requires that at least fifty percent of these revenues, minus administrative costs must be used to benefit low-income and underserved communities, with investor-owned utilities receiving regulatory treatment in line with Section 62-8-12 of the New Mexico Public Utility Act.

17. Consistent with the statutory purpose of Section 74-1-18(C)(5), proposed new rule 20.2.92 NMAC stipulates that automakers earning revenue from residential electric vehicle (EV)

charging credits must invest such credit revenue in low-income and underserved communities at a rate greater than utilities.

18. As required by Section 74-1-18(C)(6), proposed new rule 20.2.92 NMAC considers similar programs in other jurisdictions, allowing for coordination to promote regional GHG emission reductions or removals while ensuring that the CTFP contains mechanisms that avoid the double-counting of any emissions reductions across federal and state programs.

19. As required by Section 74-1-18(C)(7), proposed new rule 20.2.92 NMAC does not discriminate against a transportation fuel based solely on its origin from another state or jurisdiction.

20. As required by Section 74-1-18(C)(8), proposed new rule 20.2.92 NMAC establishes a periodic review process for the Department to evaluate program performance, including with input from the advisory committee and to consider the impact of changes in federal law.

21. As required by Section 74-1-18(C)(9), proposed new rule 20.2.92 NMAC allows the Department to defer compliance with provisions of 20.2.92 NMAC due to emergency or forecasted conditions.

22. As required by Section 74-1-18(C)(10), proposed new rule 20.2.92 NMAC establishes fees in a manner to cover the costs of the Department's administration and enforcement of the CTFP.

23. As used in proposed new rule 20.2.92 NMAC a "regulated party" means a person producing, importing or dispensing for use a regulated fuel, unless exempt from the rule, or a person that voluntarily opts into the CTFP in accordance with proposed new rule 20.2.92.103(C) NMAC.

24. In proposed new rule 20.2.92 NMAC, the Department will require regulated parties to use to register, report, and trade credits (satisfy deficits) and manage alternative fuel pathways within a system and system modules called the “Clean Transportation Fuel Program Data Management System” or “CTFP-DMS.”

GENERAL PROVISIONS OF THE PROPOSED NEW RULE

25. Proposed new rule 20.2.92 NMAC creates a new Part 91 in Chapter 2 of Title 20 of the New Mexico Administrative Code with the following sections:

A. Mandatory Sections:

i. 20.2.92.1 NMAC (“Issuing Agency”) identifies the Board as the issuing agency.

ii. 20.2.92.2 NMAC (“Scope”) identifies that the rule will establish administrative procedures for the Department to implement and enforce the rule, apply to the enforcement of the CTFP, apply to transportation fuels produced in New Mexico, imported into New Mexico or dispensed for use in New Mexico, and will likewise apply to persons who produce fuel in New Mexico, import fuel into New Mexico, and dispense fuel in New Mexico.

iii. 20.2.92.3 NMAC (“Statutory Authority”) cites the statutes that provide authority for the rule, which are Sections 74-1-5(A), 74-1-7, 74-1-8 and 74-1-18 of the Environmental Improvement Act.

iv. 20.2.92.4 NMAC (“Duration”) indicates the rule will be permanent, at least until the Board amends the rule.

v. 20.2.92.5 NMAC (“Effective Date”) states the effective date of the rule will be February 1, 2025.

vi. 20.2.92.6 NMAC (“Objective”) identifies the purpose of the rule is

to apply the CTFS through implementation of the CTFP to reduce the carbon intensity of transportation fuel by a minimum of twenty percent below 2018 carbon intensity levels by the year 2030 and by a minimum of thirty percent below 2018 carbon intensity levels by the year 2040.

vii. 20.2.92.7 NMAC (“Definitions”) provides the definitions for commonly used terms in the rule. Definitions for specific terms only appearing in a section of the rule are contained in the section.

B. General Sections:

i. 20.2.92.8 NMAC (“Documents”) informs the public where it can access documents incorporated and cited in 20.2.92 NMAC. The Department will include these documents in the rulemaking record.

ii. 20.2.92.9 NMAC (“Severability”) provides for enforceability of the rule except where a provision itself or application of the provision in a specific circumstance is held unconstitutional or invalid.

iii. 20.2.92.10 NMAC (“Construction”) declares that the rule shall be liberally construed to carry out its objective.

iv. 20.2.92.11 NMAC (“Savings Clause”) provides for enforceability of the rule when later versions might be adopted by the Board.

v. 20.2.92.12 NMAC (“Compliance with Other Regulations”) declares that a person’s responsibility to comply with this rule does not impact their compliance obligations for other laws.

vi. 20.2.92.13 NMAC (“Limitation of Defense”) addresses the limited scope an approval from the Department has as a defense to a violation of the rule.

vii. 20.2.92.14 NMAC (“Construction of Headings and Subheadings”)

clarifies the scope of interpreting headings of subsections and paragraphs in proposed new rule 20.2.92 NMAC when construing the rule, as provided for in Section 12-2A-13 of the Uniform Statute and Rule Construction Act.

C. Applicability Sections:

i. 20.2.92.101 NMAC (“Applicability”) sets forth the types of transportation fuel that are considered regulated fuel and opt-in fuel under the rule, as well as the CTFS that applies to each type of transportation fuel.

ii. 20.2.92.102 NMAC (“Exemptions”) sets forth the exempt fuel and exempt fuel uses under the rule, as well as the process for a person to claim an exemption or opt-in to the CTFP to generate credits for exempt fuel and exempt fuel uses.

iii. 20.2.92.103 NMAC (“General Requirements”) provides an overview of a regulated party’s compliance obligations; the process for a person to opt-in to the CTFP; the ongoing obligations for changing, supplementing or correcting submittals to the Department; and the requirement to comply with conditions imposed by the Department in an approval of a submittal pursuant to the rule.

D. Sections for Establishing Carbon Intensities:

i. 20.2.92.201 NMAC (“Carbon Intensity General Requirements”) identifies the carbon intensities required for reporting purposes and describes the requirement for the Department to periodically review of the carbon intensities, as well as setting forth the requirements for specific circumstances such as for transportation fuel without a certified carbon intensity and when using book-and-claim accounting for gaseous fuel or liquid fuel.

ii. 20.2.92.202 NMAC (“Carbon Intensity Alternative Fuel Pathways”) addresses the requirements for alternative fuel pathways. The section sets out the process for a

regulated party to apply to the Department for a fuel production facility-specific or process-specific carbon intensity, a process for the Department to approve the alternative fuel pathway, and the way the regulated party can challenge the Department's approval decision. The section also sets out the data requirements for alternative fuel pathways and sets a regulated party's maximum carbon intensity.

iii. 20.2.92.203 NMAC ("Requirements for Maintaining an Alternative Fuel Pathway") sets out requirements for an alternative fuel pathway holder to maintain a certified carbon intensity under an alternative fuel pathway and an active alternative fuel pathway code in the CTFP-DMS, including submitting an annual fuel pathway report. The section includes requirements for specific circumstances, such as for an alternative fuel pathway holder with an alternative fuel pathway with provisional status or an alternative fuel pathway based on an alternative fuel pathway from another jurisdiction's similar program.

iv. 20.2.92.204 NMAC ("Carbon Intensities for Alternative Fuel Pathways Established in a Similar Program in Another Jurisdiction") allows a regulated party that has been certified for an alternative pathway in a similar jurisdiction to apply for a certification within New Mexico for the same fuel pathway. The Department generally uses the same inputs and computations other jurisdiction to determine the carbon intensity for the alternative fuel pathway with some New Mexico-specific requirements.

v. 20.2.92.205 NMAC ("Carbon Intensities for Alternative Fuel Pathways Novel to New Mexico") allows a regulated party that has not been certified for an alternative fuel pathway in another jurisdiction to apply for an alternative pathway in New Mexico. The section also determines the application requirements for a provisional fuel pathway; the application requirements for an alternative fuel pathway based on co-processing at a petroleum

plant with biogenic fuel; and the application review process utilized by the Department for all fuel pathways novel to New Mexico.

vi. 20.2.92.206 NMAC (“Carbon Intensities for Electricity”) establishes the timing, notice and publishing procedure the Department employs in assigning the annual carbon intensities of electric distribution utility (“EDU”) specific electricity and assigns the carbon intensity of zero to renewable electricity. This section determines the procedure and parameters for applying for a fuel pathway for on-site generation of renewable electricity for EV charging as well as explaining the generation and retirement of renewable electricity certificates to claim credits. This section also determines the EDUs application process for obtaining a fuel pathway code for utility renewable electricity products and power purchase agreements.

vii. 20.2.92.207 NMAC (“Alternative Fuel Pathway for New Energy Economy Ratio”) describes the eligibility, application process, application review process, use of approved energy economy ratio adjusted carbon intensities when reporting in the CTFP-DMS and ongoing reporting requirements for energy economy ratio adjusted carbon intensities.

E. Sections Regarding Calculating, Transacting, Maintaining and Awarding Credits and Deficits:

i. 20.2.92.301 NMAC (“Fuel Credits and Deficits”) prescribes credit and deficit origination, including details for calculations such as carbon intensities, fuel quantities, and fuel types that are excluded from credit and deficit origination. This section also sets forth the requirements for regulated parties to buy credits to satisfy deficits and sell credits through the CTFP-DMS. Regulated parties may appeal certain credit and deficit calculations by the Department.

ii. 20.2.92.302 NMAC (“Fuel Supply Equipment Credits”) determines

the calculation of fuel supply equipment credits and the process for protesting a Department decision about fuel supply equipment credits.

iii. 20.2.92.303 NMAC (“Fuel Supply Equipment Pathway Applications”) sets out the process for a regulated party to apply to the Department for a fuel supply equipment pathway, and the process for a fuel supply equipment pathway holder to expand the fuel supply equipment pathway capacity. This section lays out the way the regulated party can challenge the Department’s approval decision and the specific notice, reporting and recordkeeping requirements for fuel supply equipment pathway holders.

iv. 20.2.92.304 NMAC (“Quarterly Awards of Fuel Supply Equipment Pathway Credits”) determines the Department’s calculation of, eligibility for, and award of fuel supply equipment credits each quarter. This section imposes maximum lifetime limits on the amount of fuel supply equipment credits awarded to each fuel supply equipment pathway.

v. 20.2.92.305 NMAC (“Credit Revenue Provisions”) prescribes the required investment by EDUs of revenues derived from EDU credits in transportation electrification projects and projects for low income and underserved communities, as identified by the Department.

vi. 20.2.92.306 NMAC (“Project Credits for the Reduction of Greenhouse Gas Emissions”) determines the eligibility and application requirements for regulated parties to receive credits for Department-approved projects to reduce GHG emissions.

F. Sections Regarding Regulated Party Designations:

i. Sections 20.9.92.400 NMAC to 20.2.92.404 NMAC regulate the first fuel reporting entities, who are the reporting entities with the responsibility or opportunity to report deficits and credits, respectively. The sections also regulate any subsequent fuel reporting

entities and the credit and deficit generator for specific fuel types. These designations are important for a regulated party to determine its compliance obligations under the rule.

ii. 20.2.92.401 NMAC (“Designation of a Regulated Party for Liquid Fuels”) determines the designations for producers, importers and exporters of liquid fuels. This section also determines the permissible designation changes of fuel reporting entities when a regulated party transfers fuel ownership of liquid fuels.

iii. 20.2.92.402 NMAC (“Designation of a Regulated Party for Gaseous Fuels”) prescribes the designations for dispensers of gaseous fuels. This section allows a fuel reporting entity for gaseous fuels to agree by contract that another regulated party will take on the designation of first fuel reporting entity.

iv. 20.2.92.403 NMAC (“Designation of a Regulated Party for Electricity”) determines the designations for dispensers of electricity, including specific designations for different manners of dispensing electricity (*e.g.*, public transit, electric transportation refrigeration units, etc.). This section also provides the requirements for EV charging credit generation.

G. Sections Imposing Compliance Obligations, Including Registration, Fees, Reporting, Recordkeeping, and Third-Party Verification:

i. 20.2.92.501 NMAC (“Registration”) imposes a requirement for implementation of the rule, *i.e.*, registration by regulated parties within 45 calendar days of becoming subject to the rule. The registration process ensures the CTFP has important information about the regulated party, the transportation fuel type the regulated party produces in New Mexico, imports into New Mexico or dispenses for use in New Mexico and, if applicable, the regulated party’s fuel supply equipment. Following an approved registration, the Department creates a

CTFP-DMS account for the regulated party that it must maintain. This section also details how the Department addresses a number of different situations, including transfers of ownership and operation and registration cancellations.

ii. 20.2.92.502 NMAC (“Program Fees”) establishes reasonable fees for the Department's administration and enforcement of the CTFP and provides for the Department to deposit those fees into the state air quality permit fund, as required by Section 74-1-18(C)(10) of the Environmental Improvement Act. The basic fee structure includes registration fees, annual fees, and application fees for producers, importers, and non-liquid dispensers pursuing a unique pathway application to earn and utilize process-specific fuel carbon intensities.

iii. 20.2.92.503 NMAC (“General Reporting Requirements”) requires regulated parties to use the CTFP-DMS to submit to the Department all required reports and prescribes the information each report must have regardless of the type of report. The primary contents are specific attestations regarding the regulated party’s compliance obligations.

iv. 20.2.92.504 NMAC (“Quarterly Reporting Requirements”) establishes the deadlines for quarterly reports and prescribes the information each quarterly report must have, including specific information depending on the transaction types and the type of fuel transacted by the regulated party.

v. 20.2.92.505 NMAC (“Compliance Period Reporting Requirements”) establishes the annual compliance periods with deadlines for the compliance period reports and prescribes the information each compliance period report must have. This section mandates regulated parties complete all pending credit transactions prior to reporting and provides specific requirements for annual reporting of EDU and vehicle manufacturers’ credit revenue.

vi. 20.2.92.506 NMAC (“Records and Recordkeeping”) mandates regulated parties and people solely producing, importing or dispensing fuel for use as described in 20.2.92.102(A) NMAC create and maintain certain records to maintain and demonstrate compliance with the rule. This section prescribes specific information certain records must contain for compliance. Some other sections in the rule include additional reporting requirements unique to the topic addressed in that section.

vii. 20.2.92.507 NMAC (“Demonstrating Compliance”) provides that regulated parties meet their compliance obligation with the CTFP when the regulated party accurately reports it possessed and retired credits from the regulated party’s CTFP-DMS account equal to the regulated party’s compliance obligation calculated by the Department. This section provides information about the handling of credits and the calculations for credits and deficits, as well as provisions for the Department to establish a credit clearance market for regulated parties to engage in credit transactions. This section requires regulated parties to participate in the credit clearance market if they hold more than 10 percent of the market’s credits or a vintage of credits greater than five years. This section also imposes burdens on regulated parties that do not satisfy their deficits.

viii. 20.2.92.508 NMAC (“Third-Party Verification”) sets forth the processes and requirements for independent verification bodies to assist regulated parties and verify the complex calculations with numerous factors that regulated parties must perform to ensure compliance with the rule and accurately report the carbon intensity of the regulated party’s transportation fuels. Third-party verification is an important tool for the Department, which can rely on accurate data without first performing the calculations itself.

H. Sections Describing Department Authorities, Public Disclosure and

Appeals:

i. 20.2.92.601 NMAC (“Authority to Defer”) allows the Department to defer compliance with provisions of 20.2.92 NMAC due to emergency or forecasted conditions, as required by Section 74-1-18(C)(9) of the Environmental Improvement Act. This section provides a cost-containment mechanism for fuel consumers in the unlikely event of force majeure type circumstances, supply chain disruptions, or other unforeseen circumstances.

ii. 20.2.92.602 NMAC (“Public Disclosure and Information”) prescribes the parameters of public disclosure of records relevant for the rule, as well as a process for a regulated party to identify records as confidential or containing trade secrets. This section also describes the information the Department will regularly make public, including maintaining a list of the Department-approved registered parties, publishing monthly credit trading activity reports, publishing a quarterly credit and deficit summary, publishing an annual CTFP report, and publishing a fuel supply forecast.

iii. 20.2.92.603 NMAC (“Periodic Review”) establishes a periodic review process for the Department to evaluate proposed new rule 20.2.92 NMAC and program performance, as required by Section 74-1-18(C)(8) of the Environmental Improvement Act. The review process includes convening an advisory committee and is intended to allow the Department to identify necessary adjustments to the rule.

iv. 20.2.92.604 NMAC (“Enforcement”) sets forth a three-tier process for the Department to address violations of and noncompliance with the rule. First, a person may receive a notice of a violation and/or noncompliance. Second, if the violation and/or noncompliance remains unresolved, the Department may initiate an administrative enforcement action to cure the violation, obtain compliance, and assess a civil penalty. Third, if the

administration enforcement action does not resolve with compliance or a settlement, the Department may issue a compliance order.

v. 20.2.92.605 NMAC (“Appeals”) provides two levels of administrative review for certain decisions by the Department. The first level of review is a protest to the Department, where agency staff may reconsider a decision based on information from the regulated party. The second level of review is an administrative hearing by the Secretary or their designee of the Department’s decision on a protest or of a compliance order. The Secretary’s determination is considered the final action in the administrative hearing.

I. 20.2.92.701 NMAC (“Tables”) contain the values used in the rule.

i. Tables 1 to 3, for gasoline and gasoline substitutes, diesel and diesel substitutes, and alternative jet fuel, respectively, contain the CTFS – the annual reduction in carbon intensity of transportation fuels from the 2018 baseline with which regulated parties must comply via the mechanisms established under the CTFP.

ii. Table 4 is the New Mexico Statewide Carbon Intensity Lookup Table, which regulated parties apply when reporting regulated fuels, which are defined in proposed new rule 20.2.92.101(B) NMAC, by using the maximum carbon intensity for that fuel type listed in Table 4.

iii. Table 5 provides New Mexico Temporary Carbon Intensities, which are used by regulated parties to report the carbon intensities of fuel produced through processes emitting less carbon or fuel originating from less carbon-intensive feedstocks. If Table 5 does not have a temporary carbon intensity for a fuel production process or feedstock, a regulated party may apply to the Department for a unique temporary carbon intensity. *See Exhibit B*, 20.2.92.201(B)(2) NMAC.

iv. Table 6 contains a summary checklist of quarterly and compliance period reporting requirements.

v. Table 7 sets forth the New Mexico energy densities of fuels necessary for numerous calculations required by the rule.

vi. Table 8 sets forth the New Mexico energy economy ratio values used by the department to calculate credits and deficits. *See Exhibit B*, 20.2.92.301(E) and (F). In certain circumstances, the energy economy ratio values provided in Table 8 may not fully account for the energy economy improvement of certain vehicle models or drivetrain types. In such cases, the Department may allow a regulated party to use a different value. *See Exhibit B*, 20.2.92.207(B)(1), (C)(1) and (C)(2).

vii. Table 9 sets forth commonly used indirect land-use change values a regulated party must account for when calculating a carbon intensity for an alternative fuel pathway. If an alternative fuel pathway includes a feedstock not listed in Table 9, the Department may approve a proposal from a regulated party using a scientific or economic model to calculate an indirect land use change value for that feedstock. *See Exhibit B*, 20.2.92.202(A)(4).

viii. The Department is required to review Tables 4, 5 and 9 at least every three years and will seek approval from the Board through the rulemaking process if revisions are necessary. *See Exhibit B*, 20.2.92.201(D)(2).

PROJECTED BENEFITS

26. Proposed new rule 20.2.92 NMAC results in cumulative GHG reductions and cumulative benefits that can be directly attributed to the CTFP.

27. Proposed new rule 20.2.92 NMAC will reduce air pollutants that harm air quality and public health in New Mexico.

28. Proposed new rule 20.2.92 NMAC will generate monetized health benefits to New Mexicans and benefits to New Mexico's economy by addressing the material harms of climate change and the loss of worker productivity due to respiratory illnesses.

29. Proposed new rule 20.2.92 NMAC will significantly support New Mexico's workforce and economic landscape.

COMPLIANCE WITH STATUTORY RULEMAKING REQUIREMENTS

30. Prior to petitioning the Board, the Department convened an advisory committee pursuant to and in accordance with NMSA 1978, Section 74-1-18(B).

31. Adoption of proposed new rule 20.2.92 NMAC is justified given the character and degree of injury to or interference with health, welfare, animal and plant life, property and the environment. *See* NMSA 1978, § 74-1-9(B)(1).

32. Adoption of proposed new rule 20.2.92 NMAC is in the public interest, including when considering the social, economic and cultural value of the regulated activity, which creates a comprehensive market-based program setting emission limits to reduce GHG pollution and the social, economic and cultural effects of the environmental degradation caused by climate change. *See* NMSA 1978, § 74-1-9(B)(2).

33. Proposed new rule 20.2.92 NMAC is technically practicable and economically reasonable in the methods the rule employs to address the environmental degradation caused by emissions and climate change. *See* NMSA 1978, § 74-1-9(B)(3).

34. Proposed new rule 20.2.92 NMAC is drafted to comply with 1.24.0010 NMAC, the uniform drafting rules for regulations in the New Mexico Administrative Code.

35. Therefore, proposed new rule 20.2.92 NMAC complies with the statutory rulemaking requirements.

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, 02/01/2026]

20.2.92.2 SCOPE: The provisions of 20.2.92 NMAC shall:

A. Establish the administrative authorities, requirements and procedures for the department to implement and enforce the clean transportation fuel program (CTFP) per Section 74-1-18 NMSA 1978 of the Environmental Improvement Act, which reduces the carbon intensity of transportation fuel through the clean transportation fuel standard (CTFS) established in Subsection A of 20.2.92.701 NMAC through Subsection C of 20.2.92.701 NMAC;

B. Apply to transportation fuel produced in New Mexico, imported into New Mexico or dispensed for use in New Mexico; and

C. Apply to a person that produces transportation fuel in New Mexico, imports transportation fuel into New Mexico, or dispenses transportation fuel for use in New Mexico.
[20.2.92.2 NMAC - N, 02/01/2026]

20.2.92.3 STATUTORY AUTHORITY: Subsection A of Section 74-1-5, Section 74-1-7, Section 74-1-8 and Section 74-1-18 NMSA 1978 of the Environmental Improvement Act.
[20.2.92.3 NMAC - N, 02/01/2026]

20.2.92.4 DURATION: Permanent.
[20.2.92.4 NMAC - N, 02/01/2026]

20.2.92.5 EFFECTIVE DATE: February 1, 2026, except where a later date is cited at the end of a section.
[20.2.92.5 NMAC - N, 02/01/2026]

20.2.92.6 OBJECTIVE: To apply the CTFS through implementation of the CTFP to reduce the carbon intensity of transportation fuel, as measured in carbon dioxide equivalent units per unit of fuel energy of transportation fuel produced in New Mexico, imported into New Mexico or dispensed for use in New Mexico by a minimum of twenty percent below 2018 carbon intensity levels by 2030 and by a minimum of thirty percent below 2018 carbon intensity levels by 2040.
[20.2.92.6 NMAC - N, 02/01/2026]

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 a sale of liquid transportation fuel at a pipeline origin point, pipeline batch in transit and at a terminal tank before the transportation fuel is transferred to below the rack.

(2) **"Adverse verification statement"** means a verification statement rendered by a verifying body in reference to a submitted report or alternative fuel pathway application indicating the regulated party cannot provide reasonable assurance the document is free from material misstatement, the document contains correctable errors and thus does not conform to requirements to fix the errors, or both.

(3) **"Aggregator"** means a person that registers to participate in the CTFP per Subsection C of 20.2.92.103 NMAC on behalf of one or more credit generators to facilitate participation in the CTFP.

(4) **"Aggregator designation form"** means a document that specifies that a credit generator has designated an aggregator to act on its behalf.

(5) **"Alternative jet fuel"** means a transportation fuel, made from fossil or non-fossil sources that can be blended and used with conventional fossil jet fuel without the need to modify aircraft engines and existing transportation fuel distribution infrastructure, and is a transportation fuel that has a lower carbon intensity than the CTFS under Table 3 in Subsection C of 20.2.92.701 NMAC. This includes alternative jet fuel derived from co-processed feedstocks at a conventional petroleum refinery.

(6) **"Announce"** means the department sends an email to persons that have indicated to the department an interest in receiving emails, makes a post within the Clean Transportation Fuel Program Data

1 Management System (CTFP-DMS) and includes on the department website.

2 (7) **“ASTM”** means ASTM International, formerly the American Society for Testing and
3 Materials, the standards organization that develops and publishes voluntary consensus technical international
4 standards for a wide range of materials, products, systems and services, and when used in conjunction with numbers
5 in 20.2.92 NMAC means a specific standard set forth by ASTM International.

6 B. Definitions beginning with the letter “B.”

7 (1) **“Backstop aggregator”** means a person selected by the department in accordance with
8 Subsection L of 20.2.92.403 NMAC that registers to participate in the CTFP in accordance with Subsection L of
9 20.2.92.403 NMAC to aggregate credits for electricity used as a transportation fuel when those credits would not
10 otherwise be generated.

11 (2) **“Base credit”** means an electricity credit that is generated by the difference between the
12 CTFS and the carbon intensity of the grid or electric distribution utility (EDU).

13 (3) **“Below the rack”** means a sale of liquid transportation fuel where the liquid
14 transportation fuel is loaded onto a truck or transported by other means to a fuel supply equipment (FSE) station for
15 sale as a finished transportation fuel for use in a motor vehicle.

16 (4) **“Bill of lading”** means a document issued by a fuel reporting entity that lists goods being
17 shipped and specifies the terms of the transport of the goods being shipped.

18 (5) **“Bio-based fuel”** means a non-fossil fuel produced from biogenic sources.

19 (6) **“Biodiesel” or “B100”** means a transportation fuel consisting of mono-alkyl esters of
20 long-chain fatty acids derived from vegetable oils, animal fats or other renewable resources and complying with
21 ASTM D6751.

22 (7) **“Biodiesel blend”** means a transportation fuel comprised of a blend of biodiesel with
23 diesel.

24 (8) **“Biogas”** means gas, consisting primarily of methane and carbon dioxide, produced by
25 the anaerobic decomposition of organic matter that requires upgrading to biomethane prior to pipeline injection or
26 use in natural gas-fueled vehicles.

27 (9) **“Biogenic”** means a non-fossil material that is produces from or brought about by living
28 organisms.

29 (10) **“Biomethane”** means refined biogas, or another stream of methane from renewable
30 resources, which has been refined to a near-pure methane content product that is suitable for pipeline injection or
31 combustion in natural gas-fueled vehicles. Biomethane is also referred to as renewable natural gas and the two
32 terms are used interchangeably throughout 20.2.92 NMAC.

33 (11) **“Blendstock”** means a fuel component that is blended with one or more other
34 components to produce a finished transportation fuel for use in a motor vehicle.

35 (12) **“Book-and-Claim”** means the accounting methodology where the environmental
36 attributes of an energy source are detached from the physical molecules or electrons when they are commingled into
37 a common transportation and distribution system for that form of energy. The detached attributes are then assigned
38 by the owner to the same form and amount of energy when it is used. For the purposes of 20.2.92 NMAC, the
39 common transportation and distribution system shall be connected to New Mexico.

40 (13) **“Bulk system”** means a fuel distribution system consisting of refineries, pipelines,
41 vessels and terminals. Fuel storage and blending facilities that are not fed by pipeline or vessel are considered
42 outside the bulk transfer system.

43 (14) **“Business partner”** means the second party that participates in a specific transaction
44 involving the regulated party. This can either be the buyer or seller of transportation fuel, whichever applies to the
45 specific transfer.

46 (15) **“Buy/Sell Board”** means a section of the CTFP-DMS where a registered party can post
47 that it is interested in buying or selling credits.

48 C. Definitions beginning with the letter “C.”

49 (1) **“Carbon dioxide equivalent” or “CO₂e”** means the sum of greenhouse gases expressed
50 in terms of the equivalent amount of carbon dioxide with the same global warming potential.

51 (2) **“Carbon intensity”** means the same as Subsection B of Section 74-1-3 NMSA 1978.

52 (3) **“Carrier”** means a self-propelled or towed vehicle used to transport passengers or
53 property.

54 (4) **“Carryback credit”** means a credit that was generated during or before the prior
55 compliance period that a regulated party acquires between January 1 and April 30 of the current compliance period
56 to meet its compliance obligation for the prior compliance period.

(5) **“Census block”** means the smallest geographic unit used by the U.S. Census Bureau for data tabulation.

(6) **“Census block group”** means a group of census blocks that together are the next geographic unit level above census blocks used by the U.S. Census Bureau for data tabulation.

(7) **“Census tract”** means a group of census block groups that together are the next geographic unit level above census block groups used by the U.S. Census Bureau for data tabulation.

(8) **“Certified carbon intensity”** means the carbon intensity approved by the department under an alternative fuel pathway.

(9) **“Clean transportation fuel”** means a transportation fuel with a carbon intensity lower than the applicable CTFS.

(10) **“Clean transportation fuel program” or “CTFP”** means the program established under 20.2.92 NMAC to implement Section 74-1-18 NMSA.

(11) **“Clean transportation fuel standard” or “CTFS”** means the annual reduction in carbon intensity of transportation fuel from the applicable 2018 baseline with which a regulated party shall comply. The CTFS is:

- (a) in Table 1 in Subsection A of 20.2.92.701 NMAC for gasoline and gasoline substitutes and alternatives;
- (b) in Table 2 in Subsection B of 20.2.92.701 NMAC for diesel and diesel substitutes and alternatives; and
- (c) in Table 3 in Subsection C of 20.2.92.701 NMAC for alternative jet fuel.

(12) **“Clear diesel”** means a light middle or middle distillate grade diesel derived from crude oil that has not been blended with any quantity of transportation fuel derived from non-fossil feedstock, including biodiesel or renewable diesel.

(13) **“Clear gasoline”** means gasoline derived from crude oil that does not contain blended quantities of renewable transportation fuel, including ethanol.

(14) **“Compliance period report”** means a report a regulated party is required to produce and deliver to the department for each compliance period demonstrating the ledger balance of the regulated party’s credits and deficits.

(15) **“Compressed natural gas” or “CNG”** means natural gas that has been compressed.

(16) **“Co-processing”** means the processing and refining of non-fossil feedstocks intermingled with fossil feedstocks and derivatives at petroleum refineries.

(17) **“Correctable errors”** are errors identified by a verification team that affect data in a submitted report or alternative fuel pathway application. These errors result from the use of different but individually reasonable methods of truncation, rounding, or averaging in a context where no specific procedure is prescribed. Thus, the verification body may render the judgement that the errors do not warrant corrections.

(18) **“Credit”** means a unit of measure in metric tons of CO₂e generated when a transportation fuel with a carbon intensity that is less than the applicable CTFS is produced in New Mexico, imported into New Mexico or dispensed for use in New Mexico.

(19) **“Credit buyer”** means a registered party that intends to acquire credits.

(20) **“Credit facilitator”** means a person a regulated party designates to initiate and complete credit transactions on behalf of the regulated party.

(21) **“Credit generator”** means a registered party that generates credits in accordance with 20.2.92 NMAC.

(22) **“Credit seller”** means a registered party that intends to transfer credits.

(23) **“Clean Transportation Fuel Program Data Management System” or “CTFP-DMS”** means the system and system modules a regulated party uses to register, report, and trade credits and manage alternative fuel pathways.

D. Definitions beginning with the letter “D.”

(1) **“Decennial census”** means the count of each resident of the United States, where they live on April 1, every 10 years ending in zero by the U.S. Census Bureau as mandated by the U.S. Constitution.

(2) **“Deficit”** means a unit of measure in metric tons of CO₂e generated when a transportation fuel with a carbon intensity that is greater than the applicable CTFS is produced in New Mexico, imported into New Mexico or dispensed for use in New Mexico.

(3) **“Deficit generator”** means a regulated party that generates deficits in accordance with 20.2.92 NMAC.

(4) **“Denatured Fuel Ethanol”** means nominally anhydrous ethyl alcohol meeting ASTM

D4806 standards. Denatured fuel ethanol is also referred to as ethanol and the two terms are used interchangeably throughout 20.2.92 NMAC.

(5) **“Department”** means the same as Subsection C of Section 74-1-3 NMSA 1978.

(6) **“Diesel”** means a light middle distillate or middle distillate transportation fuel suitable for compression in ignition engines conforming to the specifications of ASTM D975.

(7) **“Diesel substitute”** means a transportation fuel, other than diesel, which displaces diesel, as used in medium-heavy-duty vehicles (MHDVs).

(8) **“Dispense”** means distributing transportation fuel into a motor vehicle or equipment in New Mexico.

(9) **“Dyed fuel”** means transportation fuel used in motor vehicles that are primarily used for agriculture, construction work, mining and timber harvest operations from sales that are eligible to claim a credit against the gross receipts tax under 3.2.304 NMAC.

E. Definitions beginning with the letter “E.”

(1) **“Electricity”** means a form of energy characterized by the presence and motion of elementary charged particles generated by friction, induction or chemical change.

(2) **“Electric cargo handling equipment” or “eCHE”** means cargo handling equipment using electricity as the transportation fuel.

(3) **“Electric distribution utility” or “EDU”** means a person that owns or operates a utility as defined in Subsection G of Section 62-3-3 NMSA 1978 that distributes electricity to the public and may include a municipality.

(4) **“Electric forklift”** means a self-propelled vehicle that is powered by electricity and that is used to move and lift cargo by means of a pronged device inserted under the load.

(5) **“Electric ground support equipment” or “eGSE”** means a self-propelled vehicle used off-road at airports to support general aviation activities and is powered by electricity, including pushbacks, belt loaders and baggage tractors.

(6) **“Electric transport refrigeration unit” or “eTRU”** means a refrigeration system powered by electricity designed to refrigerate or heat perishable products that are transported in various containers, including semi-trailers, truck vans, shipping containers and rail cars.

(7) **“Electric vehicle” or “EV”** means a passenger automobile, truck, bus, train, boat or other equipment that transports goods or people that is powered in part or in whole using electricity from external sources.

(8) **“Energy economy ratio” or “EER”** means the dimensionless value that represents the efficiency of a transportation fuel as used in a powertrain as compared to a reference transportation fuel or the efficiency of a transportation fuel per passenger mile for fixed guideway systems.

(9) **“Energy economy ratio-adjusted carbon intensity” or “EER-adjusted carbon intensity”** means a carbon intensity calculation that accounts for a transportation fuel’s energy-economy ratio.

(10) **“Environmental attribute”** means greenhouse gas emission reduction or removal recognition in any form, including verified emission reductions, verified greenhouse gas removals, 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.

(11) **“Equipment”** means machinery used to move people or goods from one place to another.

(12) **“Ethanol”** means the same as denatured fuel ethanol.

(13) **“EV charging”** means the dispensing of electricity to recharge EVs.

(14) **“Exempt fuel use”** means that the transportation fuel was delivered or sold into the category of vehicles or transportation fuel users that are exempt pursuant to 20.2.92.102 NMAC

(15) **“Export”** means transportation fuel moved from a location within New Mexico to a fuel supply equipment (FSE), bulk system, fuel storage facility, or fuel blending facility located outside of 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”** means a raw material or input that is processed into a finished transportation fuel or a finished fuel component.

(2) **“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

1 production facility as required under Subsection C of 20.2.92.506 NMAC.

2 (3) **“Finished fuel”** means a transportation fuel for direct use in a motor vehicle without
3 additional chemical or physical processing pursuant to applicable laws for fuel specifications.

4 (4) **“Fixed guideway”** means a system of public transportation using a devoted route or right
5 away, such as rail tracks, a fixed catenary system, an aerial tramway or a devoted bus lane.

6 (5) **“Fossil fuel”** means transportation fuel produced from naturally occurring flammable
7 mixture of hydrocarbons found in geologic formations.

8 (6) **“Fossil fuel-based”** means a transportation fuel produced from fossil fuel feedstock.

9 (7) **“Fuel lifecycle”** means the same as Subsection D of Section 74-1-3 NMSA 1978.

10 (8) **“Fuel pathway”** means a detailed description of all stages of transportation fuel
11 production and use for any particular transportation fuel, including feedstock generation or extraction, production,
12 distribution and combustion of the transportation fuel by the consumer. The fuel pathway is assigned a carbon
13 intensity based on calculations that use this information.

14 (9) **“Fuel pathway code”** means the unique identifier used in the CTFP-DMS that applies to
15 a specific fuel pathway that is registered in accordance with 20.2.92.501 NMAC.

16 (10) **“Fuel pathway holder”** means the regulated party that has received a certified fuel
17 pathway code from the department, or that has a certified fuel pathway code from a similar program in another
18 jurisdiction that the department has approved for use in New Mexico.

19 (11) **“Fuel production facility”** means the facility at which a regulated transportation fuel or
20 opt-in transportation fuel is produced. For biomethane, a fuel production facility means the facility at which the
21 transportation fuel is upgraded, purified or processed to meet the standards for injection to a natural gas common
22 carrier pipeline or for use in natural gas vehicles.

23 (12) **“Fuel reporting entity”** means a person required to report transportation fuel transfers in
24 the CTFP-DMS.

25 (13) **“Fuel supply equipment” or “FSE”** means equipment registered in the CTFP-DMS that
26 dispenses transportation fuel into vehicles.

27 (14) **“Fuel supply equipment credit” or “FSE credit”** means a credit generated pursuant to
28 20.2.92.302 NMAC based upon the operational fueling capacity of a designated FSE unit at an FSE station.

29 (15) **“Fuel supply equipment fuel type” or “FSE fuel type”** means a type of transportation
30 fuel that is supplied to an FSE station.

31 (16) **“Fuel supply equipment pathway” or “FSE pathway”** means a registered, unique
32 identification number for an FSE containing all information needed for participation and FSE credit generation in
33 the CTFP.

34 (17) **“Fuel supply equipment pathway applicant” or “FSE pathway applicant”** means a
35 regulated party that has applied to the department for an FSE pathway for an FSE that the FSE pathway applicant
36 has registered pursuant to 20.2.92.501 NMAC.

37 (18) **“Fuel supply equipment pathway holder” or “FSE pathway holder”** means a
38 regulated party that has applied for and received a registered, unique identification number for an FSE pathway from
39 the department for an FSE that the FSE pathway holder has registered pursuant to 20.2.92.501 NMAC.

40 (19) **“Fuel supply equipment station” or “FSE station”** is a location with a single address
41 where one or more FSE units are available for use.

42 (20) **“Fuel supply equipment unit” or “FSE unit”** is an individual FSE that fuels a single
43 vehicle at one time.

44 G. Definitions beginning with the letter “G.”

45 (1) **“Gaseous fuel”** means a transportation fuel that is in a gaseous state at standard
46 temperature and pressure.

47 (2) **“Gasoline”** means a transportation fuel suitable for spark ignition engines and
48 conforming to the specifications of ASTM D4814.

49 (3) **“Gasoline substitute”** means a transportation fuel other than gasoline that displaces
50 gasoline, as typically used in a light-medium-duty vehicle (LMDV).

51 (4) **“Grams of carbon dioxide equivalent per megajoule of energy” or “gCO₂e/MJ”**
52 means the unit of measurement that is used for carbon intensities pursuant to 20.2.92 NMAC.

53 (5) **“Greenhouse gas”** means a gaseous compound that traps heat in the earth’s atmosphere,
54 including carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, nitrogen trifluoride and
55 sulfur hexafluoride but not including water vapor.

56 (6) **“Greenhouse gases, regulated emissions and energy use in transportation model”**

means the version, as announced and provided by the department with sufficient notice of the effective date, of the lifecycle transportation greenhouse gas model developed by Argonne National Laboratory and specified by the department to calculate carbon intensities pursuant to 20.2.92 NMAC.

(7) **“Gross vehicle weight rating”** means the value specified by the manufacturer as the loaded weight of a single vehicle as provided in 49 Code of Federal Regulations 571.3(b).

H. Definitions beginning with the letter “H.”

(1) **“Hydrogen” or “H2”** means a transportation 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 20.2.92 NMAC.

(2) **“Import”** means transportation fuel reported in the CTFP-DMS brought to an FSE, bulk system, or fuel storage and blending facility in New Mexico from outside of 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.

(3) **“Importer”** means the person that has ownership title to transportation fuel when it is imported into New Mexico.

(4) **“Incremental credit”** means a credit for residential EV charging based on the difference between the calculated carbon intensity of the grid or EDU and low-carbon intensity electricity.

(5) **“Indirect land use change”** means the average shift in fuel lifecycle carbon intensity resulting from greenhouse gas emissions and biogenic carbon related to land use changes that occur in response to an increased demand for crop-based transportation fuel.

(6) **“Invoice”** means the receipt or other record of a sale transaction, specifying the price, terms of sale and an itemized list of goods.

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

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

L. Definitions beginning with the letter “L.”

(1) **“Light-duty vehicle”** means an on-road motor vehicle with a gross vehicle weight rating of 10,000 pounds or less.

(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.

(4) **“Liquefied natural gas” or “LNG”** means natural gas that has been liquefied.

(5) **“Liquefied petroleum gas” or “LPG”** means a liquified mixture of propane, propylene, butanes or butylenes.

(6) **“Liquid fuel”** means a transportation fuel that is in a liquid state at standard temperature and pressure.

(7) **“Low-carbon intensity electricity”** means any electricity determined to have a carbon intensity less than the average grid electricity for the EDU service territory.

(8) **“Low-income”** means the same as Paragraph (1) of Subsection D of Section 74-1-18 NMSA 1978.

M. Definitions beginning with the letter “M.”

(1) **“Material information”** means information that would result in the carbon intensity of a transportation fuel changing by two decimal places or the number of credits or deficits generated changing by a whole integer.

(2) **“Material misstatement”** means any discrepancy, omission, misreporting or combination 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 N of 20.2.92.508 NMAC.

(3) **“Medium-heavy-duty vehicle” or “MHDV”** means an on-road motor vehicle with a gross vehicle weight rating of greater than 14,000 pounds.

(4) **“Member”** means an employee or subcontractor of the verification body or related persons participating in the verification body and includes a person with a majority equity share in the verification body or its related entities.

(5) **“Meter”** means any device that measures the amount of transportation fuel delivered to a vehicle.

(6) **“Motor vehicle”** means a vehicle that is propelled by a motor.

N. Definitions beginning with the letter “N.”

(1) **“Nameplate fueling capacity”** means the maximum amount of transportation fuel that an FSE unit can dispense assuming no downtime.

(2) **“Nameplate production capacity”** means the maximum amount of transportation fuel that a fuel production facility can produce assuming no downtime.

(3) **“Natural gas”** 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 a third-party under a standard set of terms.

(5) **“Non-fossil fuel”** means a transportation fuel not produced from naturally occurring flammable mixture of hydrocarbons found in geologic formations.

O. Definitions beginning with the letter “O.”

(1) **“Operational carbon intensity”** means a transportation fuel’s carbon intensity based on actual fuel production facility operations and feedstocks.

(2) **“Operational fueling capacity”** means the maximum amount of transportation fuel that an FSE can dispense less downtime.

(3) **“Operator”** means the person locally situated or on location engaged in managing operations.

(4) **“Owner”** means the person that has ownership.

P. Definitions beginning with the letter “P.”

(1) **“Person”** means the same as Subsection F of Section 74-1-3 NMSA 1978.

(2) **“Petroleum refinery”** means an installation that manufactures finished petroleum products like gasoline and diesel from crude oil, unfinished oils, natural gas liquids, other hydrocarbons, and oxygenates.

(3) **“Position holder”** means a person that has an ownership interest in a quantity of transportation fuel in the inventory of a terminal operator.

(4) **“Positive verification statement”** means a verification statement from a verification body attesting, with reasonable assurance, that the submitted report or fuel pathway application is free of material misstatement and that the subject material conforms to the applicable requirements.

(5) **“Producer”** means a person that makes, refines or treats a transportation fuel.

(6) **“Product transfer document”** means a document, or combination of documents, which authenticates the transfer of ownership of transportation fuel between parties and that includes all information identified in of Subsection B of 20.2.92.506 NMAC.

(7) **“Provisional status”** means a status of an alternative fuel pathway due to a person’s inability to provide operational data for an alternative fuel pathway.

Q. Definitions beginning with the letter “Q.”

(1) **“Quarter”** means the four quarters of the calendar year beginning on January 1, April 1, July 1 and October 1 of each year and, respectively, ending on March 31, June 30, September 30 and December 31 of each year.

R. Definitions beginning with the letter “R.”

(1) **“Reasonable assurance”** means a high degree of confidence in the accuracy and truth of a conclusion.

(2) **“Registered party”** means a person that has a registration pursuant to 20.2.92.501 NMAC.

(3) **“Regulated party”** means a person producing in New Mexico, importing into New Mexico or dispensing for use in New Mexico a regulated transportation fuel, unless exempt from 20.2.92 NMAC, or a person that voluntarily opts into the CTFP in accordance with Subsection C of 20.2.92.103 NMAC.

(4) **“Renewable diesel”** means diesel that is derived from vegetable oils, animal fats or other non-fossil resources that does not consist of mono-alkyl esters.

(5) **“Renewable electricity”** means electricity generated by solar, wind, hydropower or geothermal generation.

(6) **“Renewable energy certificate”** or **“REC”** means a tradeable, market-based instrument that represents the legal property rights to the environmental attributes of renewable electricity generation.

(7) **“Renewable Fuel Standard”** or **“RFS”** means the program required under the federal Clean Air Act, Subsection o of 42 U.S.C. 7545 as implemented by the U.S. Environmental Protection Agency.

(8) **“Renewable gasoline”** means gasoline derived from vegetable oils, animal fats or other non-fossil resources and that substitutes for fossil gasoline.

(9) **“Renewable hydrocarbons”** means a chemical compound consisting of hydrogen and carbon that is produced from non-fossil resources that include renewable diesel, renewable gasoline, renewable LPG, renewable naphtha, and renewable natural gas.

(10) **“Renewable LPG”** means LPG that is produced from non-fossil resources.

(11) **“Renewable naphtha”** means naphtha that is produced from non-fossil resources.

(12) **“Renewable natural gas”** means the same as biomethane.

(13) **“Renewable thermal certificate”** means a tradeable, market-based instrument that represents the legal property rights to the environmental attributes of biomethane.

(14) **“Responsible official”** means the person holding the position with the highest executive authority, as follows:

(a) For a corporation: a president, secretary, treasurer or vice-president of the corporation in charge of a principal business function or any other person that performs similar executive policy or decision-making functions for the corporation, or a duly authorized representative of such person if the department has approved in advance the delegation of authority to the representative.

(b) For a partnership or sole proprietorship: a general partner or the proprietor, respectively.

(c) For a municipality, state, federal or other public agency: either a principal executive officer or ranking elected official, or a duly authorized representative of such person if the department has approved in advance the delegation of authority to the representative. A principal executive officer of a federal agency includes the chief executive officer that has responsibility for the overall operations of a principal geographic unit of the agency

S. Definitions beginning with the letter “S.”

(1) **“Secretary”** means the same as Subsection H of Section 74-1-3 NMSA 1978.

(2) **“Similar program in another jurisdiction”** means a program administered in another jurisdiction that is designed and implemented in a similar fashion and with a similar objective as 20.2.92 NMAC.

(3) **“Specified source feedstock”** means a feedstock that requires chain of custody evidence to be eligible for a reduced carbon intensity associated with the use of a waste, residue, by-product or similar material as designated by the department under the alternative fuel pathway certification process.

(4) **“Steam methane reformation” or “SMR”** means the process of converting high-temperature steam and methane into hydrogen, carbon dioxide and carbon monoxide.

(5) **“Synthetic fuel”** means a finished transportation fuel produced from synthetic hydrocarbons that are formed through chemical processes by human agency that can substitute for or be blended into fossil fuel.

T. Definitions beginning with the letter “T.”

(1) **“Tier 1 calculator”** means a tool and the instruction manual to calculate lifecycle emissions for a type of transportation fuel listed in Paragraph (1) of Subsection A of 20.2.92.205 NMAC, as announced and provided by the department with sufficient notice of the effective date.

(2) **“Tier 2 calculator”** means the greenhouse gases, regulated emissions and energy use in transportation model with New Mexico parameters and the instruction manual to calculate lifecycle emissions for a transportation fuel listed in Paragraph (2) of Subsection A of 20.2.92.205 NMAC, as announced and provided by the department with sufficient notice of the effective date.

(3) **“Transaction date”** means the title transfer date as shown on the product transfer document.

(4) **“Transaction quantity”** means the amount of transportation fuel reported in a transfer as shown on the product transfer document.

(5) **“Transportation”** means the movement of persons or goods from one place to another by a carrier.

(6) **“Transportation fuel” or “fuel”** means the same as Subsection I of Section 74-1-3 NMSA 1978.

U. Definitions beginning with the letter “U.”

(1) **“Underserved community”** means a census block group in New Mexico where the median income of the population in the census block group is low-income, as determined by the department in accordance with Subsection E of 20.2.92.305 NMAC.

(2) **“Uptime multiplier”** means a factor between zero and one representing that portion of a

day in which an FSE or fuel 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 a device in, upon or by which a person or property is or may be transported or drawn, including any frame, chassis, body or unitized frame and body of a motor vehicle, except not devices moved exclusively by human power.

(2) **“Vehicle duty type”** means either light-medium-duty vehicle or medium-heavy-duty vehicle.

(3) **“Vehicle identification number”** means the identifying code for a specific vehicle as assigned by the vehicle manufacturer.

(4) **“Vehicle manufacturer”** means the same as Subsection J of Section 57-16-3 NMSA 1978.

(5) **“Verification body”** means a business entity that is qualified and has been approved by the department to provide verification services in accordance with Subsection S of 20.2.92.508 NMAC.

(6) **“Verification report”** means the record described in Paragraph (3) of Subsection P of 20.2.92.508 NMAC.

(7) **“Verification services”** means services provided for a fuel reporting entity by a qualified body to confirm the accuracy of information reported by the fuel reporting entity.

(8) **“Verification statement”** means the final statement produced by a verification body that attests to or disputes the validity of a report or fuel pathway application that a regulated party submits to the department indicating whether subject material conforms to the applicable requirements.

(9) **“Verification team”** means all persons working for a verification body, including all subcontractors, to provide verification services.

(10) **“Verifier”** means a person that has met the requirements and is approved by the department under Subsection S of 20.2.92.508 NMAC to provide verification services per 20.2.92 NMAC.

W. Definitions beginning with the letter “W.”

(1) **“Western Electricity Coordinating Council”** means the non-profit corporation approved by the Federal Energy Regulatory Commission that operates with the objective of assuring a reliable bulk electric system in the geographic area known as the Western Interconnection.

(2) **“Western Renewable Energy Generation Information System”** means an independent, web-based tracking system for RECs that covers the Western Interconnection territory as administered by the Western Electricity Coordinating Council.

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

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

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

[20.2.92.7 NMAC - N, 02/01/2026]

20.2.92.8 DOCUMENTS: Documents incorporated and cited in 20.2.92 NMAC may be viewed on the department’s website, at the New Mexico environment department climate change bureau or in an environmental improvement board-approved alternate document repository system.

[As of December 2025, 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, 02/01/2026]

20.2.92.9 SEVERABILITY: If any provision of 20.2.92 NMAC or the regulatory application of a provision to a person or circumstance is held unconstitutional or invalid, then the remainder of 20.2.92 NMAC or the regulatory application of the provision to persons or circumstances other than those held invalid shall not be affected thereby.

[20.2.92.9 NMAC - N, 02/01/2026]

20.2.92.10 CONSTRUCTION: 20.2.92 NMAC shall be liberally construed to carry out its objective.

[20.2.92.10 NMAC - N, 02/01/2026]

20.2.92.11 SAVINGS CLAUSE: Repeal or supersession of prior versions of 20.2.92 NMAC shall not affect any administrative or judicial action initiated under those prior versions.

[20.2.92.11 NMAC - N, 02/01/2026]

1
2 **20.2.92.12 COMPLIANCE WITH OTHER REGULATIONS:** Compliance with 20.2.92 NMAC does not
3 relieve a person from the responsibility of complying with any other applicable federal, state or local regulations.
4 [20.2.92.12 NMAC - N, 02/01/2026]
5

6 **20.2.92.13 LIMITATION OF DEFENSE:** The existence of an approval from the department under 20.2.92
7 NMAC shall not constitute a defense to an alleged violation of 20.2.92 NMAC, except for the requirement for
8 obtaining the approval from the department.
9 [20.2.92.13 NMAC - N, 02/01/2026]
10

11 **20.2.92.14 CONSTRUCTION OF HEADINGS :** In addition to headings of sections in 20.2.92 NMAC,
12 headings of subsections in 20.2.92 NMAC and headings of paragraphs in 20.2.92 NMAC shall be considered
13 headings when construing 20.2.92 NMAC under Section 12-2A-13 NMSA 1978 of the Uniform Statute and Rule
14 Construction Act.
15 [20.2.92.14 NMAC - N, 02/01/2026]
16

17 **20.2.92.15 - 100 [RESERVED]**
18

19 **20.2.92.101 APPLICABILITY:**

20 A. General Applicability. Except as exempted in 20.2.92.102 NMAC, the provisions of 20.2.92
21 NMAC:

- 22 (1) Apply to regulated transportation fuel, as provided in Subsection B of 20.2.92.101
23 NMAC, that are produced in New Mexico, imported into New Mexico or dispensed for use in New Mexico;
24 (2) Apply to opt-in transportation fuel, as provided in Subsection C of 20.2.92.101 NMAC,
25 that are produced in New Mexico, imported into New Mexico or dispensed for use in New Mexico; and
26 (3) Establish the applicable annual CTFS for transportation fuel, as provided in Subsection D
27 of 20.2.92.101 NMAC.

28 B. Regulated transportation fuel. The following are types of regulated transportation fuel:

- 29 (1) Gasoline;
30 (2) Diesel;
31 (3) Fossil natural gas, including compressed, liquified and liquefied-compressed;
32 (4) Fossil LPGs;
33 (5) Ethanol;
34 (6) Hydrogen;
35 (7) Biodiesel;
36 (8) Renewable diesel;
37 (9) Renewable naphtha;
38 (10) Renewable gasoline;
39 (11) Synthetic fuel; and
40 (12) Blends of the types of transportation fuel listed in Paragraph (1) through Paragraph (11)
41 of Subsection B of 20.2.92.101 NMAC.

42 C. Opt-in transportation fuel. The following are types of opt-in transportation fuel and are presumed
43 to have a carbon intensity of less than the CTFS in Table 1 in Subsection A of 20.2.92.701 NMAC, Table 2 in
44 Subsection B of 20.2.92.701 NMAC and Table 3 in Subsection C of 20.2.92.701 NMAC:

- 45 (1) Electricity;
46 (2) Biomethane, including compressed, liquified and liquefied-compressed;
47 (3) Renewable LPG or other liquefied gas types not included under Paragraph (2) of
48 Subsection C of 20.2.92.101 NMAC;
49 (4) Alternative jet fuel; and
50 (5) Blends of the transportation fuel listed in Paragraphs (1) through Paragraph (4) of
51 Subsection C of 20.2.92.101 NMAC.

52 D. Applicable CTFS.

- 53 (1) The CTFS in Table 1 in Subsection A of 20.2.92.701 NMAC shall apply to transportation
54 fuel produced, imported, or dispensed for use in a vehicle that uses gasoline or gasoline substitutes for the applicable
55 compliance period;
56 (2) The CTFS in Table 2 in Subsection B of 20.2.92.701 NMAC shall apply to transportation

1 fuel produced, imported, or dispensed for use in a vehicle that uses diesel or diesel substitutes for the applicable
2 compliance period; and

3 (3) The CTFS in Table 3 in Subsection C of 20.2.92.701 NMAC shall apply to transportation
4 fuel produced, imported, or dispensed for use in a vehicle that uses alternative jet fuel for the applicable compliance
5 period.

6 [20.2.92.101 NMAC - N, 02/01/2026]

7
8 **20.2.92.102 EXEMPTIONS:**

9 A. Exempt fuel and fuel use.

10 (1) Transportation fuel produced, imported, or dispensed for use in the following motor
11 vehicles is exempt from generating deficits:

12 (a) Aircraft;

13 (b) Railroad locomotive, which means a locomotive that uses fixed guideway rail
14 tracks; and

15 (c) Military tactical vehicle, which means a motor vehicle owned by the U.S.
16 Department of Defense or the U.S. military services and used in combat, combat support, combat service support,
17 tactical or relief operations, or training for such operations.

18 (2) Dyed fuel is exempt from generating deficits through December 31, 2028.

19 (3) Transportation fuel with an annual statewide aggregated quantity of fewer than 42.6
20 million megajoules of energy equivalent, when converted from its applicable quantity to megajoules using the
21 energy density ratios in Table 7 in Subsection G of 20.2.92.701 NMAC, is exempt from generating deficits.

22 B. Claiming exemptions. To claim an exemption under Subsection A of 20.2.92.102 NMAC, the
23 person claiming the exemption shall maintain records demonstrating that a person produced, imported, or dispensed
24 the transportation fuel for an exempt use in New Mexico and report the exemption in CTFP-DMS as a registered
25 party, except in accordance with Paragraph (3) of Subsection B of 20.2.92.102 NMAC.

26 (1) The documentation for an exempt use shall include:

27 (a) Individual receipts or invoices for each transportation fuel sale claimed as
28 exempt that list the specific customer and exempt vehicle or use type;

29 (b) Records that demonstrate the customer's vehicle or vehicles being fueled are
30 exempt and the FSE is not used to fuel any other vehicles if the transportation fuel is sold through a dedicated tank
31 for a single customer; or

32 (c) Other comparable documentation required by the department submitted in the
33 CTFP-DMS before the person claims the exemption.

34 (2) The person claiming the exemption shall:

35 (a) Maintain records in accordance with 20.2.92.506 NMAC;

36 (b) Make reports in accordance with 20.2.92.503 NMAC;

37 (c) Attest to the accuracy of the submitted information, even if the person claiming
38 the exemption is not the transportation fuel end user; and

39 (d) Submit to the department upon the department's request additional records
40 demonstrating adherence to the conditions of 20.2.92.102 NMAC.

41 (3) A person solely producing, importing or dispensing transportation fuel for use as
42 described in Subsection A of 20.2.92.102 NMAC is not required to register, report or claim the exemption, but shall
43 maintain records in accordance with Subsection A of 20.2.92.506 NMAC.

44 C. Opting into the CTFP for otherwise exempt fuel and fuel uses. A registered party producing,
45 importing or dispensing transportation fuel with a carbon intensity that is below the applicable CTFS set forth in
46 20.2.92.701 NMAC to an exempt person or for an exempt fuel use may generate credits by reporting in accordance
47 with 20.2.92.503 NMAC.

48 D. Notwithstanding any other requirement of 20.2.92 NMAC, a retailer of liquid transportation fuel is
49 exempt from 20.2.92 NMAC. "Retailer" means a person that buys transportation fuel from producers, importers or
50 other persons and sells the transportation fuel in small quantities to the end-use consumer. This exemption does not
51 include the producer, importer or person selling liquid transportation fuel to a retailer and otherwise subject to
52 20.2.92 NMAC.

53 [20.2.92.102 NMAC - N, 02/01/2026]

54
55 **20.2.92.103 GENERAL REQUIREMENTS:**

56 A. Deficits and credits associated with a given quantity of transportation fuel are created when the

1 transportation fuel is produced in New Mexico, imported into New Mexico or dispensed for use in New Mexico.

2 B. General requirements for regulated parties. Regulated parties shall:

- 3 (1) Register per 20.2.92.501 NMAC;
- 4 (2) Pay program fees per 20.2.92.502 NMAC;
- 5 (3) Report to the department per 20.2.92.503 NMAC through 20.2.92.505 NMAC;
- 6 (4) Generate and maintain records per 20.2.92.506 NMAC;
- 7 (5) Demonstrate compliance per 20.2.92.507 NMAC; and
- 8 (6) Verify reports submitted to the department per 20.2.92.508 NMAC.

9 C. Voluntarily opting into the CTFP.

10 (1) A person opting in to the CTFP shall consent to the jurisdiction of New Mexico, its courts
11 and the administrative authority of the department upon registering in the CTFP-DMS to become a regulated party.
12 A person that does not consent to jurisdiction when registering to opt in to the CTFP shall be excluded from
13 participating in the CTFP.

14 (2) The effective opt-in date shall be the date the opt-in person becomes a regulated party by
15 registering in the CTFP-DMS and consenting to jurisdiction in accordance with Paragraph (1) of Subsection C of
16 20.2.92.103 NMAC. The opt-in person shall not report and shall not generate credits or deficits based on
17 transactions from the quarter prior to the quarter of the effective opt-in date.

18 (4) Opt-in requirements for producers not in New Mexico. If an importer of an opt-in transportation fuel, as
19 set forth in Subsection C of 20.2.92.101 NMAC, does not opt into the CTFP, the producer not in New Mexico may
20 generate credits from a transportation fuel the importer purchases by opting into the CTFP.

21 (3) Opt-in requirements for credit aggregators:

22 (a) A registered party may designate an aggregator to act on the registered party's
23 behalf to facilitate credit generation and to trade credits by submitting to the department an aggregator designation
24 form in the CTFP-DMS.

25 (b) An aggregator shall register in the CTFP-DMS only if another registered party
26 has authorized the aggregator to act on its behalf by submitting an aggregator designation form in the CTFP-DMS.

27 (c) An aggregator that chooses voluntarily to participate in the CTFP may do so
28 only if the aggregator opts in and meets the requirements of 20.2.92.103 NMAC.

29 (i) An already-registered aggregator may also serve as an aggregator for
30 other registered parties.

31 (ii) A registered party shall notify the department in the CTFP-DMS when
32 the registered party has withdrawn its designation of the aggregator and an aggregator may notify the department in
33 the CTFP-DMS when a registered party has withdrawn its designation of the aggregator. A registered party's
34 withdrawal of its designation of an aggregator shall be effective at the end of the quarter in which the department
35 receives the notice.

36 (d) A registered party may not designate an aggregator if the registered party is also
37 an aggregator.

38 (4) To opt out of the CTFP, the opt-in person shall:

39 (a) Provide the department with notice of the person's intent to opt out of the CTFP
40 at least 90 calendar days prior to the effective opt-out date and state in the notice the effective opt-out date;

41 (b) Submit in the CTFP-DMS any outstanding quarterly transportation fuel
42 transactions up to the end of the quarter in which the effective opt-out date falls, as set forth in 20.2.92.504 NMAC,
43 and a final compliance period report that covers transactions from that compliance period, as set forth in 20.2.92.505
44 NMAC; and

45 (c) Identify in the 90-day notice of intent the actions the opt-in person shall take to
46 demonstrate compliance, such that any remaining deficits are satisfied by the effective opt-out date in accordance
47 with 20.2.92.507 NMAC.

48 (D) Changing, supplementing or correcting submittals to the department.

49 (1) When a person makes a submittal to the department pursuant to 20.2.92 NMAC that will
50 result in a final decision by the department, before the department makes a final decision regarding the submittal, the
51 person making the submittal shall have a duty to promptly supplement and correct information the person has
52 submitted to the department. The person's duty to supplement and correct the submittal includes relevant
53 information acquired after the person has made the submittal and additional information the person otherwise
54 determines is relevant to the submittal and the department's review and decision.

55 (2) Before the department makes a final decision regarding a submittal to the department
56 pursuant to 20.2.92 NMAC, the department may determine additional information is necessary to evaluate or make a

1 final decision regarding the submittal.

2 (3) The department may request additional information and the person that made the
3 submittal shall provide the requested additional information. The department's request for additional information
4 shall be in writing, identify the additional information requested, state the reason the additional information is
5 needed, and set a reasonable response deadline for the person that made the submittal to respond unless a time
6 period for a response is otherwise required by 20.2.92 NMAC. The person that made the submittal shall submit the
7 requested information to the department in the CTFP-DMS on or before the response deadline. Upon a request in
8 the CTFP-DMS from the person that made the submittal, the department may grant an extension for good cause, as
9 determined by the department, for the person that made the submittal to submit the requested information and the
10 department shall state a new reasonable response deadline.

11 (4) The department may deny the request in the submittal if the person fails to request an
12 extension or respond by the deadline set by the department.

13 (E) A person's failure to comply with a condition placed upon a person by the department with an
14 approval shall be deemed a violation of 20.2.92 NMAC.

15 [20.2.92.103 NMAC - N, 02/01/2026]

16
17 **20.2.92.104 - 200 [RESERVED]**

18
19 **20.2.92.201 CARBON INTENSITY GENERAL REQUIREMENTS:**

20 A. Carbon intensities for reporting.

21 (1) A regulated party shall report using the statewide carbon intensity lookup table values
22 listed in Table 4 in Subsection D of 20.2.92.701 NMAC for reporting the following types of transportation fuel:

23 (a) Clear gasoline or the fossil gasoline blendstock of a blended gasoline
24 transportation fuel;

25 (b) Clear diesel or the fossil diesel blendstock of a blended diesel fuel;

26 (c) Fossil fuel natural gas, including compressed, liquified and liquefied-
27 compressed; and

28 (d) Fossil LPGs.

29 (2) For a regulated party dispensing electricity, the regulated party shall report using the
30 carbon intensity in accordance with 20.2.92.206 NMAC.

31 (3) A regulated party reporting a transportation fuel not identified in Paragraphs (1) and (2)
32 of Subsection A of 20.2.92.201 NMAC shall apply for and report using a fuel-specific carbon intensity approved by
33 the department under an alternative fuel pathway in accordance with 20.2.92.202 or may use a temporary alternative
34 fuel pathway in accordance with Subsection B of 20.2.92.201 NMAC.

35 B. Reporting transportation fuel without a certified carbon intensity.

36 (1) A regulated party that produces in New Mexico, imports into New Mexico or dispenses
37 for use in New Mexico a transportation fuel other than those identified in Paragraphs (1) and (2) of Subsection A of
38 20.2.92.201 NMAC that does not have a certified fuel-specific carbon intensity under an approved alternative fuel
39 pathway per 20.2.92.202 NMAC shall apply to the department to report using a temporary carbon intensity.
40 Applications for use of a temporary carbon intensity shall:

41 (a) Be submitted to the department within 45 days after the end of the quarter for
42 which the applicant is seeking to report using a temporary carbon intensity;

43 (b) Identify the proposed temporary carbon intensity as listed in Table 5 in
44 Subsection E of 20.2.92.701 NMAC or per Paragraph (2) of Subsection B of 20.2.92.201 NMAC; and

45 (c) Explain and maintain records demonstrating the applicability of the proposed
46 temporary carbon intensity to the transportation fuel production and feedstocks. A regulated party reporting
47 transportation fuel produced through processes emitting less carbon or transportation fuel originating from less
48 carbon-intensive feedstocks may apply to use the temporary carbon intensity with the most similar transportation
49 fuel production process or feedstock listed in Table 5 in Subsection E of 20.2.92.701 NMAC or per Paragraph (2) of
50 Subsection B of 20.2.92.201 NMAC. A regulated party that has purchased a transportation fuel with unknown
51 production processes or feedstocks shall report the regulated transportation fuel using the maximum carbon intensity
52 for that regulated fuel type listed in Table 4 in Subsection D of 20.2.92.701 NMAC or Table 5 in Subsection E of
53 20.2.92.701 NMAC, or per Paragraph (2) of Subsection B of 20.2.92.201 NMAC.

54 (2) A regulated party reporting a transportation fuel that does not have an applicable
55 temporary carbon intensity in Table 5 in Subsection E of 20.2.92.701 NMAC may submit a request to the
56 department in the CTFP-DMS requesting the department issue a new temporary carbon intensity. The department

1 may approve the requested new temporary carbon intensity and issue a new temporary fuel pathway code if the
2 department decides the requested new temporary carbon intensity is technically sound and supported by appropriate
3 evidence. An approved temporary carbon intensity shall be effective for use beginning in the quarter in which it is
4 approved. The department shall announce approved new temporary carbon intensities. The written request shall:

5 (a) Explain and document why the temporary carbon intensities in Subsection E of
6 20.2.92.701 NMAC do not apply to the transportation fuel being reported;

7 (b) Propose a carbon intensity value;

8 (c) Provide evidence that the proposed temporary carbon intensity applies to the
9 transportation fuel being reported by the regulated party;

10 (3) A regulated party's reporting of transportation fuel using a temporary carbon intensity per
11 Paragraph (1) or (2) of Subsection B of 20.2.92.201 NMAC is subject to the following conditions:

12 (a) A temporary carbon intensity may be used for a limited time. If a regulated
13 party needs more time to obtain a certified carbon intensity under an alternative fuel pathway in accordance with
14 Section 20.2.92.202 NMAC, the regulated party shall submit an additional request to the department in the CTFP-
15 DMS for an extension of the authorization to use a temporary carbon intensity. A temporary carbon intensity may
16 be used for reporting during:

17 (i) The initial period of the CTFP until the department begins accepting
18 fuel pathway applications in accordance with Paragraph (1) of Subsection A of 20.2.92.202 NMAC;

19 (ii) The department's review of alternative fuel pathway applications
20 submitted to the department within two quarters of beginning to accept fuel pathway applications per Paragraph (1)
21 of Subsection A of 20.2.92.202 NMAC; or

22 (iii) For up to two quarters following the time periods described in Items (i)
23 and (ii) of Subparagraph (a) of Paragraph (3) of Subsection B of 20.2.92.201 NMAC.

24 (b) The temporary carbon intensity shall be larger than the operational carbon
25 intensity. If the department determines the operational carbon intensity for transportation fuel reported using a
26 temporary carbon intensity is higher than the temporary carbon intensity, the department shall replace the temporary
27 carbon intensity with the operational carbon intensity in the CTFP-DMS and adjust the credit balance calculated in
28 Section C of 20.2.92.507 NMAC accordingly for the whole period for which the temporary carbon intensity was
29 used.

30 (c) The department may impose additional conditions in its approval of the use of a
31 temporary carbon intensity for transportation fuel reporting. Conditions may include limitations on which reporting
32 periods a temporary carbon intensity may be used to report for, limitations on the volume of transportation fuel a
33 temporary alternative fuel pathway may be used to report, requirements for transportation fuel production
34 operations, and additional recordkeeping or reporting requirements.

35 C. Use of book-and-claim accounting for gaseous transportation fuel or liquid transportation fuel. To
36 use a carbon intensity associated with a non-fossil gaseous transportation fuel or liquid transportation fuel through
37 book-and-claim accounting, including biomethane used to produce a transportation fuel, the fuel reporting entity
38 shall:

39 (1) Have the exclusive right to claim the specific environmental attributes being used
40 pursuant to 20.2.92 NMAC;

41 (2) If the gaseous transportation fuel or liquid transportation fuel is injected into the
42 transportation pipeline of a local fuel distribution company, establish and maintain an agreement with that local
43 distribution company along with any other purchaser of the gaseous transportation fuel or liquid transportation fuel
44 that only the fuel reporting entity shall make any claims on the gaseous transportation fuel's or liquid transportation
45 fuel's environmental attributes reported through book-and-claim accounting;

46 (3) If the gaseous transportation fuel or liquid transportation fuel is injected into the
47 transportation pipeline of a local fuel distribution company and an agreement with that local distribution company is
48 established, submit the agreement listed in Paragraph (2) of Subsection D of 20.2.92.201 NMAC at the time of the
49 fuel pathway application or in the next annual fuel pathway report; and

50 (4) Not claim credit for environmental attributes of the gaseous transportation fuel or
51 transportation liquid fuel under the CTFP if the fuel reporting entity has claimed those credits for greenhouse gas
52 environmental attributes of the gaseous or liquid transportation fuel under any other program or jurisdiction. The
53 fuel reporting entity may claim credit for environmental attributes using book-and-claim accounting per Section C of
54 20.2.92.201 NMAC for transportation fuel also claimed under the renewable fuel standard or another federal or state
55 credit program that primarily determines credits based upon criteria that are not to greenhouse gas emissions.

56 (5) Retire any environmental attribute certificates, including renewable thermal certificates

for reported transportation fuel quarterly. Retired environmental attribute certificates must have been generated in the same quarter as the transportation fuel is reported, or the quarter prior to the transportation fuel being reported.

D. Department review of statewide carbon intensities.

(1) At least every three years, the department shall review the statewide carbon intensities in Table 4 in Subsection D of 20.2.92.701 NMAC, Table 5 in Subsection E of 20.2.92.701 NMAC and Table 9 in Subsection I of 20.2.92.701 NMAC, and shall consider, at a minimum, changes to the following:

(a) 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;

(b) Vehicle fuel economy and energy economy ratios; and

(c) Methods to calculate lifecycle greenhouse gas emissions of transportation fuel, including changes in established transportation fuel lifecycle models and methods to quantify indirect land use change.

(2) If the department determines the carbon intensities in Table 4 in Subsection D of 20.2.92.701 NMAC, Table 5 in Subsection E of 20.2.92.701 NMAC or Table 9 in Subsection I of 20.2.92.701 NMAC should be updated in accordance with Paragraph (1) of Subsection A of 20.2.92.201 NMAC, the department shall update the carbon intensities and petition the board for a regulatory change in accordance with Section 74-1-9 NMSA 1978.

[20.2.92.201 NMAC - N, 02/01/2026]

20.2.92.202 CARBON INTENSITY ALTERNATIVE FUEL PATHWAYS:

A. General alternative fuel pathway requirements. A regulated party may apply to the department for a fuel production facility-specific or process-specific carbon intensity, except as specified in 20.2.92.201 NMAC, by applying to the department as specified in 20.2.92.204 NMAC, 20.2.92.205 NMAC, 20.2.92.206 NMAC and 20.2.92.207 NMAC.

(1) The department shall accept alternative fuel pathway applications for review beginning July 1, 2026. The department may stagger the review of alternative fuel pathway applications based on the complexity of the alternative fuel pathway applications and the department's ability to feasibly implement the reviews.

(2) A regulated party may use a certified carbon intensity under a department-approved alternative fuel pathway in accordance with 20.2.92.204 NMAC, 20.2.92.205 NMAC and 20.2.92.206 NMAC to report transportation fuel produced in New Mexico, imported into New Mexico or dispensed for use in New Mexico after the approval of the pathway.

(3) Carbon intensities for alternative fuel pathways shall be calculated using the Tier 1 calculator or Tier 2 calculator. The department shall determine whether a Tier 1 or Tier 2 calculator is appropriate for each alternative fuel pathway. If a regulated party wants to use a modified or different model to calculate lifecycle emissions, the regulated party shall apply within the CTFP-DMS in advance of an alternative fuel pathway application to use the modified or different model in an alternative fuel pathway application. A regulated party shall not submit an alternative fuel pathway application using a modified or different model without prior approval from the department.

(4) Carbon intensities for alternative fuel pathways shall account for indirect land use change in accordance with Table 9 in Subsection I of 20.2.92.701 NMAC. An application for an alternative fuel pathway that includes a feedstock not listed in Table 9 in Subsection I of 20.2.92.701 NMAC shall use scientific or economic models to calculate an indirect land use change value. A regulated party shall propose calculated indirect land use change values and methods to the department for approval prior to submitting an alternative fuel pathway application.

B. Maximum carbon intensities.

(1) An alternative fuel pathway holder and a regulated party reporting transportation fuel using a certified carbon intensity under an alternative fuel pathway shall comply with the requirement that the operational carbon intensity for transportation fuel produced in New Mexico, imported into New Mexico or dispensed for use in New Mexico under an alternative fuel pathway is equal to or less than the alternative fuel pathway's certified carbon intensity.

(2) The operational carbon intensity of a transportation fuel shall be calculated from the most recent production data covering 24 months of the fuel production facility's operation.

(3) The certified carbon intensity for an alternative fuel pathway may include a margin of safety to comply with the requirement that the certified carbon intensity remains above the alternative fuel pathway's operational carbon intensity.

1 (4) An alternative fuel pathway holder shall notify the department within 14 calendar days
2 after the alternative fuel pathway holder has notice or actual notice that an alternative fuel pathway's operational
3 carbon intensity may exceed the certified carbon intensity of the alternative fuel pathway.

4 C. Data requirements for alternative fuel pathways.

5 (1) The owner or operator of a measurement device that logs or records data used in an
6 alternative fuel pathway application or annual fuel pathway report shall implement the measurement device
7 manufacturer's use, maintenance, calibration, recalibration and inspection recommendations for the measurement
8 device.

9 (2) The owner or operator of a measurement device that logs or records data used in an
10 alternative fuel pathway application or annual fuel pathway report that operates continuously with infrequent
11 outages may submit a request to the department in the CTFP-DMS to postpone maintenance, calibration,
12 recalibration or inspection until the next scheduled maintenance outage.

13 (a) The owner or operator of a measurement device shall maintain records
14 identifying postponements in the monitoring plan required by Subsection H of 20.2.92.506 NMAC.

15 (b) A request for postponement shall be submitted to the department in the CTFP-
16 DMS not less than 30 calendar days before the required maintenance, calibration, recalibration or inspection date.
17 The request for postponement shall include:

18 (i) A description of the measurement device, including at a minimum the
19 make, model, installation date, location, parameter measured and the rate of data capture;

20 (ii) A description of how data from the measurement device is used in a
21 fuel pathway;

22 (iii) The maintenance, calibration, recalibration or inspection procedure for
23 the measurement device;

24 (iv) The date of the manufacturer-recommended maintenance, calibration,
25 recalibration or inspection;

26 (v) The date of the last maintenance, calibration, recalibration or
27 inspection;

28 (vi) The proposed date for maintenance, calibration, recalibration or
29 inspection;

30 (vii) The reason for delaying the maintenance, calibration, recalibration or
31 inspection;

32 (viii) A proposed method to maintain the precision specifications listed by
33 the manufacturer; and

34 (ix) Contact information for a person at the fuel production facility with
35 sufficient knowledge to answer questions from a verification body, including the verification team, and a verifier,
36 and the department about the measurement device, as well as calibration, recalibration and inspection of the
37 measurement device.

38 (c) If one or more shutdown takes place prior to the date of a manufacturer-
39 recommended maintenance, calibration, recalibration or inspection, then the owner or operator of a measurement
40 device shall conduct maintenance, calibration, recalibration or inspection during the shutdown. If the next shutdown
41 does not occur within three years, the owner or operator of the measurement device shall submit a new request for
42 postponement to the department every three years until a shutdown occurs and the maintenance, calibration,
43 recalibration or inspection is completed.

44 (d) The department may request additional documentation to validate the owner or
45 operator's claim that the measurement device meets the accuracy requirements under Paragraph (3) of Subsection C
46 of 20.2.92.202 NMAC. The owner or operator shall provide additional documentation to the department within 14
47 calendar days of a request from the department for additional documentation.

48 (3) If a measurement device is not functional, not maintained, not calibrated or not inspected
49 in accordance with the requirements of paragraphs (1) and (2) of Subsection C of 20.2.92.202 NMAC, the pathway
50 holder shall demonstrate to the department that the reported data is accurate within a five percent margin of error.
51 The department shall determine if the owner or operator has successfully demonstrated to the department that
52 reported data is accurate within a five percent margin of error.

53 (a) If the department determines the reported data is accurate within a five percent
54 margin of error, the registered party may use, and the department shall accept the data for an alternative fuel
55 pathway application or annual fuel pathway report. The owner or operator shall provide the department with a
56 detailed plan describing when the owner or operator shall bring the measurement device into compliance with
maintenance, calibration, recalibration and inspection. This plan is subject to approval by the department. The

owner or operator shall revise and resubmit the plan if the department rejects the most recent plan submission.

(b) If the department determines the reported data is not accurate within a five percent margin of error, the registered party shall not use, and the department shall not accept the reported data. Instead, the data shall be treated as missing data.

(4) For missing data, the registered party shall submit to the department a proposed alternate method of reporting the missing data. The department shall review the proposed alternative method and determine whether the proposed alternative method is reasonable and can be compared against and considered together with the other data. The department may assign a higher carbon intensity to transportation fuel produced during the time the data is missing if the department has reason to believe the proposed alternative method may understate actual lifecycle emissions associated with the transportation fuel produced by the fuel production facility.

(5) In the event of a fuel production facility shutdown or disruption affecting production attributable to an event outside of the control of the fuel pathway holder, the alternative fuel pathway holder shall notify the department in writing within 30 calendar days.

D. Review of alternative fuel pathway applications.

(1) The department shall determine an alternative fuel pathway application is complete if the application contains the items listed in Subsection B of 20.2.92.204, Subsection C of 20.2.92.204, Subsection B of 20.2.92.205 or Subsection C of 20.2.92.205 as applicable. If the department determines the alternative fuel pathway application is complete, the department shall notify the alternative fuel pathway applicant in writing of the completeness determination. If the department determines the alternative fuel pathway application is incomplete, the department shall notify the alternative fuel pathway applicant in writing of the additional information required for the alternative fuel pathway application to be complete and require additional information or clarification from the alternative fuel pathway applicant in accordance with Subsection D of 20.2.92.103 NMAC. The response deadline shall be 30 calendar days. If the alternative fuel pathway applicant does not timely deliver to the department a response containing the required additional information the department shall deny the application. If the alternative fuel pathway applicant submits additional information necessary for a complete alternative fuel pathway application, the department shall determine if the alternative fuel pathway application is complete. If the department determines the alternative fuel pathway application is still incomplete, the department shall identify the missing additional information in the same manner. This process may be repeated until the department determines the application is complete, the applicant withdraws the application, or the department has repeated this process five times. If the department does not determine that the application is complete after five requests for additional information, the department shall deny the application. Denied applicants may reapply. An application denied for being incomplete shall not be eligible to protest.

(2) After the department determines the alternative fuel pathway application is complete, the department shall review the alternative fuel pathway application to determine compliance with 20.2.92 NMAC. The department shall approve the application, approve the application subject to conditions or deny the application based on information contained in the department's administrative record of the application. The administrative record shall consist of the application, all other evidence submitted by the alternative fuel pathway applicant, and all other evidence considered by the department. The alternative fuel pathway applicant has the burden of demonstrating the department should approve the application.

(3) The department may approve an alternative fuel pathway subject to additional conditions not included in the application. Conditions may include limitations on the amount of transportation fuel reported under the alternative fuel pathway, recordkeeping or reporting requirements, adherence to protocols or operational conditions. The department shall notify the applicant of additional conditions that approval of the application is conditional upon approval of the application. The department shall include documentation of the reason for additional conditions in the administrative record. Failure to comply with conditions an alternative fuel pathway is approved subject to may result in the department revoking the approval.

(4) When the department decides to deny an alternative fuel pathway application, the department shall do so by issuing a notice to the applicant in writing. When the department decides to approve or approve subject to conditions an alternative fuel pathway application the department shall issue a notice to the applicant in writing and shall:

(a) Announce its decision within 7 calendar days;

(b) Make the administrative record of the alternative fuel pathway application available on the department's website; and

(c) Issue an alternative fuel pathway code and make the alternative fuel pathway code available to the fuel pathway holder in the CTFP-DMS within 30 calendar days.

(5) An approved alternative fuel pathway maintained in accordance with 20.2.92.203 NMAC

shall be active for a minimum of five years from the date of the department's approval. Following this period, the department may determine the underlying assumptions are no longer valid and require the alternative fuel pathway holder to submit a new alternative fuel pathway application with updates as necessary resulting from changes in regulatory requirements or scientific understanding.

(6) Within 30 calendar days of the department's approval of an alternative fuel pathway subject to conditions or denial of an alternative fuel pathway application, the alternative fuel pathway applicant may protest the department's decision in accordance with 20.2.92.605 NMAC.

[20.2.92.202 NMAC - N, 02/01/2026]

20.2.92.203 REQUIREMENTS FOR MAINTAINING AN ALTERNATIVE FUEL PATHWAY:

A. General requirements. To maintain a certified carbon intensity under an alternative fuel pathway and an active alternative fuel pathway code in CTFP-DMS, the alternative fuel pathway holder shall:

(1) Maintain active registration with the CTFP-DMS in accordance with 20.2.92.501 NMAC;

(2) Provide to the department proof that the transportation fuel was produced in New Mexico, imported into New Mexico or dispensed for use in New Mexico in the quarter the transportation fuel is first reported in the CTFP-DMS; and

(3) Submit to the department an annual fuel pathway report no later than March 31 of each calendar year in accordance with Subsection B of 20.2.92.203 NMAC.

B. Annual fuel pathway report.

(1) The annual fuel pathway report shall include:

(a) A calculation of the operational carbon intensity of the transportation fuel based on the most recent two calendar years of operational data, and all data needed to make the required calculation. The alternative fuel pathway holder shall calculate the fuel pathway's carbon intensity using the same Tier 1 calculator or Tier 2 calculator as the alternative fuel pathway holder used for the approved alternative fuel pathway application or a more recent effective Tier 1 calculator or Tier 2 calculator if available.

(b) The two most recent calendar years of any temporally variable data included in the approved alternative fuel pathway application, and any required data or documentation listed in the pathway's operating conditions.

(c) If the transportation fuel production process involves biomethane, the producer shall provide, and the fuel pathway holder shall include in the report an attestation regarding retirement of environmental attributes or proof of non-generation or retirement of any renewable thermal certificates as required by Paragraph (5) of Subsection C of 20.2.92.201 NMAC.

(d) If the transportation fuel or fuel production process involves renewable electricity, the producer shall provide, and the fuel pathway holder shall include in the report an attestation regarding environmental attributes or proof of non-generation or retirement of any RECs as required by 20.2.92.206 NMAC.

(e) If an alternative fuel pathway employs carbon capture and sequestration, the alternative fuel pathway holder shall submit compliance period reports of greenhouse gas emissions reductions, project operations and ongoing monitoring results. Reports shall include measurements of relevant parameters to allow the department to replicate and verify the quantification and documentation of greenhouse gases sequestered.

(2) After the department has reviewed the annual pathway report in accordance with Paragraph (3) of Subsection D of 20.2.92.103 NMAC, the department may request additional information, and the alternative fuel pathway holder shall provide the requested additional information.

(3) If the operational carbon intensity as reported by the fuel pathway holder in Subparagraph (a) of Paragraph (1) of Subsection B of 20.2.92.203 NMAC is lower than the certified carbon intensity under the alternative fuel pathway and a positive verification statement is issued for this period, the fuel pathway holder may elect to keep the original certified carbon intensity or may submit a request to replace the certified carbon intensity with the operational carbon intensity. If the alternative fuel pathway holder elects to replace the certified carbon intensity with the operational carbon intensity, the operational carbon intensity becomes the new certified carbon intensity. When electing to adopt a new certified carbon intensity:

(a) The alternative fuel pathway holder may elect to add a margin of safety to the new certified carbon intensity;

(b) The responsible official for the alternative fuel pathway holder shall attest that the alternative fuel pathway holder can maintain the new certified carbon intensity through the next compliance period and acknowledge the alternative fuel pathway holder's understanding that exceeding the new certified carbon intensity in subsequent fuel pathway reports is a violation of the requirements of 20.2.92 NMAC, and the alternative

1 fuel pathway holder shall submit the signed written attestation and acknowledgment to the department; and

2 (c) The alternative fuel pathway holder shall use the new certified carbon intensity
3 to report transportation fuel in the quarter following the department's approval.

4 (4) The alternative fuel pathway holder shall be in violation of 20.2.92.203 NMAC if the
5 operational carbon intensity reported by the fuel pathway holder in Subparagraph (a) of Paragraph (1) of Subsection
6 B of 20.2.92.203 or the operational carbon intensity calculated by the department or verification body based on a
7 verification statement is greater than the certified carbon intensity. The department may modify an approved
8 alternative fuel pathway's certified carbon intensity or approval conditions in accordance with 20.2.92.604 NMAC if
9 the operational carbon intensity is higher than the certified carbon intensity.

10 (5) An alternative fuel pathway holder's failure to submit an annual fuel pathway report in
11 accordance with Subsection B of 20.2.92.203 NMAC or a verification statement in accordance with Subsection B of
12 20.2.92.508 NMAC for a fuel production facility's alternative fuel pathway may result in the department deleting the
13 alternative fuel pathway in accordance with 20.2.92.604 NMAC.

14 C. Requirements for alternative fuel pathways with provisional status.

15 (1) To maintain an active alternative fuel pathway with provisional status, the fuel pathway
16 holder shall file the annual fuel pathway report in accordance with Subsection B of 20.2.92.203 NMAC using all
17 available production data and complete third-party verification if required by 20.2.92.508 NMAC.

18 (2) At any point, the department may revise the certified carbon intensity for an alternative
19 fuel pathway with provisional status based on new information or an improved understanding of the pathway, as
20 appropriate.

21 (3) At any time if the fuel production facility's operational carbon intensity is higher than the
22 certified carbon intensity under the alternative fuel pathway and the department revises the certified carbon intensity
23 in accordance with paragraph (2) of Subsection C of 20.2.92.203 NMAC the department shall retroactively adjust
24 the credit balance in Paragraph C of 20.2.92.507 NMAC in compliance with the new certified carbon intensity for
25 the whole time period for which the provisional certified carbon intensity was used.

26 (4) If the alternative fuel pathway with provisional status is based on an alternative fuel
27 pathway in a similar program in another jurisdiction, the regulated party shall provide all notices, updates and
28 additional documentation provided to the other jurisdiction within 14 calendar days of providing it to the other
29 jurisdiction.

30 (5) If the alternative fuel pathway with provisional status is based on an alternative fuel
31 pathway in a similar program in another jurisdiction, the regulated party shall provide the department with a copy of
32 any notice the regulated party receives from the other jurisdiction within 14 calendar days of receipt.

33 (6) An alternative fuel pathway holder with provisional status may apply to the department to
34 remove the provisional status of the alternative fuel pathway. The department shall remove the provisional status of
35 the pathway provided that the most recent annual fuel pathway report in accordance with Subsection B of
36 20.2.92.203 NMAC contains at least two complete years of operational data and has received a positive verification
37 statement in accordance with Subsection B of 20.2.92.508 NMAC. The department shall provide the fuel pathway
38 holder with written notice of the department's decision.

39 (7) If the fuel production facility's operational carbon intensity is lower than the certified
40 carbon intensity, the department shall take no action. When the alternative fuel pathway holder applies to remove
41 the provisional status from the alternative fuel pathway holder may request that the department revise the certified
42 carbon intensity following the requirements of Paragraph (3) of Subsection B of 20.2.92.203 NMAC. The credit
43 balance in Subsection C of 20.2.92.507 NMAC for past quarters shall not be altered following such a request.

44 D. Another jurisdiction's alternative fuel pathway updates.

45 (1) Holders of an alternative fuel pathway that is not based on an alternative fuel pathway
46 from another jurisdiction's similar program shall notify the department if they apply for an alternative fuel pathway
47 for the same fuel production facility in another jurisdiction's similar program. The alternative fuel pathway holder
48 shall notify the department of any decisions made by the other jurisdiction. If the alternate fuel pathway application
49 is approved subject to additional conditions in the other jurisdiction, the department may modify the New Mexico
50 approved alternative fuel pathway to include the same conditions. If the alternative fuel pathway is approved or
51 approved subject to additional conditions in the other jurisdiction, the requirements of an alternative fuel pathway
52 based on a fuel pathway from another jurisdiction's similar program shall apply.

53 (2) The alternative fuel pathway holder of an alternative fuel pathway that is based on an
54 alternative fuel pathway in another jurisdiction's similar program shall notify the department within 14 calendar
55 days and provide a copy of any notice or documentation received from the other jurisdiction or verification body if:

56 (a) At any time, an alternative fuel pathway's approval is revoked by another

jurisdiction's similar program;

(b) At any time, another jurisdiction modifies its approval of or conditions for an alternative fuel pathway; or

(c) At any time, an alternative fuel pathway receives an adverse verification statement in another jurisdiction's similar program.

(3) Based on the notifications in accordance with Paragraph (2) of Subsection D of 20.2.92.203 NMAC, the department may:

(a) Require that the alternative fuel pathway holder provide the department with documentation related to the issuing jurisdiction's decision;

(b) Require that the alternative fuel pathway holder provide additional documentation to the department;

(c) Modify, suspend or delete the alternative fuel pathway in accordance with 20.2.92.604 NMAC.

[20.2.92.203 NMAC - N, 02/01/2026]

20.2.92.204 CARBON INTENSITIES FOR ALTERNATIVE FUEL PATHWAYS ESTABLISHED IN A SIMILAR PROGRAM IN ANOTHER JURISDICTION:

A. Use of alternative fuel pathways from a similar program in another jurisdiction. Except as provided by Paragraph (1) and Paragraph (2) of Subsection A of 20.2.92.201 NMAC, a regulated party may apply to the department to certify for New Mexico an alternative fuel pathway based on an alternative fuel pathway from a similar program in another jurisdiction. To certify for New Mexico an alternative fuel pathway from a similar program in another jurisdiction, the department shall use the same inputs to calculate carbon intensities as the inputs used to calculate the certified carbon intensity in another jurisdiction. Such inputs shall be adjusted in the application to account for transportation distance, indirect land use change, and differences between the requirements of the other program's calculator and the New Mexico Tier 1 calculator or Tier 2 calculator, as applicable.

B. Application contents. An application to the department to certify a New Mexico alternative fuel pathway based on an alternative fuel pathway that remains active for use in a similar program in another jurisdiction shall include:

(1) The complete, unredacted application package submitted to a similar program in another jurisdiction, including the Tier 1 or Tier 2 calculator as submitted to and approved by a similar program in another jurisdiction;

(2) The corresponding New Mexico Tier 1 or Tier 2 calculator with New Mexico inputs and inputs as used in the other jurisdictions' calculator;

(3) The review report from a similar program in another jurisdiction for the approved alternative fuel pathway;

(4) Verification reports in accordance with Paragraph (3) of Subsection C of 20.2.92.508 NMAC.

(5) Any other supporting materials relating to the alternative fuel pathway, as requested by the department.

C. Application for an alternative fuel pathway with provisional status. A regulated party may apply to the department as provided by Subsection B of 20.2.92.204 NMAC to certify a New Mexico alternative fuel pathway with provisional status based on an alternative fuel pathway with provisional status that remains active for use in a similar program in another jurisdiction. A regulated party's use of an alternative fuel pathway with provisional status is subject to additional conditions as provided in Subsection C of 20.2.92.203 NMAC.

D. Application review. The department shall review the application submitted by a regulated party as provided in Subsection B of 20.2.92.204 NMAC and approve an alternative fuel pathway, approve an alternative fuel pathway subject to additional conditions or deny an alternative fuel pathway application in the manner provided in Subsection D of 20.2.92.202.

E. Third-party verification of alternative fuel pathway applications established in a similar program in another jurisdiction. Alternative fuel pathway applications that have undergone third-party verification in a similar program in another jurisdiction and remain active for use under a similar program in another jurisdiction are exempt from third-party verification in New Mexico under 20.2.92.508 NMAC except that they comply with the requirements of Paragraph (3) of Subsection C of 20.2.92.508 NMAC.

[20.2.92.204 NMAC - N, 02/01/2026]

20.2.92.205 CARBON INTENSITIES FOR ALTERNATIVE FUEL PATHWAYS NOVEL TO NEW MEXICO:

A. General requirements. If a regulated party does not have an approved alternative fuel pathway from a similar program in another jurisdiction, as described in 20.2.92.204 NMAC, a regulated party may apply for an alternative fuel pathway under 20.2.92.205 NMAC. An application for an alternative fuel pathway novel to New Mexico falls into one of two tiers:

(1) Tier 1 fuel is a conventionally produced type of transportation fuel well-evaluated in New Mexico or a similar program in another jurisdiction. For purposes of 20.2.92.205 NMAC, types of transportation fuel that are Tier 1 fuel shall only include:

- (a) Starch- and sugar-based ethanol;
- (b) Biodiesel produced from tallow and related animal wastes, plant oils and used cooking oil;
- (c) Renewable diesel produced from tallow and related animal wastes, plant oils and used cooking oil;
- (d) Electricity produced from biomethane; and
- (e) Biomethane from landfills or anaerobic digestion of manure, wastewater sludge, food, vegetation or other organic waste.

(2) For purposes of 20.2.92.205 NMAC, Tier 2 fuel is a type of transportation fuel not listed as a Tier 1 fuel in Paragraph (1) of Subsection A of 20.2.92.205 NMAC and shall include:

- (a) Cellulosic alcohol, which means ethanol produced from lignocellulosic biomass;
- (b) Biomethane from feedstocks other than those specified in Paragraph (1) of Subsection A of 20.2.92.205 NMAC;
- (c) Hydrogen;
- (d) Renewable hydrocarbons and renewable diesel that are produced from feedstocks other than those specified in Paragraph (1) of Subsection A of 20.2.92.205 NMAC;
- (e) Transportation fuel produced from biogenic feedstock co-processed at a petroleum refinery;
- (f) Alternative jet fuel;
- (g) Synthetic fuel;
- (h) Renewable LPG; and
- (i) A Tier 1 fuel listed in Paragraph (1) of Subsection A of 20.2.92.205 NMAC produced using innovative methods or innovative feedstock that cannot be accurately represented using the Tier 1 calculator.

B. Application Contents.

(1) An application to the department for an alternative fuel pathway novel to New Mexico for a Tier 1 or Tier 2 fuel shall include:

- (a) Applicant's name and full mailing address;
- (b) Contact information for the applicant's responsible official, including the name, title or position, phone number, email address and website address;
- (c) For each fuel production facility covered by the application:
 - (i) Fuel production facility name;
 - (ii) Fuel production facility address;
 - (iii) Fuel production facility identification number for fuel production facilities covered by the RFS program;
 - (iv) The most recent RFS third-party engineering report, if one has been conducted for the fuel production facility.
 - (v) Fuel production facility geographical coordinates;
 - (vi) Fuel production facility contact information, including the name, title or position, phone number and email address of a fuel production facility operator; and
 - (vii) Fuel production facility nameplate production capacity.
- (d) If applicable, consultant's contact information, including the name, title, position, phone number and email address;
- (e) Declaration whether the applicant is applying for a Tier 1 or Tier 2 fuel carbon intensity for a pathway novel to New Mexico;
- (f) A proposed carbon intensity for the transportation fuel or fuel production

1 facility;

2 (g) A positive verification statement provided in compliance with the third-party
3 verification requirements in 20.2.92.508 NMAC, stating that it has reviewed and validated all of the data used to
4 form the inputs for the calculator submitted under Paragraph (2) of Subsection B of 20.2.92.205 NMAC or
5 subparagraph (a) of Paragraph (3) of Subsection B of 20.2.92.205 NMAC; and

6 (h) Any other materials or information related to the pathway novel to New Mexico,
7 as requested by the department.

8 (2) In addition to the items in Paragraph (1) of this Subsection B of 20.2.92.205 NMAC, a
9 regulated party applying to the department for an alternative fuel pathway novel to New Mexico for a Tier 1 fuel
10 shall submit the applicable Tier 1 calculator with all necessary inputs completed according to the department's
11 instructions for that calculator.

12 (3) In addition to the items in Paragraph (1) of Subsection B of 20.2.92.205 NMAC, a
13 regulated party applying to the department for an alternative fuel pathway novel to New Mexico for a Tier 2 fuel
14 shall submit the following:

15 (a) A completed Tier 2 calculator;
16 (b) A complete list of all non-default inputs to the Tier 2 calculator;
17 (c) Process flow diagrams that depict the complete transportation fuel production
18 process;
19 (d) Applicable air quality permits issued for the fuel production facility;
20 (e) A copy of the RFS fuel producer co-products report; and
21 (f) A lifecycle analysis report that describes the fuel pathway and describes in detail
22 the calculation of carbon intensity for the transportation fuel, which shall contain sufficient details to allow the
23 department to replicate the carbon intensity calculated and that describes all inputs to and outputs from the
24 transportation fuel production process that are part of the fuel pathway.

25 C. Provisional status. If a fuel production facility has been in full commercial production for at least
26 90 calendar days but less than 24 months, the registered party for the fuel production facility may apply for an
27 alternative fuel pathway with provisional status in accordance with Subsection C of 20.2.92.202 NMAC. The
28 registered party shall submit with the application described in Subsection B of 20.2.92.205 NMAC operating records
29 covering all periods of full commercial operation as required under Subsection B of 20.2.92.205 NMAC.

30 D. Regulated party employing co-processing at a petroleum refinery. A regulated party employing
31 co-processing of biogenic feedstocks at a petroleum refinery shall submit all operating records covering all periods
32 of full commercial operation as required under Subsection B of 20.2.92.205 NMAC.

33 (1) For the renewable diesel or other renewable refinery product, the regulated party shall
34 also submit:

35 (a) The planned proportions of biogenic feedstocks to be processed;
36 (b) A detailed methodology for the attribution of biogenic feedstocks to the
37 renewable products; and
38 (c) The corresponding carbon intensities from each biogenic feedstock.

39 (2) The attribution methodology shall be subject to approval by the department and may be
40 modified based on ongoing quarterly reporting of production data at the refinery.

41 (3) The department may adjust the certified carbon intensities under 20.2.92.205 NMAC as it
42 determines to be appropriate.

43 E. Application review. The department shall review the application submitted by a regulated party as
44 provided in Subsection B of 20.2.92.205 NMAC and approve an alternative fuel pathway, approve an alternative
45 fuel pathway subject to additional conditions or deny an alternative fuel pathway application in the manner provided
46 in Subsection C of 20.2.92.203 NMAC.

47 [20.2.92.205 NMAC - N, 02/01/2026]
48

49 **20.2.92.206 CARBON INTENSITIES FOR ELECTRICITY:**

50 A. Carbon intensity of electricity from EDUs. EDU-specific electricity carbon intensities are unique
51 to the EDU and the EDU service area.

52 (1) The department shall annually calculate the carbon intensity of the electricity used in
53 New Mexico EDU service areas based on the best available information for electricity generation from the mix of
54 resources each EDU sources electricity from. The department may determine it has insufficient information to
55 calculate an EDU-specific electricity service area carbon intensity and may instead substitute a state or regional
56 average electricity carbon intensity for the EDU's service area. The department may calculate an EDU-specific

electricity service area carbon intensity in accordance with Paragraph (3) of Subsection F of 20.2.92.206 NMAC.

(2) No later than May 30 of each year, the department shall:

(a) Announce updated EDU-specific electricity service area carbon intensities for the next year;

(b) Publish the calculations for EDU-specific electricity service area carbon intensities for the next year and announce the publication;

(c) Provide the EDU for the electricity service area with written notice of the department's decision; and

(d) Update the carbon intensities associated with EDU service area fuel pathway codes to the CTFP-DMS effective for the next quarterly reporting period.

(3) Within 30 calendar days of the department's notice to the EDU for the electricity service area, as set forth in Subparagraph (c) of Paragraph (2) of Subsection A of 20.2.92.206 NMAC, the EDU may protest the carbon intensity calculated for its service area by submitting a protest in accordance with 20.2.92.605 NMAC. The protest shall contain sufficient information for the department to recalculate the carbon intensity for the EDU's service area. If the department determines an updated carbon intensity is appropriate for an EDU service area, the department shall announce the updated carbon intensity and underlying calculations in the same manner as provided for in Subparagraphs (a) to (c) of Paragraph (2) of Subsection A of 20.2.92.206 NMAC.

B. Carbon intensity of renewable electricity. The carbon intensity of renewable electricity is deemed to be zero.

C. Carbon intensity for off-grid generation of electricity. Except as specified in Subsection B of 20.2.92.206 NMAC, to generate credits from charging EVs with electricity not supplied by an EDU, the owner or operator shall file a Tier 1 or Tier 2 alternative fuel pathway application in accordance with 20.2.92.202 NMAC to determine the carbon intensity of its electricity.

D. Use of renewable electricity fuel pathway code. A registered party with on-site generation of renewable electricity shall apply to the department before the registered party may generate credits using the renewable electricity fuel pathway code listed in Table 4 in Subsection D of 20.2.92.701 NMAC. A registered party's application to the department shall include records demonstrating:

(1) The renewable electricity generation system is on-site or directly connected to the EV chargers;

(2) The fuel pathway code shall only be used for the portion of the electricity dispensed from the charger that is generated by the renewable electricity generation system;

(3) Any grid electricity dispensed from the EV charger shall be reported separately under the EDU-specific fuel pathway code; and

(4) RECs are not generated from the renewable generation system or, if RECs are generated from the renewable generation system, then an equal number of RECs generated from that renewable generation system to the number of MWh reported in the CTFP-DMS from that renewable generation system shall be retired in a recognized REC tracking system. The applicant is allowed to utilize RECs generated for other purposes, if the RECs are equal to the energy dispensed through chargers.

E. Offsite renewable electricity. Offsite renewable electricity may be used through book-and-claim accounting to report zero carbon intensity electricity used as a transportation fuel in the CTFP-DMS or may be used to lower the average carbon intensity of electricity used to produce transportation fuel as a part of an alternative fuel pathway.

(1) All RECs retired pursuant to 20.2.92 NMAC shall meet the following qualifications:

(a) RECs shall be certified by a recognized REC tracking system;

(b) RECs shall be generated on and after the effective date of 20.2.92 NMAC;

(c) RECs shall be retired within three quarters of the RECs' generation;

(d) RECs shall be generated from renewable electricity production facilities located in the same Emissions and Generation Resource Integrated Database subregion as the electricity is dispensed;

(e) RECs shall be recorded and retired in a recognized REC tracking system; and

(f) RECs may not be utilized for any other programs.

(2) RECs retired to report zero carbon intensity electricity used as transportation fuel shall be recognized, certified and retired in the Western Renewable Energy Generation Information System.

(3) For RECs to be retired to lower the average carbon intensity of electricity used in the production of transportation fuel, the fuel pathway application shall identify the appropriate REC tracking system, the Emissions and Generation Resource Integrated Database subregion of the fuel production facility and the renewable electricity production facility.

(4) As used in Subsection E of 20.2.92.206 NMAC, “Emissions and Generation Resource Integrated Database” means the comprehensive source of data from the U.S. Environmental Protection Agency’s Clean Air Power Sector Programs on the environmental characteristics of electric power generating plants in the United States that provide power to the electric grid and report data to the U.S. government.

F. Utility renewable electricity products and power purchase agreements. EDUs may apply to the department to assign a carbon intensity and fuel pathway code to one or more of the renewable energy electricity products the EDU supplies or a power purchase agreement to which the EDU is a party. Regulated parties may generate credits from charging EVs with electricity that is provided through from renewable electricity products or power purchase agreements that the department assigns a carbon intensity to.

(1) Applications made under Subsection F of 20.2.92.206 NMAC shall include:

(a) A letter in the CTFP-DMS 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 offered to customers;

(b) Samples of bills, invoices, contracts or other records a person claiming renewable energy under this product could provide to the department to verify the electricity the regulated party claims for use in EV charging attributable to 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 electricity used for EV charging attributable to the product or agreement.

(2) The department shall review applications made under Subsection F of 20.2.92.206 NMAC to determine if the application contains material information. In reviewing a utility product or agreement that contains multiple sources of power, the department may use the estimate per Subparagraph (d) of Paragraph (1) of Subsection F of 20.2.92.206 NMAC to determine if the product includes sufficient renewable energy substantially similar to the requirements of Subsection E of 20.2.92.206 NMAC to cover electricity used for EV charging. The department may revisit this determination annually using the annual fuel pathway report. The department shall notify the EDU in writing of a denial of an application made under Paragraph (1) of Subsection F of 20.2.92.206 NMAC and give reason. The department shall announce approval of an application made under Subsection F of 20.2.92.206 NMAC.

(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-specific electricity service area carbon intensity. The department shall announce the recalculated EDU service area carbon intensities and underlying calculations in the same manner as provided for in Subparagraphs (a) to (c) of Paragraph (2) of Subsection A of 20.2.92.206 NMAC.

(4) Within 30 calendar days of the department’s notice of denial in paragraph (2) of Subsection F of 20.2.92.206 NMAC or the department’s announcement in Paragraph (3) of Subsection F of 20.2.92.206 NMAC, an EDU may protest the denial or new carbon intensity calculated for its service area by submitting in writing a protest that contains sufficient information for the department to reconsider the request or recalculate the carbon intensity for the EDU’s service area. The department shall consider the information provided and determine if the application should be approved or if the carbon intensity should be recalculated. If the department determines that the application should still be denied it will notify the EDU. If the department determines an updated carbon intensity is appropriate for an EDU service area, it shall announce the updated carbon intensity and underlying calculations in the same manner as provided for in Subparagraphs (a) to (c) of Paragraph (2) of Subsection A of 20.2.92.206 NMAC.

G. EDUs with certified carbon intensities and fuel pathway codes for renewable energy products or power purchase agreements in accordance with Subsection F of 20.2.92.206 shall submit an annual fuel pathway report as required by Paragraph (3) of Subsection A of 20.2.92.203 NMAC. Annual fuel pathway reports for certified carbon intensities and fuel pathway codes for renewable energy products or power purchase agreements in accordance with Subsection F of 20.2.92.206 shall include information to update the source or sources of electricity or environmental attributes used in the prior year and 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 transportation fuel in the CTFP for the prior year.

[20.2.92.206 NMAC - N, 02/01/2026]

20.2.92.207 ALTERNATIVE FUEL PATHWAY FOR NEW ENERGY ECONOMY RATIO:

1 A. Eligibility. The following persons are eligible to apply under 20.2.92.207 NMAC for an
2 alternative fuel pathway containing a new energy economy ratio for vehicles when a person is otherwise eligible to
3 generate credits in 20.2.92 NMAC for the vehicle's transportation :

- 4 (1) Owners of vehicles;
- 5 (2) Operators of vehicles; or
- 6 (3) A single, joint application submitted on behalf of a manufacturer and any number of
7 owners or operators of vehicles combining data from the manufacturer and owners or operators of the vehicles.
- 8 (4) A single, joint application submitted on behalf of any number of owners or operators of
9 vehicles combining data from owners or operators of the vehicles.

10 B. Application Contents. Applications submitted under 20.2.92.207 NMAC are modified Tier 2
11 alternative fuel pathway applications under 20.2.92.205 NMAC. In addition to the application requirements for an
12 alternative fuel pathway application set forth in Paragraph (1) of Subsection B of 20.2.92.205 NMAC, except as
13 provided for in Paragraph (4) of Subsection B of 20.2.92.207 NMAC, the applicant shall include:

- 14 (1) A letter of intent to request an energy economy ratio adjusted carbon intensity pathway
15 explaining why the EER values provided in Table 8 in Subsection H of 20.2.92.701 NMAC or a previously
16 approved EER pathway are not applicable.
- 17 (2) The proposed EER and supporting calculations. EER calculations shall be supported by
18 at least three months and at least 300 hours of operating data representing typical usage for each individual vehicle
19 type included in the application. A manufacturer may provide data from duty-cycle testing in addition to or in lieu
20 of operating data. A manufacturer seeking to apply using duty-cycle testing data shall consult with the department
21 prior to applying and shall receive written advanced approval from the department for the duration and test cycles it
22 includes in the application.
- 23 (3) A detailed description of the methodology used in the calculations, all assumptions made,
24 and all data and references used for the calculation of the proposed EER-adjusted carbon intensity. The
25 methodology used shall compare the useful output from the alternatively fueled-vehicle technology under
26 consideration to comparable conventionally fueled-vehicle technology.
- 27 (4) If the applicant plans to use a carbon intensity from Table 4 in Subsection D or Table 5 in
28 Subsection E of 20.2.92.701 NMAC, a carbon intensity previously approved under Paragraph (2) of Subsection B
29 of 20.2.92.201 NMAC or a certified carbon intensity previously approved under 20.2.92.204 NMAC, 20.2.92.205
30 NMAC, or 20.2.92.206 NMAC to report transportation fuel in combination with the new EER then the applicant
31 does not need to provide the fuel production facility information required in Subparagraph (c) of Paragraph (1) of
32 Subsection B of 20.2.92.205 NMAC.

33 C. Application review.

- 34 (1) The department shall review the application materials that the applicant provides
35 pursuant to Subsection B of 20.2.92.207 NMAC for completeness, soundness of assumptions, soundness of
36 comparison to conventional transportation fuel technology and accuracy of the data. The department shall issue an
37 alternative fuel pathway containing a new EER, issue an alternative fuel pathway containing a new EER subject to
38 additional conditions or deny the application for an alternative fuel pathway containing a new EER in the manner
39 provided in Subsection D of 20.2.92.202 NMAC.
- 40 (2) The department may deny the application if it is unsound. The department may deny any
41 application that it believes is adequately covered by an existing EER value in Table 8 in Subsection H of 20.2.92.701
42 NMAC or if the department determines the application does not conform to the objective pursuant to 20.2.92.6
43 NMAC.
- 44 (3) The department may prioritize its review of applications that cover a greater number of
45 vehicles, or a greater volume of transportation fuel used.

46 D. Use of approved new EERs. The applicants may use approved EERs to report transportation fuel
47 use in the CTFP-DMS. Additional people that want to use an approved EER shall apply to the department and
48 demonstrate that the vehicles' use is materially the same as shown in the original approved application. Such
49 applications are the same as modified Tier-1 alternative fuel pathway applications under 20.2.92.205 NMAC and
50 shall include the information required in Paragraph (1) of Subsection B of 20.2.92.205 NMAC, except fuel
51 production facility information required in subparagraph (c) of Paragraph (1) of Subsection B of 20.2.92.205 as
52 applicable per Paragraph (4) of Subsection B of 20.2.92.207. The department shall review and approve the
53 application to use an approved EER-adjusted carbon intensity in accordance with Subsection C of 20.2.92.207
54 NMAC.

55 D. Ongoing reporting requirements:

- 56 (1) For an alternative fuel pathway containing a new EER approved by the department under

20.2.92.207 NMAC, the pathway holder 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 the pathway conditions.

(3) Based on the ongoing reported data required under Paragraph (1) of Subsection D of 20.2.92.207 NMAC or additional applications for vehicles the department determines are materially the same under Subsection D of 20.2.92.207 NMAC, the department may modify an alternative fuel pathway issued under 20.2.92.207 NMAC. The department shall announce the modification. Reporting shall use the modified EER beginning with the next full quarter following the announcement that the department is modifying the value. The department shall notify the pathway holder before modifying the value and may request input. Within 30 calendar days of the department's announcement of a modification to an alternative fuel pathway under 20.2.92.207, a regulated party using the approved EER may protest the department's decision in accordance with 20.2.92.605 NMAC.

[20.2.92.207 NMAC - N, 02/01/2026]

20.2.92.208 - 300 [RESERVED]

20.2.92.301 FUEL CREDITS AND DEFICITS:

A. Carbon intensities. Implementation of the CTFP shall use the carbon intensities as specified in 20.2.92.201 NMAC to calculate credits and deficits a regulated party generates.

B. Credit. Credits originate when a regulated party produces in New Mexico, imports into New Mexico or dispenses for use in New Mexico transportation fuel with an approved carbon intensity that is less than the CTFS for gasoline and gasoline substitutes in Table 1 of section 701 of 20.2.92 NMAC, for diesel and diesel substitutes in Table 2 of section 701 of 20.2.92 NMAC, or for alternative jet fuel in Table 3 of section 701 of 20.2.92 NMAC. A regulated party generates credits when the regulated party submits a valid and accurate quarterly report in the CTFP-DMS. A regulated party shall not generate or claim credits for transactions or activities occurring in a quarter for which the quarterly reporting deadline has passed, unless the credits are for residential EV charging of LMDVs.

C. Deficit. Deficits originate when a regulated party produces in New Mexico, imports into New Mexico, or dispenses for use in New Mexico a transportation fuel with a carbon intensity that is greater than the CTFS for gasoline and gasoline substitutes in Table 1 of Subsection A of 20.2.92.701 NMAC and for diesel and diesel substitutes in Table 2 of Subsection B of 20.2.92.701 NMAC. A regulated party generates deficits when the regulated party submits a valid and accurate quarterly report in the CTFP-DMS.

D. Transportation fuel quantities. To calculate credits and deficits, a regulated party shall express transportation fuel quantities in the appropriate unit for each transportation fuel in the CTFP-DMS after applying the temperature correction requirements in Subsection H of 20.2.92.504 NMAC.

E. Calculating credits and deficits. The department shall calculate credits and deficits pursuant to 20.2.92 NMAC for all regulated transportation fuel and opt-in transportation fuel to the nearest metric ton of carbon dioxide equivalent, in whole numbers, using information in Subsection B through Subsection D of 20.2.92.301 NMAC. Except as provided in Subsection F of 20.2.92.301 NMAC, the department shall calculate credits and deficits by:

(1) Determining the energy in megajoules of a transportation fuel by multiplying the transportation fuel quantity as measured in the applicable unit listed under the column entitled "Transportation fuel (unit)" of Table 7 in Subsection G of 20.2.92.701 NMAC by the energy density of the transportation fuel as measured by the corresponding megajoule conversion value listed under the column entitled "MJ/Unit" of Table 7 in Subsection G of 20.2.92.701 NMAC;

(2) Determining an EER-adjusted energy in megajoules by multiplying the energy in megajoules from Paragraph (1) of Subsection E of 20.2.92.301 NMAC by the energy economy ratio of the transportation fuel listed in Table 8 in Subsection H of 20.2.92.701 NMAC or per 20.2.92.207 NMAC;

(3) Determining the transportation fuel's EER-adjusted carbon intensity in grams of carbon dioxide equivalent per megajoule by dividing the transportation fuel's approved carbon intensity in grams of carbon dioxide equivalent per megajoule under 20.2.92.201 NMAC by the energy economy ratio of the transportation fuel listed in Table 8 in Subsection H of 20.2.92.701 NMAC or per 20.2.92.207 NMAC;

(4) Determining the carbon intensity difference in grams of carbon dioxide equivalent per megajoule by subtracting the transportation fuel's EER-adjusted carbon intensity in grams of carbon dioxide equivalent per megajoule from Paragraph (3) of Subsection D of 20.2.92.301 NMAC from the carbon intensity

1 standard in grams of carbon dioxide equivalent per megajoule for gasoline or gasoline substitutes listed in Table 1 in
2 Subsection A of 20.2.92.701 NMAC or diesel and diesel substitutes listed in Table 2 in Subsection B of 20.2.92.701
3 NMAC or alternative jet fuel listed in Table 3 in Subsection C of 20.2.92.701 NMAC, as applicable; and

4 (5) Determining the credits and deficits generated in metric tons of carbon dioxide equivalent
5 by multiplying the EER-adjusted energy in megajoules from Paragraph (2) of Subsection E of 20.2.92.301 NMAC
6 by the carbon intensity difference in grams of carbon dioxide equivalent per megajoule from Paragraph (4) of
7 Subsection E of 20.2.92.301 NMAC and dividing by 1,000,000 grams per metric ton.

8 (6) Positive quantities of metric tons of carbon dioxide equivalent that result from the
9 department's calculation from Paragraph (5) of Subsection E of 20.2.92.301 NMAC represent credits that a
10 regulated or opt-in transportation fuel has generated. Negative quantities of metric tons of carbon dioxide equivalent
11 that result from the department's calculation from Paragraph (5) of Subsection E of 20.2.92.301 NMAC represent
12 deficits that a regulated or opt-in transportation fuel has generated.

13 F. Calculating credits for residential EV charging. Twice per calendar year the department shall
14 calculate, and issue credits generated under Subsection F of 20.2.92.301 NMAC into the appropriate registered
15 party's CTFP-DMS account. The department shall calculate credits for residential EV charging following
16 Subsection E of 20.2.92.301 NMAC and Subsection F of 20.2.92.301 NMAC.

17 (1) Considering accuracy and feasibility, the department shall determine the amount of
18 electricity that residences consume for residential electric LMDV charging in an EDU service territory by:

19 (a) Multiplying the amount of electricity directly dispensed to electric LMDVs at
20 residences in an EDU service territory by the number of applicable electric LMDVs in an EDU service territory; or

21 (b) Multiplying national or regional data on the amount of electricity that electric
22 LMDVs consume on average at residences by the number of applicable electric LMDV registrations in an EDU
23 service territory; or

24 (c) Multiplying the average electric LMDV efficiency by the national or state
25 average of vehicle miles traveled and by the number of applicable electric LMDV registrations in an EDU service
26 territory.

27 (2) The department shall determine EV EERs by:

28 (a) The EER listed for electric LMDVs in Table 8 in Subsection H of 20.2.92.701
29 NMAC; or

30 (b) The vehicles' miles per gallon equivalent value the U.S. Department of Energy
31 publishes on fueleconomy.gov or that a similar authoritative source publishes divided by the most recent available
32 annual national average miles traveled per gallon of transportation fuel consumed by light-duty vehicles the U.S.
33 Department of Transportation Federal Highway Administration or a similar reliable source publishes.

34 (3) If the department determines, after issuing residential EV charging credits under
35 Subsection F of 20.2.92.301 NMAC, the department made a significant error that led to the inaccurate generation of
36 credits in an EDU service territory, the department shall correct the error by withholding or adding credits in the
37 next generation of credits to the EDU service territory that received the erroneous quantity of credits by an amount
38 equal to the difference between the erroneous amount of residential EV charging credits the department issued to the
39 EDU service territory and the correct amount of residential EV charging credits the department should have issued
40 to the EDU service territory when correcting for errors.

41 (4) A regulated party may propose to the department and, if approved, use an alternative
42 method for determining residential EV electricity credits. If the department determines the alternative method the
43 regulated party proposes is more accurate than the methods described in Paragraph (1) and Paragraph (2) of
44 Subsection F of 20.2.92.301 NMAC, then the department shall approve the alternative method that the regulated
45 party proposes and shall announce the alternative method.

46 G. Transportation fuel excluded from credit and deficit calculation. The department shall calculate
47 credits and deficits for all transportation fuel, except as provided for in Subsection G of 20.2.92.301 NMAC. The
48 department shall determine that a regulated party has voluntarily included all transportation fuel under Paragraph (4)
49 of Subsection G of 20.2.92.301 NMAC unless the regulated party claims exempt fuel quantities by the end of the
50 reporting deadline for a given quarter.

51 (1) Exempt fuel. A transportation fuel or a use the department determines is exempt under
52 20.2.92.102 NMAC shall not generate credits and deficits.

53 (2) Transportation fuel exported from New Mexico.

54 (a) No transportation fuel that a regulated party exports shall generate deficits or
55 credits following completion of export.

56 (b) A regulated party cannot claim transportation fuel that is exported as exempt for

1 any reporting period with a reporting deadline that has passed.

2 (c) If a regulated party generates credits for a transportation fuel the regulated party
3 or another regulated party exports, the regulated party that exports the transportation fuel shall incur equal deficits,
4 as appropriate, to balance out the credits detached from the transportation fuel.

5 (3) Alternative jet fuel. A producer, importer or a regulated party that holds title to
6 alternative jet fuel may report its use in the CTFP-DMS with demonstration that the producer, importer or a
7 regulated party produces or delivers for use the alternative jet fuel that the regulated party holds title to in New
8 Mexico. A producer, importer or a regulated party reporting alternative jet fuel in the CTFP-DMS shall update
9 alternative jet fuel for any quantity that the producer, importer or regulated party exports, loses, or otherwise does
10 not dispense at an FSE in New Mexico by reporting such volumes as exported, lost or otherwise not used for
11 transportation, as applicable.

12 (4) Voluntary inclusion. A regulated party may include in its credit and deficit calculations
13 transportation fuel that is exempt and transportation fuel the regulated party transfers to an exempt transportation
14 fuel user in New Mexico under 20.2.92.102 NMAC, provided the credit and deficit calculation includes all
15 transportation fuel listed on the same invoice. A regulated party shall not claim as exempt a transportation fuel the
16 regulated party has voluntarily included that the regulated party produced in New Mexico, imported into New
17 Mexico, or dispensed for use in New Mexico in a quarter with a reporting deadline that has passed.

18 H. Transacting credits. Credits are a regulatory instrument and do not constitute personal property,
19 securities or any other form of property.

20 (1) A registered party may:

21 (a) Retain credits without expiration; and

22 (b) Acquire or transact credits from or to other registered parties.

23 (2) A registered party shall not:

24 (a) Use credits that have been generated out of compliance with 20.2.92 NMAC.

25 (b) Borrow or use anticipated credits from future projected or planned carbon

26 intensity reductions.

27 (3) Credit transactions between registered parties.

28 (a) A credit seller and a credit buyer may enter into an agreement to transfer credits.

29 (b) A credit seller may transfer credits up to the quantity in the credit seller's CTFP-

30 DMS account on the date of the transfer.

31 (c) If the credit buyer and credit seller have not fulfilled the requirements of
32 Paragraph (4) and Paragraph (5) of Subsection H 20.2.92.301 NMAC within 20 calendar days of the seller initiating
33 the credit transfer, the transaction is void. If a transaction is void, the credit buyer and credit seller may initiate a
34 new credit transfer.

35 (4) Credit seller requirements. When a registered party transfers credits, the credit seller
36 shall initiate a credit transfer in the CTFP-DMS and provide the department the:

37 (a) Date on which the credit buyer and credit seller reached an agreement;

38 (b) Names and federal employer identification numbers of the credit seller and
39 credit buyer;

40 (c) First and last names and contact information of the persons that performed the
41 transaction on behalf of the credit seller and credit buyer;

42 (d) Quantity of credits the credit seller and credit buyer propose to transfer; and

43 (e) Price or equivalent value of the consideration (in US dollars) the credit buyer
44 proposes to pay the credit seller for the credit transfer, excluding any fees. If no clear dollar value can be easily
45 arrived at for the credit transfer, the credit seller shall enter a sale price of zero, provide the department with a copy
46 of the contract that includes the terms of the credit transfer, enter a qualitative description of the transaction's
47 valuation in the seller's notes field and provide in the CTFP-DMS any additional information that the department
48 requests.

49 (5) Credit buyer requirements. Within 10 calendar days of receiving notice of the credit
50 transfer from the credit seller, the credit buyer shall confirm the accuracy of the information in the CTFP-DMS and
51 shall sign and date the information in the CTFP-DMS to accept the credit transfer.

52 (6) Aggregator. An aggregator may act as a credit seller or credit buyer if the aggregator:

53 (a) Has an approved and active registration in accordance with 20.2.92.501 NMAC;

54 (b) Has a valid account in the CTFP-DMS; and

55 (c) Demonstrates the department agreement from a regulated party for whom the
56 aggregator is acting for any given transaction.

(7) Illegitimate credits.

(a) A regulated party shall accurately report information to the CTFP-DMS. If a regulated party submits inaccurate information that results in the generation of one or more credits inconsistent with the requirements of 20.2.92.301 NMAC, or a regulated party's submission otherwise causes credit generation in violation of the rules of 20.2.92.301 NMAC, those credits are illegitimate.

(b) The department shall cancel credits that a regulated party holds in its CTFP-DMS account that the department determines are illegitimate.

(c) A regulated party shall retire an equal amount of credits to replace any credits the department determines are illegitimate, but the regulated party has generated and retired to meet its own compliance requirement or transferred to another party.

(d) A regulated party that generates one or more credit that the department determines is illegitimate is subject to enforcement for the violation.

(e) The department shall cancel credits that a regulated party acquired for CTFP compliance or hold in the CTFP-DMS the department determines to be illegitimate.

(f) If a regulated party generates and transfers one or more credits the department determines are illegitimate and the department determines the regulated party is unlikely to replace the illegitimate transferred credits by retiring approved credits as required under Subparagraph (c) of Paragraph (7) of Subsection H of 20.2.92.301 NMAC, the department shall require the regulated party that acquired the illegitimate transferred credits to retire approved credits for CTFP compliance.

(g) A regulated party that acquires one or more illegitimate credits may be subject to enforcement. In an enforcement action, the department may consider as an aggravating factor that the regulated party that transferred credits engaged in false, fraudulent or deceptive trading practices.

(8) 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) Any unconscionable tactic in connection with a credit 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 one or more transacted credits, where the department shall determine that a fact is material if it is reasonably likely to influence a decision by another party or by the department;

(d) A conspiracy in restraint of trade or commerce; or

(e) An attempt or an activity with the effect to monopolize, combine or conspire with any other person or persons to monopolize or lessen, injure, destroy or prevent competition.

I. Within 30 calendar days of the department's decision pursuant to Subsections E, F or G of 20.2.92.301 NMAC or Paragraph (7) of Subsection H of 20.2.92.301 NMAC, the regulated party to whom the department's decision is applicable may protest the department's decision in accordance with 20.2.92.605 NMAC. [20.2.92.301 NMAC - N, 02/01/2026]

20.2.92.302 FUEL SUPPLY EQUIPMENT CREDITS:

A. Fuel supply equipment credits calculation. Following each quarter, the department shall calculate for the prior quarter FSE credits for an FSE pathway in metric tons of carbon dioxide equivalent, rounded to the nearest whole number, as the product of:

(1) The CTFS less the EER-adjusted carbon intensity, where the department determines the CTFS pursuant to Table 1 in Subsection A of 20.2.92.701 NMAC if the FSE units serve LMDVs or Table 2 in Subsection B of 20.2.92.701 NMAC if the FSE units serve MHDVs and:

(a) If the FSE transportation fuel is electricity, the department calculates the EER-adjusted carbon intensity as an EDU-specific carbon intensity pursuant to 20.2.92.206 NMAC; or

(b) If the FSE fuel is not electricity, the FSE pathway applicant or FSE pathway holder calculates and the department verifies each quarter the EER-adjusted carbon intensity using the FSE applicant or FSE pathway holder's company-wide, quantity-weighted average carbon intensity pursuant to Subsection B of 20.2.92.302 NMAC.

(2) The energy density for the FSE fuel type, as listed under the column entitled "MJ/Unit" of Table 7 in Subsection G of 20.2.92.701 NMAC; and

(3) The FSE pathway's quarterly FSE operational fueling capacity less the quantity of **transportation** fuel dispensed during the quarter, where:

(a) The FSE pathway applicant or FSE pathway holder calculates and the

department verifies an FSE pathway's quarterly FSE fueling capacity as the product of the FSE pathway's daily FSE operational fueling capacity pursuant to Subsection C of 20.2.92.302 NMAC and the number of calendar days in the quarter; and

(b) An FSE pathway's quantity of **transportation** fuel dispensed during a quarter is the sum of the **transportation** fuel quantity an FSE pathway's FSE units dispensed as reported and verified in the CTFP-DMS.

B. FSE company-wide carbon intensity calculations. Each quarter, the department shall use the information the FSE pathway applicant or FSE pathway holder provides pursuant to 20.2.92.303 NMAC and 20.2.92.304 NMAC to calculate a company-wide quantity-weighted average carbon intensity of the FSE pathway's fuel type delivered to all FSE units in New Mexico in the previous quarter.

C. Daily FSE operational fueling capacity. The department shall calculate the daily FSE operational fueling capacity for each FSE pathway as the sum of the daily operational fueling capacity the FSE pathway applicant or FSE pathway holder provides or has provided and the department verifies for all FSE units in an FSE pathway, where:

(1) Each FSE unit's daily operational fueling capacity equals the product of the nameplate capacity that an FSE pathway applicant or FSE pathway holder provides pursuant to Paragraph (5) of Subsection B of 20.2.92.303 NMAC and the percentage of the day that an FSE unit is operational. For this calculation, the operator shall measure the nameplate capacity in the same unit of **transportation** fuel quantity as that listed for the FSE unit's fuel type under the column entitled "Transportation fuel (unit)" of Table 7 in Subsection G of 20.2.92.701 NMAC.

(2) For the calculation in Paragraph (1) of Subsection C of 20.2.92.302 NMAC, the department shall calculate the percentage of the day that each FSE unit is operational by:

(a) For FSE stations that an FSE applicant or FSE pathway holder includes in an FSE pathway application that has not been in operation for one or more previous quarters, the sum of the expected operating hours for each FSE unit pertaining to the FSE station pursuant to Paragraph (7) of Subsection B of 20.2.92.303 NMAC divided by 24; or

(b) For FSE stations in operation for one or more previous quarters, the total number of hours the FSE pathway holder reports as operational for each FSE unit pursuant to Subparagraph (a) of Paragraph (1) of Subsection F of 20.2.92.303 NMAC, divided by the total number of hours in the quarter.

D. Within 30 calendar days of the department's FSE credits decision pursuant to Subsection A of 20.2.92.302 NMAC, carbon intensity decision pursuant to Subsection B of 20.2.92.302 NMAC or daily operational fueling capacity decision pursuant to Subsection C of 20.2.92.302 NMAC, the regulated party to whom the department's decision is applicable may protest the department's decision in accordance with 20.2.92.605 NMAC. [20.2.92.302 NMAC - N, 02/01/2026]

20.2.92.303 FUEL SUPPLY EQUIPMENT PATHWAY APPLICATIONS:

A. FSE pathway credit eligibility. FSE credits are available to FSE pathway holders. 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 the effective start date of the program.

(2) Each 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 20.2.92.303 NMAC and that serve the same vehicle duty type.

(3) If an FSE station has FSE units that dispense different fuel types as identified under Paragraph (3) of Subsection B of 20.2.92.303 NMAC or serve different vehicle duty types, an FSE pathway applicant shall submit to the department separate FSE pathway applications for each FSE unit with a different fuel type or serving a different vehicle duty type.

(4) The FSE pathway is open for an FSE station that:

(a) For applications the department receives on or before June 30, 2028, dispenses **transportation** fuel with a quantity-weighted average carbon intensity that is less than or equal to the CTFS 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 the department receives on or after July 1, 2028, dispenses **transportation** fuel with a quantity-weighted average carbon intensity that is less than or equal to the CTFS in 2040

1 of:

2 (i) Gasoline, if the FSE pathway application's FSE units serve LMDVs,

3 or;

4 (ii) Diesel, if the FSE pathway application's FSE units serve MHDVs.

5 (5) FSE pathway applications shall not include any FSE units that are operational on or
6 before the date an FSE pathway applicant submits the FSE pathway application to the department.

7 (6) If the FSE units serve LMDVs, the FSE station shall be accessible by the public, have a
8 public point-of-sale terminal that accepts major credit and debit cards and be free of obstructions and obstacles to
9 vehicle operators from entering the station premises. The FSE station shall not require access cards or personal
10 identification (PIN) codes to dispense **transportation** fuel.

11 B. FSE pathway application requirements. For each FSE pathway application, the FSE pathway
12 applicant shall submit the following information in CTFP-DMS:

13 (1) Contact person for the FSE pathway applicant, including the following information for
14 the contact person: name, title or position, phone number, email address, and mailing address.

15 (2) Name, address, latitude, longitude and a location description of the FSE pathway
16 application's proposed FSE station.

17 (3) The FSE fuel type that the FSE station's FSE units will dispense and all alternative fuel
18 pathways for the FSE fuel type that the FSE pathway applicant produces in New Mexico, imports into New Mexico
19 or dispenses for use in New Mexico.

20 (4) Projections of the FSE pathway applicant's expected quantity of **transportation** fuel that
21 that the FSE applicant will produce in New Mexico, import into New Mexico, or dispense for use in New Mexico
22 from each of the FSE pathways as determined pursuant to Paragraph (3) of Subsection A of 20.2.92.303 NMAC.

23 (5) Total nameplate daily capacity for each FSE unit the FSE pathway applicant includes in
24 the FSE pathway application.

25 (6) Description of how each FSE unit meets the requirements in Paragraph (5) of Subsection
26 A of 20.2.92.303 NMAC.

27 (7) Expected daily hours of operation for each FSE unit the FSE pathway applicant includes
28 in the FSE pathway application.

29 (8) Whether each FSE unit will serve LMDVs or MHDVs and a description of the expected
30 vehicle duty type each FSE unit will serve, including the expected vehicles' powertrain and fuel type.

31 (9) If the FSE serves MHDVs, the FSE dimensions or other evidence to demonstrate that all
32 FSE units can serve one or more MHDVs that use the FSE fuel type identified pursuant to Paragraph (3) of
33 Subsection B of 20.2.92.303 NMAC.

34 (10) Expected dates that each FSE unit in the FSE pathway application shall be operational.

35 (11) Justification for the FSE station location that includes:

36 (a) A description of the role the FSE station's location plays in developing a low-
37 carbon fueling network across New Mexico;

38 (b) Estimation of expected daily demand for eight future years for the **transportation**
39 fuel dispensed by the FSE units in the FSE pathway application, with supporting available data;

40 (c) Demonstration that the FSE station location has been discussed with local
41 authorities having jurisdiction and that no early roadblocks have been identified.

42 (12) The FSE station uses a system that verifies its availability for fueling, is fully
43 commissioned and is fit to service retail drivers.

44 (13) A signed attestation from the FSE pathway applicant attesting to the veracity of the
45 information in the application packet.

46 C. Application approval process.

47 (1) The department shall determine if an FSE pathway application is complete. If the
48 department determines that the application is complete, the department shall notify the FSE pathway applicant in
49 writing of the determination. The department may request in writing additional information or clarification from the
50 FSE pathway applicant. If the department determines that the FSE pathway application is incomplete, the
51 department shall notify the FSE pathway applicant in writing, identifying which requirements of Subsection B of
52 20.2.92.303 NMAC that the FSE pathway application did not meet. The FSE pathway applicant shall submit the
53 additional information to correct deficiencies the department has identified within 30 calendar days. The department
54 may repeat this process until either the FSE pathway applicant submits an FSE pathway application that the
55 department determines to be complete or 180 calendar days have elapsed from the department's receipt of an FSE
56 pathway application. If 180 calendar days elapse and the department has not determined that the FSE pathway

1 application is complete then the department shall deny the FSE pathway application. FSE pathway applicants that
2 submit an FSE pathway application that the department deny may resubmit an FSE pathway application for the same
3 FSE station in the following quarter.

4 (2) The department shall certify an FSE pathway application as eligible for FSE credits if the
5 department determines in its review of an FSE pathway application and any other available information that the FSE
6 pathway application meets the requirements in Subsection A and Subsection B of 20.2.92.303 NMAC. Before
7 making a final decision, the department may determine whether additional information is necessary. If the
8 department denies the application the department shall notify the applicant in writing, identifying the reason for the
9 denial.

10 (3) If the department certifies the FSE pathway as eligible to receive FSE credits then the
11 department shall provide an approval summary to the FSE pathway applicant and announce the following:

12 (a) The location and assigned identifier of the FSE station included in the approved
13 FSE pathway application;

14 (b) The number of FSE units included in the approved FSE pathway application;

15 (c) The nameplate and operational fueling capacity of each FSE unit included in the
16 approved FSE pathway application;

17 (d) The total nameplate and operational fueling capacity for the FSE pathway,
18 calculated as the sum of the nameplate and operational fueling capacities for each FSE unit provided under
19 Subparagraph (c) of Paragraph (3) of Subsection C of 20.2.92.303 NMAC.

20 (e) The maximum number of credits the FSE pathway can receive in a quarter
21 pursuant to Subsection A of 20.2.92.302 NMAC under the assumption that no **transportation** fuel is dispensed in a
22 quarter from any FSE units included in the FSE pathway for the calculation pursuant to Subparagraph (b) of
23 Paragraph (3) of Subsection A of 20.2.92.302 NMAC;

24 (f) The date the department determined the FSE pathway application approved;

25 (g) The effective date range for FSE pathway crediting; and

26 (h) Other conditions determined by the department as necessary for the FSE
27 pathway holder to maintain and demonstrate compliance with 20.2.92 NMAC.

28 (4) If the department certifies the FSE pathway as eligible to receive FSE credits, the
29 department shall add the FSE pathway to the queue the department uses to determine quarterly FSE credit awards
30 according to 20.2.92.304 NMAC.

31 (5) Within 30 calendar days of the department's approval of an FSE pathway with
32 conditions, a certified carbon intensity for an FSE pathway, or denial of an FSE pathway application, the alternative
33 fuel pathway applicant may protest the department's decision in accordance with 20.2.92.605 NMAC.

34 D. Applications for expanded FSE pathway capacity. An FSE pathway holder that expands the
35 capacity of an FSE station that is part of an approved FSE pathway generating FSE credits pursuant to 20.2.92.304
36 NMAC may apply to the department to generate additional credits under the approved FSE pathway based on the
37 FSE station's updated capacity.

38 (1) The FSE pathway holder shall submit applications for expanded FSE pathway capacity
39 no fewer than 24 months after the first month in which the FSE pathway first generates FSE credits.

40 (2) Expanded FSE pathway capacity can result from newly built FSE units the FSE pathway
41 holder adds to an FSE pathway's FSE station, increased fueling capacity at FSE units that are already included in the
42 FSE pathway holder's approved FSE pathway or a combination of both.

43 (3) FSE pathway holders may not apply for expanded FSE capacity that is under construction
44 or operating on or before the date when the FSE pathway holder applies for expanded FSE capacity to the
45 department.

46 (4) Expanded FSE pathway capacity shall be for FSE units that serve an FSE pathway's
47 vehicle fuel type indicated under Paragraph (3) of Subsection B of 20.2.92.303 NMAC and for the FSE pathway's
48 vehicle duty type indicated under Paragraph (8) of Subsection B of 20.2.92.303 NMAC and verified under
49 Paragraph (9) of Subsection B of 20.2.92.303 NMAC.

50 (5) The expanded FSE pathway capacity application shall provide evidence, if possible, and
51 written attestation to support the following elements:

52 (a) That the expanded FSE pathway capacity application meets the requirements
53 under Paragraph (1) through Paragraph (4) of Subsection D of 20.2.92.303 NMAC.

54 (b) That FSE units in the FSE pathway have dispensed a combined daily average
55 transportation fuel quantity over the most recently available 12-month period as of the date when the FSE pathway
56 holder submits the expanded FSE capacity application to the department that is equal to or greater than 50 percent of

1 the sum of the daily nameplate fueling capacities for all FSE units in the FSE pathway reported in the original FSE
2 pathway application indicated under Paragraph (5) of Subsection B of 20.2.92.303 NMAC.

3 (c) The updated nameplate fueling capacity for each unit included in the original
4 FSE pathway application and the total nameplate fueling capacity for the FSE station associated with the FSE
5 pathway when accounting for the expanded FSE pathway capacity.

6 (d) The department shall place an approved FSE pathway for expanded FSE
7 capacity credits approved under Subsection D of 20.2.92.303 NMAC lower in the queue for quarterly FSE credits
8 than any FSE pathway for an FSE station serving the same vehicle duty type that the department has approved that
9 is not a pathway for expanded FSE capacity under Subsection D of 20.2.92.303 NMAC.

10 (6) Within 30 calendar days of the department's approval of an expanded FSE pathway with
11 conditions, a certified carbon intensity for an expanded FSE pathway, or denial of an expanded FSE pathway
12 application, the expanded FSE pathway applicant may protest the department's decision in accordance with
13 20.2.92.605 NMAC.

14 E. Notice of operations beginning. The FSE pathway holder shall submit notice to the department
15 when an FSE station associated with an approved FSE pathway is operational. The FSE station shall pass a final
16 inspection by the appropriate authority having jurisdiction and have a permit to operate, if applicable, before the
17 FSE pathway holder may submit a notice of operations beginning to the department. The FSE station shall be
18 operational within 18 months of the date the department determined that the application was approved. If the
19 applicant fails to demonstrate the operability of the FSE station within 18 months of the date that the department
20 determines their FSE pathway application approved, then the pathway shall be removed from the queue for quarterly
21 credits for the FSE station's vehicle duty type. The FSE pathway holder may reapply for an FSE pathway for the
22 same FSE units. However, the department shall reduce the eligible lifetime crediting period for any FSE units that
23 the FSE pathway holder reapplies for in a new FSE pathway application by the total time that the FSE pathway
24 holder could have received FSE credits for FSE units but did not place the FSE units into operation. The FSE
25 pathway holder shall receive a new place in the queue for quarterly credits based on the date that the department
26 determines their resubmitted application to be approved.

27 F. Reporting and recordkeeping requirements.

28 (1) A FSE pathway holder shall report in CTFP-DMS each quarter pursuant to 20.2.92.504
29 NMAC the following information associated with an approved FSE pathway for the quarter:

30 (a) The total number of operational hours for each FSE unit associated with the FSE
31 pathway;

32 (b) The quantity of transportation fuel delivered to all FSEs that the FSE pathway
33 holder owns or operates in New Mexico, including FSEs that are not part of an approved FSE pathway under
34 20.2.92 NMAC, from each alternative fuel pathway reported in the FSE pathway application pursuant to Paragraph
35 (3) of Subsection B of 20.2.92.303 NMAC;

36 (c) For each FSE unit at an FSE station associated with the FSE pathway, the
37 quantity of fuel that the FSE unit dispenses and the FSE unit's vehicle duty type and powertrain as indicated under
38 Paragraph (8) of Subsection B of 20.2.92.303 NMAC and verified under Paragraph (9) of Subsection B of
39 20.2.92.303 NMAC; and

40 (d) The daily operational fueling capacity for each FSE unit associated with the FSE
41 pathway, calculated as the nameplate daily capacity for each FSE unit indicated under Paragraph (5) of Subsection B
42 of 20.2.92.303 NMAC multiplied by the number of days in the quarter.

43 (2) The FSE pathway holder shall update the FSE pathway data if the FSE station's quantity
44 supplied from each fuel pathway is different from those projected in the approved FSE pathway under Paragraph (4)
45 of Subsection B of 20.2.92.303 NMAC and the FSE pathway holder shall submit a new attestation pursuant to all
46 application requirements.

47 (3) The FSE pathway holder shall provide the following costs borne and revenues received
48 from the FSE station that is associated with an FSE pathway:

49 (a) Total capital expenditures in nominal U.S. dollars;

50 (b) Total cost in nominal U.S. dollars and quantity of transportation fuel dispensed
51 from the FSE station;

52 (c) Total FSE maintenance costs in nominal U.S. dollars;

53 (d) Total land rental cost in nominal U.S. dollars;

54 (e) Total grant revenue or other external funding received towards capital
55 expenditures in nominal U.S. dollars;

56 (f) Total grant revenue or other external funding received towards operational and

1 maintenance expenditures in nominal U.S. dollars;

2 (g) Total quantity of transportation fuel sold from the FSE units at the FSE station;

3 (h) Total revenue received from sale of the transportation fuel from the FSE station
4 in nominal U.S. dollars;

5 (i) Total revenue received from sale of credits received from the sale of
6 transportation fuel from the FSE station; and

7 (j) Other operational expenditures in nominal U.S. dollars;
8 [20.2.92.303 NMAC - N, 02/01/2026]

9
10 **20.2.92.304 QUARTERLY AWARDS OF FUEL SUPPLY EQUIPMENT PATHWAY CREDITS:**

11 A. Total quarterly FSE credits. Each quarter the department shall calculate the total FSE credits
12 available for the quarter. The total FSE credits available each quarter shall be five percent of the previous quarter's
13 total deficits for each of the two FSE vehicle duty types specified under Paragraph (8) of Subsection B of
14 20.2.92.303 NMAC.

15 B. Order of FSE credit assignment. The department shall establish a separate quarterly FSE credit
16 queue for each of the two FSE vehicle duty types specified under Paragraph (8) of Subsection B of 20.2.92.303
17 NMAC. For FSE pathways that meet the eligibility requirements under Subsection C of 20.2.92.304 NMAC, the
18 department shall award quarterly FSE credits in accordance with requirements under Subsection D of 20.2.92.304
19 NMAC. In awarding FSE credits to FSE pathways in a quarterly FSE credit queue, the department shall:

20 (1) Prioritize the awarding of FSE credits to FSE pathways that are not for expanded FSE
21 capacity pursuant to Subparagraph (d) of Paragraph (5) of Subsection D of 20.2.92.303 NMAC; and

22 (2) Subject to satisfying the requirement under Paragraph (1) of Subsection B of 20.2.92.304
23 NMAC, award quarterly FSE credits based upon a first-come first-served order. The department shall base the first-
24 come first-served order upon the date the department entered each FSE pathway into the quarterly FSE credit queue
25 under Subsection C and Subsection D of 20.2.92.303 NMAC.

26 C. Quarterly FSE credit eligibility assessment. To receive FSE credits each quarter, an FSE pathway
27 shall:

28 (1) Not be in a zip code containing an FSE pathway of the same FSE vehicle duty type and
29 FSE fuel type the department has already awarded credits to that quarter;

30 (2) Have a notice of operations submitted by the FSE pathway holder to the department no
31 later than the last calendar day of the previous quarter; and

32 (3) Have received approval from the department for the associated FSE pathway application
33 on a date that is fewer than 10 years prior to the last calendar day of the current quarter, except as this time has been
34 shortened under Subsection E of 20.2.92.304 NMAC.

35 D. Award of quarterly FSE pathway credits. The department shall calculate the number of credits to
36 award quarterly to each eligible FSE pathway holder as follows:

37 (1) For each FSE pathway the department determines is eligible to receive quarterly FSE
38 credits under Subsection C of 20.2.92.303 NMAC, Subsection D of 20.2.92.303 NMAC and Subsection C of
39 20.2.92.304 NMAC, the department shall calculate quarterly FSE credits pursuant to 20.2.9.302 NMAC and subject
40 to the limitations specified under Paragraph (2) of Subsection D of 20.2.92.304 NMAC.

41 (2) The department shall adhere to the following in awarding quarterly FSE credits:

42 (a) A "partial number of quarterly FSE credits" means a quarterly FSE credit
43 amount that is less than the quarterly FSE credit amount an FSE pathway is eligible to receive as calculated under
44 20.2.9.302 NMAC.

45 (b) The department shall not award quarterly FSE credits for an FSE pathway in a
46 quarterly FSE credit queue containing FSE pathways placed higher in the queue to which the department has
47 awarded a combined number of FSE credits equal to the total quarterly limit per FSE credit queue established under
48 Subsection A of 20.2.9.304 NMAC.

49 (c) The department may award to an FSE pathway all remaining quarterly credits
50 available in the FSE pathway's quarterly FSE credit queue based upon the FSE pathway's quarterly credit eligibility
51 as calculated under 20.2.9.302 NMAC and the FSE pathway's quarterly FSE credit queue position pursuant to
52 Subsection B of 20.2.92.304 NMAC. The department shall award a partial number of quarterly FSE credits as
53 necessary to an FSE pathway described in Subparagraph (c) of Paragraph (2) of Subsection C of 20.2.92.304 NMAC
54 and no quarterly credits to FSE pathways that are placed lower in the same quarterly FSE credit queue to ensure
55 compliance with Subparagraph (b) of Paragraph (2) of Subsection C of 20.2.92.304 NMAC.

56 (d) The department shall not award quarterly FSE credits to an FSE pathway that

1 exceed one-half of one percent of the previous quarter's total deficits. The department shall award an FSE pathway
2 with a partial number of quarterly FSE credits as necessary to ensure compliance with Subparagraph (d) of
3 Paragraph (2) of Subsection D of 20.2.9.304 NMAC.

4 (e) The department shall not award quarterly FSE credits to an FSE pathway holder
5 for FSE pathways of the same FSE fuel type specified under Paragraph (3) of Subsection B of 20.2.92.303 NMAC
6 and vehicle duty type specified under Paragraph (8) of Subsection B of 20.2.92.303 NMAC that exceed one percent
7 of the previous quarter's total deficits.

8 (f) The department may award an FSE pathway with all remaining quarterly FSE
9 credits available to an FSE pathway holder pursuant to Subparagraph (e) of Paragraph (2) of Subsection D of
10 20.2.9.304 NMAC based upon the FSE pathway's quarterly FSE credit queue position pursuant to Subsection B of
11 20.2.92.304 NMAC. The department shall award a partial number of quarterly FSE credits to an FSE pathway as
12 necessary to an FSE described in Subparagraph (f) of Paragraph (2) of Subsection D of 20.2.9.304 NMAC and no
13 quarterly FSE credits to other FSE held by the FSE pathway holder of the same FSE fuel type specified under
14 Paragraph (3) of Subsection B of 20.2.92.303 NMAC and vehicle duty type specified under Paragraph (8) of
15 Subsection B of 20.2.92.303 NMAC that are placed lower in the same quarterly FSE credit queue to ensure
16 compliance with Subparagraph (e) of Paragraph (2) of Subsection D of 20.2.9.304 NMAC.

17 (g) The department shall not award quarterly FSE credits to an FSE pathway with a
18 cumulative dollar value in excess of the FSE pathway's maximum lifetime monetary credit limit determined under
19 Subsection E of 20.2.92.304 NMAC. The department shall award an FSE pathway with a partial number of
20 quarterly FSE credits as necessary to ensure compliance with Subparagraph (g) of Paragraph (2) of Subsection D of
21 20.2.9.304 NMAC. The department shall determine the maximum partial credits to award pursuant to Subparagraph
22 (g) of Paragraph (2) of Subsection D of 20.2.9.304 NMAC by assigning to each credit an estimated value that equals
23 the average CTFP credit price for the previous quarter.

24 (h) The department shall make available any quarterly FSE credits that an FSE
25 pathway does not receive as a result of the awarding of a partial number of quarterly FSE credits under
26 Subparagraph (d), Subparagraph (f) or Subparagraph (g) of Paragraph (2) of Subsection D of 20.2.9.304 NMAC to
27 FSE pathways placed lower in the same quarterly FSE credit queue, subject to the limits specified under Subsection
28 A of 20.2.9.304 NMAC.

29 (3) Within 30 calendar days of the department's decision to award zero or partial quarterly
30 FSE credits to an FSE pathway pursuant to Paragraph (2) of Subsection D of 20.2.9.304 NMAC, an FSE pathway
31 holder to whom the department's decision applies may protest the department's decision in accordance with
32 20.2.92.605 NMAC.

33 E. Maximum lifetime monetary credit limits per FSE pathway.

34 (1) Except as specified in Paragraph (2) of Subsection E of 20.2.92.304 NMAC the
35 cumulative dollar value of FSE credits available to an FSE pathway over its lifetime shall not exceed the total capital
36 expenditure the FSE pathway holder reports to the department under Subparagraph (a) of Paragraph (3) of
37 Subsection F of 20.2.92.303 NMAC multiplied by a factor of 1.5 less the total grant revenue or other funding the
38 FSE pathway holder reports under Subparagraph (a) of Paragraph (3) of Subsection F of 20.2.92.303 NMAC.

39 (2) FSE pathways in certain areas are eligible for enhanced cumulative FSE credits. FSE
40 pathway applicants that the department approves for an enhanced cumulative FSE credit shall have the cumulative
41 value of their FSE credit limited to the total capital expenditure reported per Subparagraph (a) of Paragraph (3) of
42 Subsection F of 20.2.92.303 NMAC multiplied by a factor of 2.0 less the total grant revenue or other funding the
43 FSE pathway holder reports under Subparagraph (f) of Paragraph (3) of Subsection F of 20.2.92.303 NMAC. To be
44 eligible for enhanced cumulative FSE credits an FSE pathway shall:

45 (a) State the intention of receiving enhanced cumulative FSE credits and include
46 supporting documentation.

47 (b) Be for a FSE station located in a zip code that:

48 (i) Has transportation fuel availability for the FSE pathway's fuel type per
49 capita that is less than seventy-five percent of the New Mexico average, in terms of either the number of applicable
50 FSE per capita or the total nameplate capacity of applicable FSE per capita. To verify this, the enhanced cumulative
51 FSE credit applicant shall provide the department with a publicly available data source providing the number or
52 nameplate capacity of FSE of the FSE pathway's fuel type for New Mexico and the FSE pathway's FSE station zip
53 code; or

54 (ii) Has a median annual household adjusted gross income that is equal to
55 or less than the statewide average. Within 60 calendar days of the effective date of 20.2.92 NMAC, the department
56 shall use current data on median annual household adjusted income for each zip code in New Mexico and the New

Mexico average to determine which zip codes qualify as FSE locations in which an FSE pathway qualifies for the enhanced maximum cumulative lifetime monetary credit. The department shall announce the designations in the form of a map. The designations shall be effective 90 calendar days after the department makes an announcement.

(iii) Within two years after the decennial census, the department shall use current data on median annual household adjusted income for each zip code in New Mexico and the New Mexico average to determine which zip codes qualify as FSE locations for the determination in Item (ii) of Subparagraph (b) of Paragraph (2) of Subsection E of 20.2.92.304 NMAC in which an FSE pathway qualifies for the enhanced maximum cumulative lifetime monetary credit. The designations shall be effective 90 calendar days after the department makes an announcement.

(iv) For the determination in Items (ii) and (iii) of Subparagraph (b) of Paragraph (2) of Subsection E of 20.2.92.304 NMAC, the department shall use county data for any zip code with a missing observation of the data on median annual household adjusted income from the decennial census data.

(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 Subsection E of 20.2.92.304 NMAC.

(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 the department uses for the calculation of estimated dollar credit received each quarter under Subparagraph (a) of Paragraph (3) of Section E of 20.2.92.304 NMAC is the quantity of quarterly credits for the FSE pathway calculated per 20.2.92.302 NMAC.

(c) Each quarter's average CTFS credit price the department uses for the calculation of estimated dollar credit received each quarter under Subparagraph (a) of Paragraph (3) of Section E of 20.2.92.304 NMAC is the quarterly credit price the department shall announce, discounted at a 10 percent compound annual rate into its constant dollar value for the year in which the department approved the FSE application.

(4) For a quarter that is fewer than 10 years from the quarter in which the department approved a FSE pathway, if the department calculates an estimated dollar amount of credits for a FSE pathway pursuant to Paragraph (3) of this Subsection E of 20.2.92.304 NMAC that exceeds the difference between the FSE pathway's maximum lifetime credit limit determined under Paragraph (1) or Paragraph (2) of Subsection E of 20.2.92.304 NMAC and the cumulative value of FSE credits that the department has awarded to the FSE pathway holder over all previous quarters for the FSE pathway, the shall receive a dollar value for the FSE pathway equal to this difference through the awarding of partial credits pursuant to Subparagraph (f) of Paragraph (2) of Subsection D of 20.2.92.304 NMAC. The FSE pathway holder shall be ineligible to receive FSE credits for the FSE pathway for all future quarters.

(5) Once an FSE pathway has reached the cumulative lifetime monetary credit limit the department shall remove the FSE pathway from the quarterly FSE credit queue for the FSE pathway's FSE vehicle duty type specified under Paragraph (8) of Subsection B of 20.2.92.303 NMAC.

(6) Within 30 calendar days of the department's decision to remove an FSE pathway from a quarterly FSE credit queue, the FSE pathway holder to whom the department's decision applies may protest the department's decision in accordance with 20.2.92.605 NMAC.

[20.2.92.304 NMAC - N, 02/01/2026]

20.2.92.305 CREDIT REVENUE PROVISIONS:

A. An EDU subject to 20.2.92 NMAC shall use 100 percent of revenue from the sale of credits attributable to residential EV charging, not including associated administrative costs, to support transportation decarbonization and electrification projects in New Mexico.

B. An EDU subject to 20.2.92 NMAC shall use credit revenue that it receives to support projects listed under Subsection B of 17.9.574.11 NMAC and included within the approved and current three-year plan for transportation electrification pursuant to 17.9.574 NMAC.

(1) At least 50 percent of credit revenue, not including associated administrative costs, shall include projects to support low-income and underserved communities.

(2) Revenue from the sale of credits is an additional and supplemental source of funding to support transportation electrification plans.

C. A distribution cooperative organized pursuant to the Rural Electric Cooperative Act, Chapter 62, Article 15 NMSA 1978 or an EDU not subject to Subsection A of 20.2.92.305 NMAC shall spend credit revenues to support projects from within the categories listed in Subsection B of 17.9.574.11 NMAC. At least 50 percent of

1 credit revenue, not including associated administrative costs, shall include projects to support low-income and
2 underserved communities.

3 D. A vehicle manufacturer subject to 20.2.92 NMAC shall not use revenue from the sale of credits
4 attributable to residential EV charging to pay administrative costs and shall within three years of the credit revenue
5 generation use 100 percent of the revenue to support transportation electrification as follows:

6 (1) An additional rebate or incentive beyond existing local, federal and New Mexico rebates
7 and incentives for purchasing or leasing a new or previously owned EV in New Mexico, provided:

8 (a) The manufacturer suggested retail price of a new EV purchased or leased with
9 the rebate or incentive does not exceed fifty-five thousand dollars (\$55,000) in calendar year 2025. Each
10 compliance year thereafter, the department shall adjust the maximum retail price of a new EV purchased with the
11 rebate or incentive by applying on the inflation rate as provided by the last twelve months of data from the U.S.
12 Bureau of Labor Statistics Southwest Region Consumer Price Index for All Urban Consumers for All Items, in the
13 same manner as fees in Subsection G of 20.2.92.502 NMAC; and

14 (b) The market value of a leased EV or previously owned EV with the rebate or
15 incentive does not exceed twenty-five thousand dollars (\$25,000) in calendar year 2025. A previously owned EV
16 shall be certified by the dealer selling the motor vehicle and have a dealer-provided warranty of at least one-year
17 against defects and repairs. Each compliance year thereafter, the department shall adjust the maximum market value
18 of a previously owned EV purchased with the rebate or incentive by applying on the inflation rate as provided by the
19 last twelve months of data from the US Bureau of Labor Statistics Southwest Region Consumer Price Index for All
20 Urban Consumers for All Items, in the same manner as fees in Subsection G of 20.2.92.502 NMAC.

21 (c) The lease on the new or previously owned EV is three or more years in duration.
22 (2) A vehicle manufacturer may develop and implement other projects with revenue from the
23 sale of credits attributable to residential EV charging that support transportation electrification.

24 (a) To implement other projects with revenue from the sale of credits attributable to
25 residential EV charging, a vehicle manufacturer shall submit to the department a description of such a project with
26 estimated costs, a description of likely beneficiaries, and how it will help advance transportation electrification
27 efforts in New Mexico.

28 (b) If the department approves or disapproves of the proposed projects a vehicle
29 manufacturer submits for use of credits attributable to residential EV charging, the department will provide the
30 vehicle manufacturer with a decision in writing. The department may also request additional supporting information
31 or documentation from the vehicle manufacturer to make its decision.

32 (c) A vehicle manufacturer may begin to implement other projects with revenue
33 from the sale of credits attributable to residential EV charging efforts in the quarter following receipt of approval
34 from the department for the use of residential credit revenue for such projects.

35 (3) At least 50 percent of credit revenue a vehicle manufacturer uses for rebates and
36 incentives pursuant to Paragraph (1) of Subsection D of 20.2.92.305 NMAC or projects pursuant to Paragraph (2) of
37 Subsection D of 20.2.92.305 NMAC shall support transportation electrification in low-income and underserved
38 communities.

39 E. Identifying and designating low-income and underserved communities. Within 60 calendar days
40 of the effective date of 20.2.92 NMAC and within two years after the decennial census, the department shall use
41 current data to identify low-income and underserved communities and shall announce the identification in the form
42 of a map. The low-income and underserved community designations shall be effective 30 calendar days after the
43 announcement of the identification.

44 (1) The department shall use data for the census tract containing any census block group with
45 missing observations of the data that the department needs to identify low-income and underserved communities
46 pursuant to Subsection E of 20.2.92.305 NMAC.

47 (2) In replacing missing census block group data values as needed under Paragraph (1) of
48 Subsection E of 20.2.92.305 NMAC, the department shall use data for the county containing any census tract with
49 missing observations of the data that the department needs to designate as low-income and underserved communities
50 pursuant to Subsection E of 20.2.92.305 NMAC.

51 (3) If a census block group loses its designation as low-income and underserved community
52 in an update pursuant to Subsection E of 20.2.92.305 NMAC, the designation shall not become effective until one
53 year after the announcement.

54 [20.2.92.305 NMAC - N, 02/01/2026]

55
56 **20.2.92.306 PROJECT CREDITS FOR THE REDUCTION OF GREENHOUSE GAS EMISSIONS:**

1 A. Beginning on January 1, 2030, the department shall accept applications from regulated parties for
2 projects that reduce or remove greenhouse gas emissions associated with transportation fuel.

3 B. The department shall consider emission reductions gained from the projects in Subsection A of
4 20.2.92.306 NMAC that are associated with transportation fuel delivered to New Mexico, are quantifiable, are
5 verifiable under 20.2.92.508 NMAC and meet additional requirements as the department specifies. The department
6 shall approve and award CTFP project credits to regulated parties that submit project credit applications pursuant to
7 20.2.92 NMAC.

8
9 **20.2.92.307 - 400 [RESERVED]**

10
11 **20.2.92.401 DESIGNATION OF A REGULATED PARTY FOR LIQUID FUELS:**

12 A. Applicability. 20.2.92.401 NMAC applies to producers, importers and exporters of liquid
13 transportation fuel, including gasoline, diesel, ethanol, naphtha, synthetic fuel and alternative jet fuel, used for
14 transportation in New Mexico. The purpose of 20.2.92.401 NMAC is to identify the first fuel reporting entities, any
15 subsequent fuel reporting entities and the credit and deficit generator for liquid transportation fuel. The first fuel
16 reporting entity is responsible for initiating reporting for a given amount of transportation fuel within the CTFP-
17 DMS per 20.2.92.504 NMAC and, by default, holds the status as the initial credit or deficit generator. The transfer
18 of fuel reporting and credit and deficit generating status is prescribed in 20.2.92.401 NMAC.

19 B. Designation of the first fuel reporting entity. The first fuel reporting entity for:
20 (1) An unblended liquid transportation fuel is the producer or importer; and
21 (2) A blend of liquid transportation fuel containing non-fossil fuel and fossil fuel is:
22 (a) The producer or importer of non-fossil fuel for the non-fossil fuel component;
23 and
24 (b) The producer or importer of fossil fuel for the fossil fuel component.

25 C. Credit or deficit generator status. Credit or deficit generator status belongs to the first fuel
26 reporting entity designated pursuant to Subsection B of 20.2.92.401 NMAC.

27 D. Designation of fuel reporting entities in case of transfer of transportation fuel ownership. A
28 regulated party transferring ownership of transportation fuel is the transferor and a regulated party acquiring
29 ownership of transportation fuel is the recipient.

30 (1) A regulated party can voluntarily transfer its status as a credit or deficit generator for a
31 given amount of liquid transportation fuel simultaneously with the ownership of the transportation fuel if the
32 following conditions are met:

33 (a) The two fuel reporting entities agree in a written contract that the recipient
34 accepts all the responsibilities of a fuel reporting entity, as well as the responsibilities of a credit generator, a deficit
35 generator or both;

36 (b) For a deficit generating transportation fuel, the two fuel reporting entities agree
37 in a written contract which party is responsible for accounting for the deficit in the annual credits and deficits
38 balance calculation;

39 (c) The transferor provides the recipient with a product transfer document that
40 specifies the recipient is the credit or deficit generator; and

41 (d) When a regulated party transfers ownership of liquid transportation fuel to a
42 downstream regulated party above the rack, no credits or deficits are generated, unless the transportation fuel is
43 destined for export, and the fuel reporting entity shall report in the CTFP-DMS if it exports the transportation fuel.

44 (2) A fuel reporting entity can voluntarily retain its status as a credit or deficit generator for a
45 given amount of liquid transportation fuel simultaneously with the ownership of the transportation fuel if the
46 following conditions are met:

47 (a) The two fuel reporting entities agree in a written contract that the recipient
48 accepts all the responsibilities of a fuel reporting entity and the transferor retains the responsibilities as a fuel
49 reporting entity and credit, deficit generator or both;

50 (b) For a deficit generating transportation fuel, the two fuel reporting entities agree
51 in a written contract which party is responsible for accounting for the deficit in the annual credits and deficits
52 balance calculation; and

53 (c) The transferor provides the recipient with a product transfer document that
54 specifies the transferor is the credit or deficit generator.

55 (3) Upon transfer, the recipient also becomes a fuel reporting entity for the transportation
56 fuel while the transferor is still subject to reporting requirements and any other requirements applicable to a fuel

reporting entity.

E. Designation of a transportation fuel exporter. The fuel reporting entity responsible for reporting exports of transportation fuel that have been previously reported in the CTFP-DMS is the fuel reporting entity holding the ownership title of the transportation fuel as it crosses the New Mexico border.

F. Transfer period in case of transfer of fuel ownership. For a liquid transportation fuel, the maximum period in which credit generator status can be transferred for a given amount of transportation fuel is limited to three quarters starting from and including the quarter in which the recipient received and accepted the title. After the transfer period is over, the fuel reporting entity designation and credit or deficit generator status for that amount of transportation fuel shall not be transferred.

[20.2.92.401 NMAC - N, 02/01/2026]

20.2.92.402 DESIGNATION OF A REGULATED PARTY FOR GASEOUS FUELS:

A. Applicability. 20.2.92.402 NMAC applies to distributors of CNG, LNG, L-CNG, LPG, hydrogen and other types of gaseous transportation fuel used for transportation in New Mexico. The purpose of 20.2.92.402 NMAC is to identify the first fuel reporting entities, any subsequent fuel reporting entities, and the credit and deficit generator for gaseous transportation fuel. The first fuel reporting entity is responsible for initiating reporting for a given amount of transportation fuel within the CTFP-DMS per 20.2.92.504 NMAC and, by default, holds the status as the initial credit or deficit generator. The transfer of fuel reporting and credit and deficit generating status is prescribed in 20.2.92.402 NMAC.

B. Designation of the first fuel reporting entity.

(1) For fossil CNG, LNG, L-CNG and LPG, the first fuel reporting entity is the owner of the fueling equipment at the facility where the transportation fuel is dispensed for use in a motor vehicle.

(2) For bio-based CNG, LNG, L-CNG and LPG, the first fuel reporting entity is the producer or importer of the transportation fuel.

(3) For natural gas that is a blend of fossil fuel and bio-based fuel, the first fuel reporting entity is the following:

(a) For the fossil fuel component, the owner of the fuel supply equipment at the facility where the transportation fuel is dispensed for use in a motor vehicle.

(b) For the bio-based fuel component, the producer or importer of the transportation fuel.

(4) For natural gas used as transportation fuel into forklifts, the first fuel reporting entity is the forklift fleet owner or operator.

(5) For hydrogen used as a transportation fuel, the first fuel reporting entity is the owner of the FSE station where the transportation fuel is dispensed for use, except that:

(a) For hydrogen used as transportation fuel in forklifts, the fuel reporting entity is the forklift fleet owner or operator. The fleet owner or operator may also designate an aggregator.

(b) For renewable hydrogen, including the renewable portion of any blend with fossil hydrogen, the first fuel reporting entity is the producer or importer of the renewable hydrogen.

C. Credit or deficit generator status. Credit or deficit generator status belongs to the first fuel reporting entity designated in Subsection B of 20.2.92.402 NMAC.

D. Designating another regulated party as a fuel reporting entity. A fuel reporting entity may elect not to be the first fuel reporting entity for a given gaseous transportation fuel, provided that another regulated party has contractually agreed to be the fuel reporting entity for the transportation fuel on the fuel reporting entity's behalf. The two fuel reporting entities shall agree by written contract that:

(1) The original first fuel reporting entity shall not generate credits or deficits under Paragraphs (1) through Paragraph (5) of Subsection B of 20.2.92.402 NMAC. Instead, the original first fuel reporting entity shall provide the amount of transportation fuel dispensed, and other required information, to the contractually designated fuel reporting entity for the purpose of reporting and credit or deficit generation pursuant to 20.2.92 NMAC.

(2) The contractually designated fuel reporting entity accepts all responsibilities as the first fuel reporting entity and as a credit or deficit generator pursuant to 20.2.92 NMAC, as applicable.

[20.2.92.402 NMAC - N, 02/01/2026]

20.2.92.403 DESIGNATION OF A REGULATED PARTY FOR ELECTRICITY:

A. Applicability. 20.2.92.403 NMAC applies to dispensers of electricity used for EV charging in New Mexico.

1 B. Designation of the first fuel reporting entity. The first fuel reporting entity and subsequent fuel
2 reporting entities are identified in Subsection C through Subsection J of 20.2.92.403 NMAC.

3 C. Residential EV charging credits. Only EDUs and eligible vehicle manufacturers or a backstop
4 aggregator may generate residential EV charging credits. The fuel reporting entity may generate base credits for
5 electricity used to charge an EV at a residence.

6 (1) The first fuel reporting entity is the EDU and vehicle manufacturer.

7 (a) Each eligible vehicle manufacturer may generate base credits from 35 percent of
8 the electricity dispensed to EVs produced by the vehicle manufacturer if the annual statewide share of all EV sales
9 for each model year beginning with model year 2025 is less than 50 percent of total light-duty vehicle sales for all
10 vehicle manufacturers in New Mexico.

11 (b) In order to be eligible for base credits per Subparagraph (a) of Paragraph (1) of
12 Subsection C of 20.2.92.403 NMAC, each vehicle manufacturer shall:

13 (i) Opt-into the CTFP and comply with 20.2.92 NMAC;

14 (ii) Have annual sales of EVs of at least ten percent of all vehicle sales in
15 New Mexico for each model year beginning in model year 2025, with the ten percent minimum threshold increasing
16 by two percent each model year thereafter; and

17 (iii) Administer sales through a dealer licensed by the motor vehicle
18 division of the New Mexico taxation and revenue department in accordance with Section 66-4-2 NMSA 1978.

19 (c) Each EDU may generate base credits from all electricity dispensed to EVs
20 registered in the EDUs service territory except any electricity that generates credits per Subparagraph (a) of
21 Paragraph (1) of Subsection C of 20.2.92.403 NMAC.

22 (2) The second fuel reporting entity is the backstop aggregator.

23 D. Non-residential EV charging credits. Only one regulated party may generate credits per FSE
24 identification number. The fuel reporting entity may generate base credits for EV charging at non-residential
25 locations, such as in public, for a fleet or at a workplace.

26 (1) The first fuel reporting entity is the FSE owner.

27 (2) The second fuel reporting entity is the EDU.

28 (3) The third fuel reporting entity is the backstop aggregator.

29 E. Multi-family housing EV charging credits. Only one regulated party may generate credits per FSE
30 identification number. The fuel reporting entity may generate base credits for EV charging at multi-family housing.
31 As used in Subsection E of 20.2.92.403 NMAC, "multi-family housing" means a structure or facility established
32 primarily to provide residential housing with four or more living units. The person claiming credits shall
33 demonstrate to the department that access to the EV charger for EV charging is available at all times for use by more
34 than one resident or person in the public.

35 F. Electric forklifts. For electricity dispensed in electric forklifts, the first fuel reporting entity is the
36 forklift fleet owner or operator.

37 G. Public transit. For electricity dispensed in fixed guideway vehicles such as light rail systems,
38 streetcars and aerial trams or transit buses, the first fuel reporting entity is the transit agency operating the system.

39 H. Electric transportation refrigeration units or eTRU. For electricity dispensed in eTRUs, the first
40 fuel reporting entity is the eTRU fleet owner.

41 I. Electric cargo handling equipment or eCHE. For electricity dispensed in eCHE, the first fuel
42 reporting entity is the eCHE fleet owner.

43 J. Electric ground support equipment or eGSE. For electricity dispensed in ground support
44 equipment, the first fuel reporting entity is the FSE unit owner.

45 K. Credit or deficit generator status. Credit or deficit generator status belongs to the first fuel
46 reporting entity designated pursuant to Subsection B of 20.2.92.403 NMAC.

47 L. Backstop aggregator. The department shall select the backstop aggregator that may serve as the
48 credit generator of electricity credits.

49 (1) To qualify to submit a registration application to be the backstop aggregator, the applicant
50 shall:

51 (a) Be an organization exempt from federal taxation under 26 U.S.C. Sec. 501(c)(3)
52 of the U.S. Internal Revenue Code; and

53 (b) Complete independent financial audits annually.

54 (2) An applicant for the backstop aggregator role shall submit a registration application to the
55 department that includes:

56 (a) A description of the mission of the organization and how being the backstop

1 aggregator fits into its mission;

2 (b) A description of the experience and expertise of key persons in the organization
3 that would be assigned to work associated with being the backstop aggregator;

4 (c) A plan describing:

5 (i) How the organization shall promote transportation electrification in
6 New Mexico;

7 (ii) Any person the organization may partner with to implement the plan;

8 (iii) How the organization intends to utilize the revenue generated from the
9 sale of credits, which may include programs offering incentives for purchasing EVs, installing EV-related FSE or
10 providing opportunities to educate the public about EVs, plus administrative costs; and

11 (iv) The financial controls that are, or may be put, in place to segregate
12 funds from the sale of credits from other monies controlled by the organization.

13 (d) The applicant's last three years of independent financial audits, U.S. Internal
14 Revenue Service form 990s, and proof that the U.S. Internal Revenue Service has certified the applicant as a
15 qualifying tax-exempt organization.

16 (3) The department shall evaluate a registration application with the assistance of relevant
17 experts selected by the department. The department shall evaluate a registration application based on the likelihood
18 that the applicant shall maximize the benefits from the credit revenue it receives to reduce greenhouse gas emissions
19 from the transportation sector in New Mexico.

20 (4) Following the department's approval of an organization to be the backstop aggregator, the
21 department and the organization shall enter into a written agreement regarding its participation in the program. A
22 written agreement shall be in place before the backstop aggregator registers an account in the CTFP-DMS and
23 receives credits for the first time. The backstop aggregator shall annually, by March 31, submit a report to the
24 department that summarizes the previous compliance period's activities, including:

25 (a) The amount of revenue generated;

26 (b) A description of activities, including the status of each activity, where each
27 activity took place, and each activity's budget, including administrative costs, and an estimate of its outcomes; and

28 (c) The results of the backstop aggregator most recent independent financial audit.

29 (5) The backstop aggregator shall maintain records and make them available upon request by
30 the department, including records required to be maintained per 20.2.92.506 NMAC, and in addition, any records
31 relating to the backstop aggregator's registration application, the programs the backstop aggregator operates using
32 the proceeds from the sale of credits under this program, and the backstop aggregator's financial records.

33 (6) If the department determines that a backstop aggregator is in violation of 20.2.92 NMAC
34 or the agreement that it enters with the department to be the backstop aggregator, the department may rescind its
35 designation by providing notice to the aggregator and proceed to solicit registration applications to select a new
36 backstop aggregator, in accordance with 20.2.92.506 NMAC or as otherwise provided for in the agreement.

37 (7) A backstop aggregator may terminate its agreement with the department by providing the
38 department with a 90-calendar day written notice stating the termination of the agreement shall be effective 90
39 calendar days after the notice. The department may, immediately upon notice, solicit registration applications to
40 select a new backstop aggregator.

41 (8) After a backstop aggregator has been in place for three years, the department may hold a
42 new selection process to appoint a backstop aggregator for future years. Unless the department has rescinded an
43 organization as a backstop aggregator, the current backstop aggregator may apply to be re-designated as the
44 backstop aggregator for future years.

45 M. Incremental credits. A registered party generating base credits in accordance with 20.2.92.403
46 NMAC may also generate incremental credits for the same charging activities by improving the carbon intensity of
47 the supplied electricity beyond the EDU-specific carbon intensity.

48 (1) A registered party claiming base credits shall only claim incremental credits for the
49 current compliance period if the registered party notifies the department by June 15 for the first and second quarters
50 or if the registered party notifies the department by December 15 for the third and fourth quarters.

51 (2) The registered party's election remains in place until it requests a change in the CTFP-
52 DMS to the department.

53 N. Designating another fuel reporting entity as credit generator. A person that is eligible to generate
54 credits as described in Subsection C through Subsection L of 20.2.92.403 NMAC may elect to designate another fuel
55 reporting entity to be the credit generator by agreement in a written contract that:

56 (1) The credit generator shall provide necessary data to the designated fuel reporting entity;

1 (2) The designated fuel reporting entity accepts all responsibilities as the credit generator;
2 and
3 (3) The designated fuel reporting entity shall remain designated under 20.2.92.403 NMAC
4 unless the designator requests a change in the CTFP-DMS.
5 [20.2.92.403 NMAC - N, 02/01/2026]

6
7 **20.2.92.404 - 500 [RESERVED]**
8

9 **20.2.92.501 REGISTRATION:**

10 A. Initial registration requirements. A regulated party shall submit to the department a registration
11 application within 45 calendar days of becoming subject to 20.2.92 NMAC. A regulated party shall provide the
12 following information in the registration application:

- 13 (1) The regulated party's name, physical and mailing addresses, and RFS identification
14 numbers;
15 (2) The regulated party's federal employer identification number;
16 (3) The name of the regulated party's owner, and the physical and mailing addresses and
17 business phone number;
18 (4) If applicable, the name of the regulated party's operator, and the physical and mailing
19 addresses and business phone number;
20 (5) The name of the primary contact person for the regulated party, and the person's title,
21 physical and mailing addresses, business phone number, mobile phone number and email address;
22 (6) The name of the responsible person, and the responsible person's title, physical and
23 mailing addresses, business phone number, mobile phone number and email address;
24 (7) The transportation fuel type the regulated party produces in New Mexico, imports into
25 New Mexico or dispenses for use in New Mexico;
26 (8) A list of the names of all related business entities and regulated parties that share
27 common ownership or control of or with the regulated party that is operating in New Mexico, including subsidiaries
28 or parent companies;
29 (9) The name of the person that shall be the primary CTFP-DMS account administrator, and
30 the person's title, physical and mailing addresses, business phone number, mobile phone number and email address;
31 (10) The name of the person that shall be the secondary CTFP-DMS account administrator,
32 and the person's title, physical and mailing addresses, business phone number, mobile phone number and email
33 address.
34 (11) If the regulated party is an alternative fuel pathway applicant or fuel pathway holder:
35 (a) The production company name, federal employer identification number and
36 physical and mailing addresses; and
37 (b) The operator's name and physical and mailing addresses; and
38 (12) Any other information requested by the department related to registration.

39 B. Updating CTFP-DMS account information. At least annually, a registered party shall review in
40 the CTFP-DMS the information listed in Subsection A of 20.2.92.501 NMAC and either update the information or
41 certify the information remains valid. A registered party shall make changes to the registered party's ownership
42 pursuant to Subsection C of 20.2.92.501 NMAC.

43 C. Modifications to a registration and change of ownership. A registered party shall submit an
44 amended registration to the department within 30 calendar days of a change in the information described in
45 Subsection A of 20.2.92.501 NMAC, or upon a request from the department based on information the department
46 receives. If a registered party undergoes a change of ownership or operational control, the previous owner or
47 operator shall remain the owner of record until the notice described per Paragraph (1) of Subsection C of
48 20.2.92.501 NMAC has been submitted to the department and the following requirements apply:

- 49 (1) The previous owner or operator of the regulated party shall notify the department in the
50 CTFP-DMS within 30 calendar days of the ownership or operational control change and provide the following
51 information:
52 (a) Name of the previous owner or operator;
53 (b) Name of the new owner or operator;
54 (c) Date of the ownership or operational control change;
55 (d) Name of the previous account representatives for the previous owner or
56 operator's account in the CTFP-DMS;

1 (e) Identify the planned disposition of credits and deficits in the previous owner's
2 CTFP-DMS account and, if applicable, the certified fuel pathways associated with the previous owner's CTFP-DMS
3 account; and

4 (f) An authorization signed by the responsible person for the previous owner or
5 operator of the regulated party stating that ownership or operational control of the regulated party has transferred to
6 the new owner or operator and relinquishing all regulatory responsibilities.

7 (2) The new owner or operator of the regulated party shall notify the department in the
8 CTFP-DMS within 30 calendar days of the ownership or operational change, and provide the following information:

9 (a) Name of the previous owner or operator;

10 (b) Name of the new owner or operator;

11 (c) Date of the ownership or operational control change;

12 (d) Updated information, as applicable, as set forth in Subsection A of 20.2.92.501
13 NMAC, including information, as set forth in Paragraphs (9) and (10) of Subsection A of 20.2.92.501 NMAC, for
14 the new primary and secondary CTFP-DMS administrators; and

15 (e) An authorization signed by the responsible person for the new owner or operator
16 of the regulated party stating that ownership or operational control of the regulated party has transferred from the
17 previous owner or operator and accepting all regulatory responsibilities.

18 (3) The department shall review notifications submitted to the department pursuant to
19 Paragraphs (1) and (2) of Subsection C of 20.2.92.501 NMAC. After the department reviews and approves the
20 changes requested by the notifications, the department shall amend the account for the registered party in the CTFP-
21 DMS and establish access for the new owner or operator.

22 (4) A single report shall be submitted for an entire quarter. Reporting data shall not be split
23 or subdivided for a quarter based on registered party ownership or operation. Both the owner or operator of record
24 at the time of a deadline specified in 20.2.92.501 NMAC and the new owner or operator at the time of a deadline
25 specified in 20.2.92.501 NMAC are responsible for and shall comply with the reporting requirements of 20.2.92.503
26 NMAC, 20.2.92.504 NMAC and 20.2.92.505 NMAC, if the required report has not been submitted.

27 (5) The new owner or operator is responsible for demonstrating compliance when filing the
28 compliance period report under 20.2.92.502 NMAC.

29 D. Cancellation of CTFP-DMS registration. A registered party shall cancel its registration if the
30 registered party no longer meets the applicability of 20.2.92 NMAC or voluntarily opts out of the CTFP per
31 Paragraph (4) of Subsection C of 20.2.92.103 NMAC

32 (1) A regulated party cancelling its registration under 20.2.92.501 NMAC shall meet its
33 compliance obligations before cancelling its registration by submitting to the department any outstanding quarterly
34 reports and compliance period reports; the regulated party shall be in compliance with 20.2.92 NMAC for the
35 compliance period reports it submits; and the regulated party shall not have any outstanding deficits.

36 (2) After complying with Paragraph (1) of Subsection D of 20.2.92.501 NMAC, a regulated
37 party cancelling its registration under 20.2.92.501 NMAC shall provide the department with notice of its intent to
38 cancel its registration.

39 (3) Any credits that remain in an account of a regulated party cancelling its registration under
40 20.2.92.501 NMAC shall be forfeited to the backstop aggregator and the department shall close the applicable
41 account in the CTFP-DMS.

42 (4) Once the department determines the actions described in Paragraph (1) through
43 Paragraph (3) of Subsection D of 20.2.92.501 NMAC are complete, the department shall notify the regulated party
44 in writing of the cancellation of its registration.

45 (5) If a registered party does not have any transportation fuel transactions reported in four
46 consecutive quarters, the department may request in writing the registered party provide the department with
47 confirmation in the CTFP-DMS that the registered party intends to maintain an active account in the CTFP-DMS. If
48 the registered party does not provide the department with the confirmation in the CTFP-DMS within 90 calendar
49 days of notice from the department that the registered party intends to maintain an active account in the CTFP-DMS,
50 then the department may deactivate the registered party's account in the CTFP-DMS and allocate all remaining
51 credits in the registered party's CTFP-DMS account to the backstop aggregator. The regulated party may re-register
52 and have its account reactivated after having qualifying transportation fuel transactions in New Mexico.

53 E. Registration of fuel supply equipment.

54 (1) In addition to the registration requirements in Subsection A through Subsection D of
55 20.2.92.501 NMAC, a regulated party dispensing electricity or gaseous transportation fuel through an FSE shall
56 register the FSE in the CTFP-DMS. Upon successful FSE registration, the regulated party shall receive a unique

1 FSE identification number that shall be used for reporting transportation fuel transactions. An FSE being registered
2 shall be operational at the time of registration. A regulated party shall provide the following information in the FSE
3 registration application:

- 4 (a) The regulated party's name, physical and mailing addresses, and RFS
5 identification numbers;
- 6 (b) The name and address of the facility at which the FSE is sited, and latitude and
7 longitude of the FSE location;
- 8 (c) The name and address of the person that owns the FSE, if different from the
9 regulated party registering the FSE; and
- 10 (d) The date the FSE became operational.

11 (2) In addition to the requirements in Paragraph (1) of Subsection E of 20.2.92.501 NMAC,
12 the following apply to an FSE for electricity as transportation fuel:

13 (a) A registered party that is also an EDU shall register whether the registered party
14 intends to aggregate the residential electric charging credits in the EDU's service territory or designate an aggregator
15 to act on the registered party's behalf.

16 (b) Unless designated as the first fuel reporting entity, a registered party that is
17 charging EVs shall provide the department with a copy of a written contractual agreement demonstrating the
18 registered party acquired the designation of the first fuel reporting entity.

19 (c) For residential metered EV charging location information, an address is not
20 required, and EV FSE registration is optional when reporting metered electricity to generate base credits. For
21 incremental credits, the fuel reporting entity shall provide the following FSE information:

22 (i) For off-vehicle meters, the serial number assigned to the FSE by the
23 original equipment manufacturer, the name of the original equipment manufacturer and the vehicle identification
24 number for the vehicle expected to be charged at the location.

25 (ii) For vehicle telematics, the vehicle identification number.

26 (d) For non-residential EV charging, FSE refers to each piece of equipment
27 measuring the electricity dispensed for EV charging. A fuel reporting entity for non-residential EV charging shall
28 provide the serial number assigned to the FSE by the original equipment manufacturer and the name of the original
29 equipment manufacturer. If there are multiple FSEs at the same location, each unique piece of equipment shall be
30 registered separately.

31 (e) For electric forklifts, eCHE or eGSE, the FSE refers to the facility or location
32 where electricity is dispensed for fueling. If multiple FSEs measure the electricity dispensed at the facility or
33 location, the fuel reporting entity shall provide the serial number assigned to each individual FSE by the original
34 equipment manufacturer, along with the name of the original equipment manufacturer.

35 (f) Fuel reporting entities for fixed guideway systems are exempt from the general
36 requirements of Subsection E of 20.2.92.501 NMAC. CTFP-DMS shall assign FSE identification numbers for
37 reporting purposes based on the information provided in CTFP-DMS account registration form.

38 (3) In addition to the requirements in Paragraph (1) of Subsection E of 20.2.92.501 NMAC,
39 an FSE dispensing natural gas, LPG or hydrogen shall, unless designated as a first fuel reporting entity, provide a
40 written contractual agreement demonstrating the FSE acquired the designation of the fuel reporting entity status and
41 the number of FSE units located in New Mexico, the FSE station locations and the unique identifier associated with
42 the FSE in the organization's transportation fuel or financial accounting.

43 (4) In addition to the requirements in Paragraph (1) of Subsection E of 20.2.92.501 NMAC,
44 for an FSE dispensing CNG, a station with multiple dispensers is considered a single FSE. A fuel reporting entity
45 for a CNG shall provide the natural gas utility meter number at the FSE location, name of the utility company and a
46 copy of the most recent utility bill.

47 (5) In addition to the requirements in Paragraph (1) of Subsection E of 20.2.92.501 NMAC,
48 for FSE dispensing LNG and LPG, FSE refers to a transportation fueling station. An LNG or LPG station with
49 multiple dispensers is considered a single FSE. A fuel reporting entity for LNG and LPG shall provide a unique
50 identifier associated with the FSE used for their own fuel accounting or financial accounting or other purposes and
51 copy of invoice or bill of lading for the most recent transportation fuel delivery.

52 (6) In addition to the requirements in Paragraph (1) of Subsection E of 20.2.92.501 NMAC,
53 for eTRU, an FSE refers to each eTRU. A fuel reporting entity for eTRU fueling shall provide the serial number
54 assigned to the unit by the original equipment manufacturer and the name of the original equipment manufacturer.

55 (7) In addition to the requirements in Paragraph (1) of Subsection E of 20.2.92.501 NMAC,
56 for hydrogen, an FSE refers to a fueling station. A hydrogen station with multiple dispensers is considered a single

1 FSE. A fuel reporting entity for hydrogen fueling shall provide the serial number assigned to the unit by the original
2 equipment manufacturer and the name of the original equipment manufacturer.

3 (8) For types of transportation fuel not covered in Paragraphs (1) through (7) of Subsection E
4 of 20.2.92.501 NMAC, FSE refers to a fuel dispenser or the equipment measuring the transportation fuel dispensed.

5 (9) The department shall determine registration requirements for other fuel types or FSEs not
6 listed.

7 F. Registration application approval and establishing and maintaining a CTFP-DMS account.

8 (1) The department shall review registration applications submitted to the department. After
9 the department reviews and approves the registration application, the department shall establish an account for the
10 registered party in the CTFP-DMS.

11 (2) A registered party shall assign and maintain the account management role of CTFP-DMS
12 administrator that is the person with full access and authority within the CTFP-DMS, authorized to sign for the
13 registered party, responsible for submitting quarterly and compliance period reports, may make changes to the
14 registered party profile and may designate others to review and upload data, but not submit reports.

15 (3) The CTFP-DMS administrator may assign the following account management roles
16 within the CTFP-DMS:

17 (a) CTFP-DMS contributor that is authorized to submit quarterly and compliance
18 period reports, if given signature authority, but cannot make changes to the registered party's information;

19 (b) CTFP-DMS reviewer that is provided read-only access to a registered party's
20 information, but cannot submit quarterly and compliance period reports; and

21 (c) CTFP-DMS credit facilitator that is authorized to initiate and complete credit
22 transfers on behalf of the registered party, may add postings to the CTFP-DMS and has read-only access to the
23 registered party's quarterly and compliance period reports.

24 (4) By registering in the CTFP-DMS, the registered party shall comply with the requirements
25 of 20.2.92 NMAC and any conditions placed upon the fuel pathways that it holds.

26 '[20.2.92.501 NMAC - N, 02/01/2026]

27 28 **20.2.92.502 PROGRAM FEES:**

29 A. Applicability. Regulated parties shall pay to the department a program registration fee in
30 accordance with Subsection B of 20.2.92.502 NMAC and an annual CTFP fee in accordance with Subsections C to
31 E of 20.2.92.502 NMAC. Alternative fuel pathway applicants shall pay an application fee for each alternative fuel
32 pathway application in accordance with Subsection F of 20.2.92.502 NMAC. Backstop aggregators are exempt
33 from compliance with 20.2.92.502 NMAC. A person's failure to pay a fee as required by 20.2.92.502 NMAC shall
34 be a violation of 20.2.92 NMAC.

35 B. Program registration fee. The program registration fee shall be \$5,000 for a deficit generator,
36 \$1,000 for a credit generator and \$500 for all other registered parties, except backstop aggregators. A registered
37 party's deficit or credit generator status shall be based on the registered party's transportation fuel carbon intensity in
38 comparison to the carbon intensity standard at the time the regulated party submits a registration application to the
39 department in accordance with Subsection A of 20.2.92.501 NMAC, as identified by the regulated party. The
40 department shall consider a registered party that generates both deficits and credits as a deficit generator for
41 purposes of assessing the program registration fee.

42 (1) After a regulated party submits a registration application in accordance with Subsection A
43 of 20.2.92.501 NMAC, the department shall send the regulated party an invoice for the program registration fee as
44 determined by Subsection B of 20.2.92.502 NMAC. The registered party shall pay the registration fee as directed in
45 the invoice. The department shall not approve the registration application or establish an account for the registered
46 party in the CTFP-DMS as set forth in Paragraph (1) of Subsection F of 20.2.95.501 NMAC until after the regulated
47 party pays the invoiced amount, notwithstanding a protest by the regulated party in accordance with Subsection I of
48 20.2.92.502 NMAC.

49 (2) If a registered party's status as a deficit or credit generator, as determined by Subsection
50 A of 20.2.92.501 NMAC and invoiced pursuant to Paragraph (1) of Subsection B of 20.2.92.502 NMAC, changes in
51 the registered party's initial quarterly report to a deficit generator or a deficit generator and credit generator, the
52 department may reassess the program registration fee in accordance with the registered party's status.

53 C. Annual CTFP fee basis.

54 (1) In the initial compliance period, the department shall determine the fee for a registered
55 party based on the gross deficit and gross credit generating transportation fuel reported in the first quarter after the
56 effective date of 20.2.92 NMAC containing at least 45 calendar days.

(2) For all subsequent compliance periods, the department shall determine the fee for registered parties based on the gross deficits and gross credits in the quarterly reports from the previous compliance period.

(3) For the initial compliance period, the department shall send each registered party within 30 days of the close of reporting for the first quarter after the effective date of 20.2.92 NMAC containing at least 45 calendar days an invoice for the registered party's annual CTFP fee stating the amount the registered party owes.

(4) For subsequent compliance periods, the department shall send each registered party by May 1 of each year an invoice for the registered party's annual CTFP fee stating the amount the registered party owes.

(5) A registered party shall pay an invoiced amount in full as directed in the invoice

D. CTFP budget. Annually the department shall develop a workload analysis, an annual CTFP budget and a schedule of proposed annual CTFP fees to pay for the department's administration and enforcement of the CTFP. All costs of activities associated with implementing and administering the CTFP are fee eligible for inclusion in the budget. The department shall develop the schedule of proposed annual CTFP fees to recoup the CTFP budget as fees among registered parties, not including the backstop aggregator, in recognition of the allocations set forth in Paragraphs (1) and (2) of Subsection E of 20.2.92.502 NMAC. The department shall announce the workload analysis, the annual CTFP budget and the schedule of proposed annual CTFP fees. For 15 calendar days following the announcement, the department shall accept public input period on the workload analysis, the annual budget and the schedule of proposed annual CTFP fees. The department shall consider the public input and may revise the annual CTFP budget and the schedule of proposed annual CTFP fees. The department shall announce the final annual CTFP budget and the final schedule of proposed annual CTFP fees by May 1 each year.

E. Annual CTFP fees.

(1) Fees for deficit generators and credit generators shall be allocated based on gross deficits and gross credits generated. The fees shall be calculated as the deficits generated by the regulated party times the price per deficit plus the credits generated by the regulated party times the price per credit, where:

(a) The price per deficit is ninety-five percent of the CTFP budget per Subsection D of 20.2.92.502 NMAC, divided by the total deficits from the previous compliance period; and

(b) The price per credit is five percent of the CTFP budget per Subsection D of 20.2.92.502 NMAC, divided by the total credits from the previous compliance period less any credits claimed by the backstop aggregator.

(2) A registered party that is neither a deficit generator nor a credit generator nor a backstop aggregator shall pay an annual CTFP fee of \$200.

(3) A regulated party that does not submit a required report in accordance with 20.2.92.503 NMAC shall pay an annual CTFP fee calculated as the deficits that should have been generated by the regulated party times the price per deficit determined pursuant to Paragraph (1) of Subsection E of 20.2.92.502 NMAC plus the credits that should have been generated by the regulated party times the price per credit determined pursuant to Paragraph (1) of Subsection E of 20.2.92.502 NMAC.

F. Pathway application fees. All alternative fuel pathway applications, EER pathway applications and FSE pathway applications shall be assessed a fee at the time of application.

(1) The fees for pathway applications shall be as follows:

(a) \$5,500 for Tier 1 alternative fuel pathway applications, energy economy ratio adjusted carbon intensity applications not associated with a novel transportation fuel, and FSE pathway applications; and

(b) \$15,000 for all applications for Tier 2 fuel pathways novel to New Mexico.

(2) After a regulated party submits Tier 1 alternative fuel pathway application, energy economy ratio adjusted carbon intensity application not associated with a novel transportation fuel, FSE pathway application or Tier 2 fuel pathways novel to New Mexico application, the department shall send the registered party an invoice for the fuel pathway application fee determined pursuant to Paragraph (1) of Subsection F of 20.2.92.501 NMAC. The registered party shall pay the invoiced amount in full as directed in the invoice. The department shall not approve the application until after the regulated party pays the invoiced amount, notwithstanding a protest by the regulated party in accordance with Subsection I of 20.2.92.502 NMAC.

G. Inflation adjustment. The department shall adjust all fees in 20.2.92.502 NMAC for inflation each year by multiplying the existing fee by the change in the consumer price index and rounding the result to the nearest whole dollar. The consumer price index for a year is the inflation rate as provided by the last twelve months of data from the U.S. Bureau of Labor Statistics Southwest Region Consumer Price Index for All Urban Consumers for All

1 Items. When rounding, if the number after the decimal point is less than five, the whole number remains unchanged.
2 If the number after the decimal point is five or greater, the whole number shall be rounded up to next whole number.
3 The department shall announce the adjusted fees within 15 calendar days of the December data release and the fees
4 shall be effective on the calendar day after the department's announcement.

5 H. Fee payments.

6 (1) Fees required by 20.2.92.502 NMAC shall be made payable to the New Mexico
7 Environment Department as directed in the department's invoice.

8 (2) Fees required by 20.2.92.502 NMAC shall be paid within 30 calendar days of the date of
9 the department's invoice, which shall be the due date.

10 (3) In the event that fees are not paid as directed in the invoice, the outstanding fee balance
11 becomes due and payable from the due date along with a 10 percent late fee and the costs of collection. The
12 Department shall calculate the late fee from the original due date of the outstanding fee balance. The department
13 shall send the regulated party a monthly invoice until the outstanding fee balance, the late fees and the costs are
14 paid. The regulated party shall pay the invoiced amount in full as directed in the invoice. However, the department
15 shall not assess a late fee pending the outcome of a protest pursuant to Subsection I of 20.2.92.502 NMAC.

16 (4) In addition to paying a late fee, a person may be required to pay a penalty pursuant to an
17 enforcement action under 20.2.92.604 NMAC. Payment of a late fee shall not be a defense to violation of
18 20.2.92.502 NMAC.

19 (5) Except for the refund of excess fees paid, all fees paid under 20.2.92.502 NMAC shall be
20 non-refundable.

21 (6) All fees shall be paid in U.S. dollars.

22 (7) The department shall deposit fees and late fees in the state air quality permit fund
23 established by Section 74-2-15 NMSA 1978.

24 I. Invoice errors and corrections. Within 30 calendar days of the date of the department's invoice,
25 the regulated party may protest the invoiced amount in accordance with 20.2.92.605 NMAC. In addition to the
26 information required by 20.2.92.605 NMAC, the protest shall identify the dollar amount of the alleged error or
27 challenged calculation. If the department determines a corrected amount owed is appropriate, the department shall
28 send the regulated party a corrected invoice in the same manner as the original invoice. If the department
29 determines the invoice is correct, the department shall notify the regulated party in writing and the regulated party
30 shall pay the invoice within 30 days of the date of the department's notice. The regulated party shall pay the
31 corrected invoiced amount in full as directed in the corrected invoice.

32 [20.2.92.502 NMAC - N, 02/01/2026]

33
34 **20.2.92.503 GENERAL REPORTING REQUIREMENTS:**

35 A. General requirements for reporting. Regulated parties shall:

36 (1) Comply with 20.2.92.503 NMAC,

37 (2) Submit quarterly reports per 20.2.92.504 NMAC, and

38 (3) Submit compliance period reports per 20.2.92.505 NMAC.

39 B. Reporting in the CTFP-DMS. Regulated parties shall use the CTFP-DMS to submit to the
40 department all required reports, including quarterly reports and compliance period reports under 20.2.92.503
41 NMAC, which shall comply with the requirements of Subsection B of 20.2.92.503 NMAC.

42 (1) The regulated party shall sign each report to certify the report, record and the statements
43 contained therein are true, accurate and complete and agreeing to be bound by the report, record and the statements
44 contained therein.

45 (2) The regulated party shall sign each report to acknowledge the regulated party's
46 understanding that submitting or attesting to false statements is prohibited under New Mexico law, and may subject
47 the registered party to civil enforcement, criminal enforcement or both.

48 (3) Credit and deficit calculations are subject to the provisions of 20.2.92.301 NMAC, under
49 which the department may correct errors should a regulated party or credit or deficit generator not do so themselves.
50 The department may place holds on credits or deficits or accounts as part of an inquiry and invalidate credits or
51 deficits or fuel pathway codes that a regulated party illegitimately generated or otherwise created in error, as set
52 forth in 20.2.92.604 NMAC.

53 (4) A registered party may submit to the department an unlock report request form to request
54 the department reopen a previously submitted quarterly report or compliance period report by the registered party to
55 allow for correction of errors and resubmittal. The requester shall provide the department with the form justification
56 for the corrections and shall indicate the specific corrections to be made to the report. Each request is subject to

department approval. The department's approval of report corrections is not a defense to an enforcement action based on discrepancy, omission, misreporting or a combination of the three.

C. Acknowledgement, acceptance, attestation and certification:

(1) A quarterly report or compliance period report shall include from the registered party an attestation that:

(a) The information provided is an official submission for purposes of compliance with 20.2.92 NMAC;

(b) The information contained in the report is correct;

(c) The person submitting and signing the report is authorized by the registered party to submit and sign reports on the registered party's behalf;

(d) Credits are regulatory instruments that do not constitute personal property, securities or any other form of property, as provided in 20.2.92.301 NMAC; and

(e) Other acknowledgement, acceptance, attestation or certification required by the department.

(2) In addition to Paragraph (1) of Subsection C of 20.2.92.503 NMAC, if biogas or biomethane is being used that is dispensed to a vehicle and not injected into a pipeline, the registered party shall attest:

(a) The biogas used in the fuel pathway or produced in New Mexico, imported into New Mexico, or dispensed for use in New Mexico as transportation fuel is characterized as biomethane;

(b) The registered party owns the exclusive rights to the corresponding environmental attributes and has not sold, traded or retired those environmental attributes in any program or jurisdiction other than the RFS; and

(c) Under penalty of perjury under New Mexico laws, the registered party has conducted a diligent inquiry and review of contracts and attestations from business partners and no other person has sold, traded or retired the environmental attributes corresponding to the biomethane for which the registered party claims credit in the CTFP.

[20.2.92.503 NMAC - N, 02/01/2026]

20.2.92.504 QUARTERLY REPORTING REQUIREMENTS:

A. Establishing the initial quarter and reporting deadline. The initial quarter begins on the effective date of 20.2.92 NMAC and ends on the last calendar day of the quarter. Using the CTFP-DMS, a regulated party shall submit the initial quarterly report within 45 calendar days of the end of the initial quarter and resolve transaction discrepancies, making any necessary corrections to finalize the report by the end of the following quarter.

B. Establishing quarters and reporting deadlines. Following the initial quarter, regulated parties shall use the CTFP-DMS to submit the quarterly reports within 45 calendar days after the end of each quarter and resolve transaction discrepancies, making any necessary corrections to finalize the report by the end of the following quarter.

C. General reporting requirements for quarterly reports. Unless otherwise indicated for specific fuel types in Table 6 of Subsection F of 20.2.92.701 NMAC, all quarterly reports shall contain the information specified in Subsection E through Subsection N of 20.2.92.504 NMAC and the following information:

(1) Regulated party's name and federal employer identification number, if available;

(2) Reporting quarter;

(3) Fuel pathway code;

(4) For each transaction the transaction type, as listed in Subsection D of 20.2.92.504 NMAC;

(5) For each transaction, the transaction date;

(6) Name of regulated party's business partner or partners, if applicable;

(7) Name and federal employer identification number if available of all fuel production facility owners, if different from the regulated party;

(8) Name and identification number of fuel production facility, if applicable;

(9) Indication of whether the transaction is an aggregation of multiple transactions;

(10) EER of the fuel pathway from its expected use in a motor vehicle as provided in Table 8 of Subsection H of 20.2.92.701 NMAC;

(11) Transaction type per Subsection D of 20.2.92.504 NMAC;

(12) Amount of transportation fuel used as a gasoline substitute,

- (13) Amount of transportation fuel used as diesel substitute
 - (14) Amount of transportation fuel used as an alternative jet fuel
 - (15) Quantity of transportation fuel sold to exempt users if applicable; and
 - (16) Credits and deficits that the regulated party generated in the applicable quarter.
- D. A regulated party shall include in quarterly reports the following transaction type for each reported transportation fuel transaction per the following transaction types:
- (1) Produced in New Mexico, which means that a regulated party produced a transportation fuel at a fuel production facility located in New Mexico;
 - (2) Produced for import into New Mexico, which means that a regulated party imported a transportation fuel produced out-of-state that was intended for import into New Mexico;
 - (3) Imported within the bulk system, which means that a regulated party imported a transportation fuel into New Mexico and placed the transportation fuel into the bulk system;
 - (4) Imported outside the bulk system, which means that a regulated party imported a transportation fuel into New Mexico and delivered the transportation fuel outside the bulk system;
 - (5) Purchased with obligation, which means that a regulated party purchased a transportation fuel with a compliance obligation;
 - (6) Sold with obligation, which means that a regulated party sold a transportation fuel with the compliance obligation;
 - (7) Purchased without obligation, which means the transportation fuel was purchased with the compliance obligation retained by the seller;
 - (8) Sold without obligation, which means the transportation fuel was sold with the compliance obligation retained by the seller;
 - (9) Position holder sale without obligation, which means the transportation fuel was sold below the rack without a transfer of the compliance obligation;
 - (10) Position holder sale for export, which that a regulated party sold a transportation fuel below the rack to a person that exported the transportation fuel;
 - (11) Purchased below the rack for export, which means that a regulated party purchased a transportation fuel below the rack and exported the transportation fuel;
 - (12) Exported;
 - (13) Gain of inventory, which means increases in the quantity of transportation fuel regulated pursuant to 20.2.92 NMAC due to a volume gain, such as through different temperatures or pressurization, a transfer of transportation fuel to a different fuel pathway code;
 - (14) Initial inventory, meaning all regulated transportation fuel held in bulk storage in the state at the start of the program, excluding transportation fuel stored outside of the bulk system;
 - (15) Loss of inventory, which means reductions in the quantity of transportation fuel regulated pursuant to 20.2.92 NMAC due to volume loss, such as through evaporation, different temperatures or pressurization or a transfer of transportation fuel to a different fuel pathway code;
 - (16) Not used for transportation, which means that a regulated party did not use a transportation fuel to move persons or goods from one place to another by a carrier; and
 - (17) Exempt fuel use.
 - (18) Liquified petroleum gas vehicle fueling, which means that a regulated party dispensed LPG at a fueling station designed for fueling vehicles;
 - (19) Natural gas vehicle fueling, which means that a regulated party dispensed natural gas at a fueling station designed for fueling vehicles;
 - (20) Hydrogen fueling, which means that a regulated party dispensed LPG at a fueling station designed for fueling vehicles.
 - (21) eCHE fueling;
 - (22) eGSE fueling;
 - (23) eTRU fueling;
 - (24) Non-residential EV charging;
 - (25) Residential metered EV charging;
 - (26) Fixed guideway electricity fueling; and
 - (27) Electric forklift charging.
- E. Information on natural gas used for vehicle fueling. For natural gas or biomethane, inclusive of CNG, LNG and L-CNG, the registered party shall report the following, as applicable:
- (1) For CNG and L-CNG, the amount of transportation fuel in therms dispensed per

1 reporting quarter for all LMDVs and MHDVs;

2 (2) For LNG, the amount of transportation fuel dispensed in gallons per reporting quarter for
3 all LMDVs and MHDVs;

4 (3) For CNG, L-CNG and LNG, the carbon intensity, as listed in Table 4 in Subsection D of
5 20.2.92.701 NMAC or per Subsection B of 20.2.92.201 NMAC, as applicable; and

6 (4) For biomethane, the carbon intensity, as listed in Table 5 in Subsection E of 20.2.92.701
7 NMAC, approved per 20.2.92.202 NMAC or per Subsection B of 20.2.92.201 NMAC, as applicable, and:

8 (a) The RFS identification numbers and fuel production facility identification
9 number;

10 (b) If using a book-and-claim accounting methodology, records showing the
11 sufficient retirement of renewable thermal certificates representing the biomethane environmental attributes from
12 that fuel production facility in a recognized renewable thermal tracking system to cover the quantity of biomethane
13 claimed as a transportation fuel in the CTFP. The registered party must have generated RECs for biomethane in the
14 same quarter being reported on or the quarter before that being reported on; and

15 (c) Records certifying the biomethane originates from the fuel production facility
16 the fuel pathway code is assigned.

17 F. Information on electricity dispensed for EV charging. For electricity, the registered party shall
18 report the following, as applicable:

19 (1) For a carbon intensity other than an EDU-specific mix, or renewable electricity under
20 Table 4 in Subsection D of 20.2.92.701 NMAC:

21 (a) Documentation that the registered party retired qualifying RECs in the Western
22 Renewable Energy Generation Information System or a recognized renewable electricity tracking system for the
23 unique purpose of covering that specific charging concurrent to the submittal of the quarterly report; or

24 (b) Documentation, annually via a quarterly report, that the EV chargers receive
25 electricity from a utility renewable electricity product or a power purchase agreement for which the department has
26 approved a carbon intensity. The registered party can only use a carbon intensity that the department has assigned to
27 the product or agreement for reporting if the EV chargers receive electricity from the same product or agreement for
28 the reporting quarter.

29 (2) For nonmetered residential EV charging:

30 (a) The department shall use the method established in 20.2.92.301 NMAC to
31 calculate credits generated for the quarter and place them into the EDU account in the CTFP-DMS. The department
32 may request and EDUs shall provide information about electricity dispensed as a transportation fuel that the
33 department needs to calculate credits generated from residential EV charging.

34 (b) For claiming incremental credit for nonmetered residential EV charging, the
35 EDU shall provide, upon the department's request, the vehicle identification number for each EV claimed and
36 evidence of EV registration and low-carbon intensity electricity supply at the same location.

37 (3) For metered residential EV charging:

38 (a) For generating base credits, the registered party shall provide the quantity of
39 electricity in kilowatt-hours that the registered party dispensed for residential EV charging for each FSE;

40 (b) For generating incremental credits for low-carbon intensity electricity, the
41 registered party shall provide the amount of electricity in kilowatt-hours that the registered party dispensed for
42 residential EV charging for each FSE using a certified fuel pathway code. Upon the department's request, the
43 registered party shall provide records that demonstrate that an individual dwelling at the claimed residence owns or
44 leases an EV; and

45 (c) Vehicle manufacturers generating credits shall provide evidence in an annual
46 report that details the credit revenues that the vehicle manufacturer reinvested each quarter to promote transportation
47 decarbonization in accordance with 20.2.92.305 NMAC.

48 (4) For non-residential EV charging, including each public access charging FSE station, fleet
49 charging FSE station, workplace private access charging FSE station or multifamily dwelling, the registered party
50 shall provide the quantity of electricity in kilowatt-hours that the registered party dispensed to vehicles for each FSE
51 unit;

52 (5) For each public transit agency, the registered party shall provide the quantity of electricity
53 in kilowatt-hours that the registered party dispensed to vehicles used for public transportation from each FSE or the
54 quantity that each public transportation vehicle consumed if necessary data is not available by FSE, where the
55 registered party shall provide in the report separate quantities from FSE that provide electricity for light rail,
56 streetcars, aerial trams or electric transit buses;

(6) For electric forklifts, the registered party shall provide the quantity in kilowatt-hours of electricity the registered party dispensed to forklifts from each FSE or the quantity that each forklift consumed if necessary data is not available by FSE;

(7) For eTRU and eCHE, the registered party shall provide the quantity in kilowatt-hours of electricity that the registered party dispensed to eTRU and eCHE from each FSE or the quantity that each eTRU and eCHE consumed if necessary data is not available by FSE; and

(8) For other electricity used as a transportation fuel, the registered party shall provide the quantity in kilowatt-hours of electricity dispensed to each vehicle with a transaction type approved by the department as a Tier 2 alternative fuel pathway or the quantity that each vehicle with a transaction type approved by the department as a Tier 2 alternative fuel pathway consumed if necessary data is not available by FSE.

G. Renewable refinery product information. For renewable diesel, renewable gasoline, renewable naphtha or other renewable refinery products co-processed at a petroleum refinery, a regulated party shall report the following information, as applicable:

(1) If the fuel reporting entity is also the pathway holder, the fuel reporting entity shall submit the ongoing information required per 20.2.92.203 NMAC.

(2) If the fuel reporting entity is not the pathway holder, and the pathway holder has not met its obligations per 20.2.92.203 NMAC, the department may require the fuel reporting entity to report the quantity of transportation fuel under a temporary fuel pathway code or the fuel pathway code for gasoline or diesel, as applicable.

H. Temperature adjustments for liquid transportation fuel quantities. All liquid transportation 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 in gallons at 60 degrees Fahrenheit equals the actual quantity measured in gallons multiplied by the sum of:

(a) -0.0006301 multiplied by the actual temperature of the batch in degrees Fahrenheit; and

(b) 1.0378 .

(2) For biodiesel, the regulated party shall use one of the following two adjustment methodologies to determine the standardized quantity of biodiesel in gallons at 60 degrees Fahrenheit:

(a) Multiplying the actual quantity measured in gallons by the sum of:

(i) -0.00045767 multiplied by the actual temperature of the batch in degrees Fahrenheit; and

(ii) 1.02746025 ; or

(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 types of liquid transportation fuel, the regulated party shall calculate the quantity correction to standard conditions by using methods outlined in one of the following publications:

(a) The American Petroleum Institute Manual of Petroleum Measurement Standards Chapter 11 - Physical Properties Data;

(b) The ASTM Standard Guide for the Use of Petroleum Measurement Tables (ASTM D1250-08); or

(c) The American Petroleum Institute (API) Technical Data Book, Petroleum Refining Chapter 6 - Density.

(4) If a registered party believes the methods in Paragraphs (1) through Paragraph (3) of Subsection H of 20.2.92.504 NMAC do not accurately adjust the temperature, the registered party may request to the department in the CTFP-DMS that the department grant them permission to use an alternative method. The department may approve the regulated party's use of an alternative method if the department finds that the alternative method is at least as accurate as the methods described in Paragraphs (1) through (3) of Subsection H of 20.2.92.504 NMAC.

I. Reporting exports. A regulated party with a deficit obligation for transportation fuel may provide the department documentation to report a transportation fuel quantity as exported from New Mexico and not incur deficits for the quantity of transportation fuel exported. A regulated party shall report as exported all components of blended transportation fuel identified in Paragraph (12) of Subsection B of 20.2.92.101 NMAC and Paragraph (5) of Subsection C of 20.2.92.101 NMAC. A regulated party reporting credit generating transportation fuel shall accurately report any credit generating transportation fuel quantities exported from New Mexico. A regulated party shall not generate credits for transportation fuel exported from New Mexico.

J. Reporting exempt fuel and fuel use. If a registered party is claiming an exemption for fuel sold to exempt fuel users or for exempt fuel uses, as identified in 20.2.92.102 NMAC, the registered party shall designate in the transaction description field of the CTFP-DMS the categories of exempt fuel users or exempt fuel uses as identified in 20.2.92.102 NMAC to which the registered party delivered the transportation fuel and the quantity of transportation fuel that the registered delivered in the applicable unit listed under the column entitled "Transportation fuel (unit)" of Table 7 in Subsection G of 20.2.92.701 NMAC. For blended fuel, as identified in Paragraph (12) of Subsection B of 20.2.92.101 NMAC and Paragraph (5) of Subsection C of 20.2.92.101 NMAC, the registered party shall report all components as exempt.

K. Reporting commingled storage transactions. A registered party reporting transportation fuel that is transferred in and out of commingled storage under 20.2.92.504 NMAC shall comply with the following:

(1) For reporting liquid transportation fuel transferred in and out of a commingled storage facility or that are commingled in production or in transport, the registered party 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 two quarters; or

(b) For transportation fuel put into commingled storage three or more prior quarters only if the registered party demonstrates to the department that the storage facility has not fully turned over by the quarter in which the transportation fuel was transferred out of commingled storage.

(2) A registered party may only report a quantity of biomethane as dispensed into vehicles if the biomethane was injected into a common carrier pipeline in the current or prior quarter.

L. Reporting fuel not dispensed for transportation. When a registered party reports a fuel in the CTFP-DMS as produced, imported or dispensed for use in New Mexico for uses other than as transportation fuel, the registered party shall report in the transaction description field of the CTFP-DMS the stationary source or category of stationary fuel combustion to which the registered party delivered the fuel and the quantity of fuel that the registered party delivered to the stationary source or category of stationary fuel combustion in the applicable unit listed under the column entitled "Transportation fuel (unit)" of Table 7 in Subsection G of 20.2.92.701 NMAC. For blended fuel as identified in Paragraph (12) of Subsection B of 20.2.92.101 NMAC and Paragraph (5) of Subsection C of 20.2.92.101 NMAC all components shall be reported as not for transportation.

M. Reporting transactions for regulated transportation fuel between regulated parties. In reports under 20.2.92.504 NMAC, regulated parties shall report transactions for a regulated transportation fuel above the rack and sales to below the rack by a position holder as the transaction is identified in the product transfer documents.

N. Reporting position holder transactions. A regulated party shall submit reports to the department of position holder transactions that meet the following criteria:

(1) A regulated party that is a position holder shall report transportation fuel sold from above the rack to below the rack;

(2) A regulated party that is a position holder may aggregate and report multiple transportation fuel sales that the regulated party makes to one or more non-regulated parties as a single transaction using the "undefined business partner" transaction category in the CTFP-DMS; and

(3) A regulated party that is a position holder that sells transportation fuel from above the rack to below the rack for export shall identify each recipient of the transportation fuel that is a registered party in 20.2.92 NMAC.

[20.2.92.504 NMAC - N, 02/01/2026]

20.2.92.505 COMPLIANCE PERIOD REPORTING REQUIREMENTS:

A. Establishing the initial compliance period and reporting deadline. The initial compliance period for the CTFP begins on the effective date of 20.2.92 NMAC and ends on December 31, 2026. A regulated party shall use the CTFP-DMS to submit an initial compliance period report by April 30, 2027.

B. Establishing compliance periods and reporting deadlines. Following the initial compliance period, all compliance periods in 20.2.92 NMAC shall correspond to calendar years. A regulated party shall use the CTFP-DMS to annually submit compliance period reports to the department by April 30 each year for the previous compliance period.

C. General reporting requirements for compliance period reports. Regulated parties shall submit compliance period reports that meet the general and specific requirements for quarterly reports and include the following additional information:

(1) The total credits and deficits generated by the regulated party in the compliance period;

(2) The credits and deficits carried over from previous compliance periods, if any;

(3) The total credits and deficits acquired from other regulated parties, if any;
(4) The total credits sold or transacted, if any; and
(5) The total credits retired to meet the compliance obligation, if any.

D. Pending credit transactions. A regulated party shall complete all pending credit transactions before submitting the regulated party's compliance period report. If credit transactions remain pending at the time of submission, they shall not be accounted for in the current compliance period report.

E. Reporting of EDU and vehicle manufacturers' credit revenue. Beginning January 1, 2027, EDUs and vehicle manufacturers that receive credits from residential EV charging shall annually report the following items to the department no later than July 1 of each calendar year. The department shall deem an EDU or vehicle manufacturer ineligible to claim the credits if the EDU or vehicle manufacturer fails to report in accordance with Subsection E of 20.2.92.505 NMAC.

(1) Pursuant to 20.2.92.305 NMAC, each EDU or vehicle manufacturer shall report the following information from the prior compliance period:

(a) Total gross and net credit revenue, after accounting for administrative costs, from the sale of base and incremental credits attributable to residential EV charging, if applicable;

(b) A description of the programs or projects that the EDU or vehicle manufacturer spent with funding from credit revenue and the amount spent for each program or project;

(c) For programs or projects related to renewable electricity, a description of the persons and areas that benefited from the program or project to demonstrate compliance per 20.2.92.305 NMAC; and

(d) Other data required by the department to determine compliance with the requirements set forth in 20.2.92.305 NMAC.

(2) An EDU may choose to submit the compliance period report required under 17.9.574.13 NMAC to meet the requirements of Subsection E of 20.2.92.505 NMAC. If an EDU opts to send a report to the department to meet the requirements of Subsection E of 20.2.92.505 NMAC other than the report required per 17.9.574.13 NMAC, the EDU shall also submit the same information to the Public Regulation Commission no later than July 1 annually.

[20.2.92.505 NMAC - N, 02/01/2026]

20.2.92.506 RECORDS AND RECORDKEEPING:

A. General requirements. A regulated party and a person solely producing, importing or dispensing transportation fuel for use as described in Subsection A of 20.2.92.102 NMAC shall create and maintain records needed to maintain and demonstrate compliance with 20.2.92 NMAC and the failure to do so shall be a violation of 20.2.92 NMAC.

B. Product transfer documents. A registered party shall accompany any transaction for transportation fuel produced imported or dispensed for use in New Mexico with a product transfer document. A product transfer document shall prominently state the:

(1) Transportation fuel seller's name, address and contact information;

(2) Transportation fuel buyer's name, address and contact information;

(3) Transaction date;

(4) Fuel pathway code;

(5) Carbon intensity;

(6) Transportation fuel quantity;

(7) A statement identifying whether the transportation fuel seller or transportation fuel buyer has the compliance obligation;

(8) The RFS identification numbers and fuel production facility identification number as registered with the RFS, if applicable;

(9) Destination of the transportation fuel, except if the transportation fuel destination is not known or the transfer is not changing the location of the transportation fuel then the product transfer document shall identify those circumstances; and

(10) FSE identification number, if applicable.

C. Feedstock information. An alternative fuel pathway holder shall maintain records for all incoming and outgoing feedstocks of the type and quantity of feedstock obtained from each supplier, including feedstock transfer documents, weighbridge tickets, bills of lading or other documentation. A feedstock transfer document shall accompany feedstock transfers for alternative fuel pathways with specified source feedstocks. A feedstock transfer document for specified source feedstocks shall prominently state the:

1 (1) Transferor company name, address and contact information;
 2 (2) Recipient company name, address and contact information;
 3 (3) Type and quantity of feedstock, including units; and
 4 (4) Transaction date.

5 D. For every credit transaction, a registered party shall maintain the following records:
 6 (1) The contract governing the credit transaction;
 7 (2) Documentation within 24 months of the first credit transaction between parties of any
 8 other contracts the parties to the transaction have agreed to or commodity trades the parties to the transaction have
 9 executed that are pursuant to 20.2.92 NMAC; and
 10 (3) Any other records relating to the credit transaction, including the records of all related
 11 financial transactions.

12 E. Records retention. A regulated party shall retain the following records for at least ten years, unless
 13 otherwise specified in 20.2.92.506 NMAC:

14 (1) Product transfer documents and feedstock transfer documents;
 15 (2) Records related to a transportation fuel transfer;
 16 (3) Records related to obtaining a carbon intensity;
 17 (4) Records used for a credit transaction;
 18 (5) Records used for compliance or credit calculations;
 19 (6) Copies of all data, calculations, records and reports submitted to the department;
 20 (7) Records related to a feedstock for an alternative fuel pathway
 21 (8) Records related to third-party verification, if required per 20.2.92 third NMAC;
 22 (9) Records related to transportation fuel dispensed from an FSE;
 23 (10) Chain of custody evidence for transportation fuel that is produced, imported or dispensed
 24 for use in New Mexico; and
 25 (11) For records related to book-and-claim accounting:

26 (a) Retired renewable thermal certificates or RECs that embody the full
 27 environmental attributes of that transportation fuel in an electronic tracking system approved by the department to
 28 claim that transportation fuel;
 29 (b) Attestations from transportation fuel suppliers to fuel pathway holders that use
 30 book-and-claim accounting that the fuel pathway holders have the exclusive right to use associated environmental
 31 attributes;
 32 (c) Attestations that the environmental attributes have not been used or claimed in
 33 any other program or jurisdiction except the RFS; and
 34 (d) Documentation of claims made under the RFS for the same use and quantity of
 35 biomethane or its derivatives as is being claimed pursuant to 20.2.92 NMAC.

36 F. Generation and response to inspection of records. All data, records and calculations necessary for
 37 a regulated party to comply with 20.2.92 NMAC are subject to inspection and verification by the department.
 38 Regulated parties shall provide records within 30 calendar days after the date the department requests a review of
 39 the records unless the department specifies otherwise.

40 G. Initial transportation fuel inventory. A regulated party must report and maintain records of the
 41 initial quantity of regulated transportation fuel that the regulated party holds in bulk storage in New Mexico on the
 42 effective date of 20.2.92 NMAC for the purpose of initial inventory reporting.

43 H. Monitoring plans for fuel reporting entities and transportation fuel producers that are required to
 44 obtain verification services under 20.2.92.508 NMAC. A fuel reporting entity responsible for obtaining third-party
 45 verification of fuel pathway data shall complete and retain a written monitoring plan. If the owner of a fuel
 46 production facility is required to complete and maintain a monitoring plan by a similar program in another
 47 jurisdiction, the registered party may use the same monitoring plan to meet the requirements of this rule unless there
 48 are substantive differences between how the CTFP and the similar program in another jurisdiction treat the
 49 transportation fuel production process.

50 (1) A monitoring plan shall include records available upon request of the following
 51 information to allow the department to develop a general understanding of boundaries and operations relevant to the
 52 registered party, fuel production facility or project, as applicable:

53 (a) A description of the fuel reporting entity's participation in other markets and
 54 other third-party audit programs;
 55 (b) Reference to management policies or practices governing the fuel reporting
 56 entity's compliance with the reporting and recordkeeping requirements of 20.2.92 NMAC;

(c) An explanation of the processes and methods that the fuel reporting entity used to collect necessary data for compliance with the reporting requirements of 20.2.92 NMAC.

(d) Explanations and queries of source data that the fuel reporting entity used to compile summary reports of intermediate and final data necessary for reporting pursuant to 20.2.92 NMAC;

(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, lower heating value or higher heating value, transportation fuel consumption) that include the relative locations and positions storage facilities for raw material, intermediate products and finished products, transportation fuel sources, combustion units and production processes, as applicable;

(f) Clear identification of all measurement devices supplying data necessary for compliance with the reporting requirements of 20.2.92 NMAC, including identification of low flow cutoffs, as applicable, with descriptions of how data from measurement devices are incorporated into the fuel reporting entity's submitted report;

(g) A description of measurement devices that the fuel reporting entity used to report data within the CTFP-DMS and how the fuel reporting entity used them to demonstrate acceptable accuracy (e.g., installation, maintenance and calibration method and frequency for internal meters and financial transaction meters);

(h) A description of the procedures and methods that the fuel reporting entity used for quality assurance of all data that the fuel reporting entity provided within the CTFP-DMS, including maintenance and repair of all measurement devices;

(i) Vehicle manufacturer documentation or other documentation that identifies instrument accuracy and required maintenance and calibration requirements for all measurement devices that the fuel reporting entity used to collect necessary vehicle data for reporting pursuant to 20.2.92 NMAC;

(j) The dates of measurement device maintenance, calibration, recalibration and inspection, as applicable, and the dates of the next required maintenance, calibration, recalibration and inspection, as applicable;

(k) Requests from the fuel reporting entity in the CTFP-DMS for postponement of maintenance, calibrations, recalibrations or inspections of internal meters and subsequent approvals by the department, as applicable, with a demonstration of how the fuel reporting entity would maintain the accuracy of the measured data pursuant to the measurement accuracy requirements for third-party verification under 20.2.92.508 NMAC;

(l) A listing of the equations that the fuel reporting entity used to calculate flows in mass, quantity or energy units of measurement and equations from which the fuel reporting entity obtained any non-measured parameters, including meter software and a description of the calculation of the weighted average transport distance;

(m) Identification of job titles and training practices for key fuel reporting entity personnel involved in data acquisition, monitoring, reporting and report attestation required by 20.2.92 NMAC, including reference to documented training procedures and training materials;

(n) Records of corrective action and subsequent preventative actions that the fuel reporting entity has taken to address findings of past nonconformance and material misstatements;

(o) A log of modifications to a fuel pathway report that the fuel reporting entity has conducted after attestation in response to a review;

(p) A description of an internal audit program in the CTFP-DMS that includes data report review and documents ongoing fuel reporting entity efforts to reporting practices and procedures pursuant to 20.2.92 NMAC, if an internal audit program exists; and

(q) Methodology that the fuel reporting entity used to allocate the produced transportation fuel quantity to each fuel pathway code.

(2) Any monitoring plan related to a fuel pathway carbon intensity or reporting quantities of transportation fuel shall also include the following elements specific to the fuel pathway carbon intensity calculation and produced quantities of transportation fuel per fuel pathway code:

(a) Explanation of the processes and methods used to collect necessary data for fuel pathway applications, annual fuel pathway reports and all site-specific inputs for the greenhouse gases, regulated emissions, and energy use in transportation models, as well as references to source data;

(b) Description of steps taken and calculations made to aggregate data into reporting categories (e.g., aggregation of quarterly transportation fuel transactions per fuel pathway code);

(c) Methodology for assigning transportation fuel quantities by fuel pathway code, if not using a method prescribed by the department but if using a department prescribed methodology then the methodology shall be referenced;

(d) Methodologies for testing conformance to specifications for feedstocks and produced transportation fuel, including descriptions of the physical testing standards and processes;

(e) Description of procedures that the fuel reporting entity has taken to ensure that measurement devices meet the measurement accuracy requirements for third-party verification under 20.2.92.508 NMAC;

(f) Methodology for monitoring and calculating weighted average feedstock transport distance and modes, including the specific records that the fuel reporting entity shall collect and retain on an ongoing basis;

(g) Methodology for monitoring and calculating transportation fuel transport distance and modes, including the specific records that the fuel reporting entity shall collect and retain on an ongoing basis;

(h) References to contracts and accounting records that confirm that the fuel reporting entity delivered transportation fuel quantities into New Mexico for transportation use in a carbon intensity determination, including confirmation of feedstock and finished transportation fuel transportation distance; and

(3) The monitoring plan shall also include documentation that can be used to justify transfer types reported for transportation fuel in the CTFP-DMS, including the production amount, sale and purchase agreements and final transportation fuel dispensing records. Such documentation shall be specific to quarterly transportation fuel transactions reports for registered parties.

[20.2.92.506 NMAC - N, 02/01/2026]

20.2.92.507 DEMONSTRATING COMPLIANCE:

A. General requirement to demonstrate compliance with 20.2.92 NMAC. A regulated party shall meet its compliance obligation for a compliance period by submitting to the department a compliance period report demonstrating that the regulated party possessed and retired credits from the regulated party's CTFP-DMS account equal to the regulated party's compliance obligation calculated by the department pursuant to Subsection B of 20.2.92.507 NMAC. The following terms are applicable to 20.2.92.507 NMAC:

(1) **"Credits acquired"** means the total credits that the regulated party has acquired in the current compliance period from other regulated parties, including carryback credits;

(2) **"Credits carried over"** means the total credits that the regulated party has carried over from the previous compliance period.

(3) **"Credits generated"** means the total credits that the regulated party has generated in the current compliance period.

(4) **"Credits on hold"** means the total credits that the regulated party shall not use to meet its compliance obligation because the department has placed an administrative hold on the credits pursuant to Subparagraph (b) of Paragraph (2) of Subsection C of 20.2.92.604.

(5) **"Credits retired"** means the total credits that the regulated party retires in the CTFP-DMS for the current compliance period.

(6) **"Credits sold"** means the total credits that the regulated party has sold in the current compliance period to other regulated parties.

(7) **"Deficits carried over"** means the total deficits that the regulated party has carried over from the previous compliance period.

(8) **"Deficits generated"** means the total deficits that the regulated party has generated for the current compliance period.

B. Calculating compliance obligation. A regulated party shall report its credits and deficits through submission of its compliance period report in the CTFP-DMS. The department shall verify the information that the regulated party submits in its compliance report and calculate the regulated party's compliance obligation as the sum of the deficits that the regulated party has generated in the compliance period plus deficits that the regulated party has carried over from prior compliance periods.

C. Calculating credit balance. The department shall calculate a regulated party's credit balance as the sum of credits that the regulated party has generated, credits that the regulated party has acquired and credits that the regulated party has carried over minus the sum of the regulated party's credits retired, credits sold and credits on hold.

D. Small deficits. At the end of a compliance period, a regulated party that has a net deficit balance

1 may carry forward a small deficit to the next compliance period without penalty. A small deficit is a net deficit that
2 is five percent or less than the total amount of deficits the regulated party generated for the compliance period.

3 E. Non-small deficits. A regulated party that does not demonstrate compliance under Subsection A of
4 20.2.92.507 NMAC and has a deficit not meeting the requirements for a small deficit as set forth in Subsection D of
5 20.2.92.507 NMAC may demonstrate compliance by participating in the credit clearance market under Subsection I
6 of 20.2.92.507 NMAC.

7 F. Extended credit acquisition period. A regulated party may acquire carryback credits between
8 January 1 and April 30 each year that the regulated party may use to meet a compliance obligation for the prior
9 compliance period. A regulated party shall complete all carryback credit transactions in the CTFP-DMS before
10 submitting the regulated party's compliance period report for the carryback credits to be valid for meeting the
11 compliance obligation for that compliance period.

12 G. Mandatory retirement of credits. When filing a compliance period report, a regulated party that
13 possesses credits shall retire a quantity of credits equal to or exceeding:

14 (1) The regulated party's compliance obligation for the compliance period as calculated
15 under Subsection B of 20.2.92.507 NMAC; or

16 (2) If the total number of the regulated party's credits is less than the regulated party's
17 compliance obligation for the compliance period as calculated under Subsection B of 20.2.92.507 NMAC, the
18 regulated party's total number of credits.

19 H. CTFP-DMS handling of credits.

20 (1) The CTFP-DMS shall retire credits to meet a regulated party's compliance obligation in
21 the order the regulated party generated the credits.

22 (2) Regulated parties shall use the CTFP-DMS to affect a credit transaction.

23 (3) The CTFP-DMS shall initiate credit transactions in the order that regulated parties
24 generated credits in the CTFP-DMS.

25 I. Credit clearance market. The credit clearance market is separate from the normal year-round
26 market opportunities for regulated parties to engage in credit transactions.

27 (1) The department shall have the discretion to decide whether to open the credit clearance
28 market. The department shall announce its decision each year by May 15. The department shall consider the
29 following facts and circumstances in deciding whether to open the credit clearance market giving weight to each as
30 the department deems appropriate:

- 31 (a) Anticipated impacts to public and environmental health and welfare;
- 32 (b) The extent of regulated parties' compliance obligations;
- 33 (c) Regulated parties' history of adherence to the requirements of 20.2.92 NMAC;
- 34 (d) Regulated parties' desire for the department to open the credit clearance market;
- 35 (e) The extent of credits pledged to the credit clearance market; and
- 36 (f) Other factors that the department determines support the objective of 20.2.92

37 NMAC.

38 (2) If the department decides to open the credit clearance market, the credit clearance market
39 shall open on June 1 and shall close on July 31.

40 (3) If a regulated party did not retire sufficient credits to meet the regulated party's
41 compliance obligation, exclusive of any small deficits carried forward to the next compliance period under
42 Subsection E of 20.2.92.507 NMAC, the regulated party shall enter the credit clearance market and purchase a pro-
43 rata share of credits in the credit clearance market as calculated pursuant to Subparagraph (a) of Paragraph (5) of
44 Subsection I of 20.2.92.507 NMAC.

45 (a) A regulated party that did not retire sufficient credits to meet the regulated
46 party's compliance obligation, exclusive of any small deficits carried forward to the next compliance period under
47 Subsection D of 20.2.92.507 NMAC, shall acquire a pro-rata share of the regulated party's credits in the credit
48 clearance market as calculated pursuant to Subparagraph (a) of Paragraph (5) of Subsection I of 20.2.92.507 NMAC.

49 (b) A regulated party shall only use credits acquired in the credit clearance market
50 to retire them against its compliance obligation from the prior compliance period.

51 (c) To meet a compliance obligation with credits from the credit clearance market,
52 the regulated party shall have:

53 (i) Acquired its pro-rata obligation in the credit clearance market, as
54 calculated pursuant to Subparagraph (a) of Paragraph (5) of Subsection I of 20.2.92.507 NMAC; and

55 (ii) Retired all credits in its possession within 30 calendar days of the end
56 of the credit clearance market.

(4) Selling credits in the credit clearance market.

(a) If the department decides to open the credit clearance market, then, by April 1 each year, the department may announce a call for eligible registered parties to pledge credits into the credit clearance market and be a credit seller. A registered party is eligible to pledge and sell credits in the clearance market if the registered party has a greater quantity of credits than deficits upon submitting their compliance period report and agrees to the participation requirements set forth in Subparagraph (b) of Paragraph (4) of Subsection I of 20.2.92.507 NMAC. A registered party intending to pledge credits into the credit clearance market shall notify the department by April 30 of the registered party's intent to participate.

(b) The department shall notify a registered party that it is required to pledge credits into the credit clearance market. The following requirements apply to a registered party when the department decides to open the credit clearance market:

(i) A registered party holding a non-retired credit generated more than five years prior to the department's call for credit pledges in Subparagraph (a) of Paragraph (4) of Subsection I of 20.2.92.507 NMAC shall pledge the registered party's credits into the credit clearance market equal to the registered party's non-retired credits generated more than five years prior to the department's call for credit pledges.

(ii) A registered party holding more than 10 percent of all non-retired credits in the credit clearance market as of the department's call for credit pledges in Subparagraph (a) of Paragraph (4) of Subsection I of 20.2.92.507 NMAC shall pledge credits into the credit clearance market equal to the registered party's 10 percent of the registered party's non-retired credits less any credits the registered party pledges pursuant to Item (i) of Subparagraph (b) of Paragraph (4) of Subsection I of 20.2.92.507 NMAC.

(c) To sell credits in the credit clearance market, a regulated party shall:

(i) Agree to sell credits for a price no greater than the maximum price per Subparagraph (d) of Paragraph (4) of Subsection I of 20.2.92.507 NMAC;

(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 in years for which the department decides to hold a credit clearance market, or until the date that the department announces that there will not be a credit clearance market in years for which the department decides not to hold a credit clearance market;

(iii) Not reject an offer to purchase the credits at the maximum credit clearance market price determined pursuant to Subparagraph (c) of Paragraph (4) of Subsection I of 20.2.92.507 NMAC unless the regulated party 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 that the department later finds to be invalid due to fraud or non-compliance by the credit generator unless the buyer of the invalid credits was a party to the fraud or non-compliance.

(d) The maximum price for a credit in the credit clearance market shall be \$270 per credit for the initial compliance period. Each compliance year thereafter, the department shall increase the maximum price for a credit in the credit clearance market by applying on the inflation rate as provided by the last twelve months of data from the U.S. Bureau of Labor Statistics Southwest Region Consumer Price Index for All Urban Consumers for All Items in the same manner as fees in Subsection G of 20.2.92.502 NMAC. The department shall announce the adjusted maximum price for a credit in the credit clearance market by February 1 each year.

(5) Operation of the credit clearance market. If the department decides to open the credit clearance market, by May 31, the department shall notify each registered party that failed to meet its compliance obligation of its pro-rata share of the credits pledged into the credit clearance market as calculated pursuant to Subparagraph (a) of Paragraph (5) of Subsection I of 20.2.92.507 NMAC.

(a) Each registered party shall calculate the pro-rata share of credits to pledge into the credit clearance market as the product of the registered party's total deficits divided by all registered parties' total deficits multiplied by the lesser of pledged credits or all registered parties' total deficits; where:

(i) Total deficits are the registered party's total unmet compliance obligation for the prior compliance period;

(ii) All parties' total deficits are the sum of all the unmet compliance obligations for registered parties in the credit clearance market; and

(iii) Pledged credits are the sum of all credits that the registered party has pledged for sale into the credit clearance market.

(b) By May 31, the department shall post the name of each registered party that is participating in the credit clearance market as a credit buyer and credit seller and the number of credits that each registered party has pledged into the credit clearance market.

(c) A regulated party required to purchase credits in the credit clearance market shall submit an amended compliance period report in the CTFP-DMS by August 31 that shows the acquisition and retirement of the regulated party's pro-rata share of credits in the credit clearance market and any remaining unmet deficits.

(6) If a regulated party has unmet deficits upon the submission of the amended compliance period report, the department shall increase the regulated party's number of unmet deficits by five percent and the regulated party shall carry over the resultant total unmet deficits into the next compliance period.

(7) The department may conduct a root cause analysis to examine a regulated party's inability to satisfy compliance obligations, as follows:

(a) If a regulated party needed to participate in two consecutive credit clearance markets to demonstrate compliance under Subsection A of 20.2.92.507 and the regulated party carried over deficits on both occasions.

(b) If more than one regulated party is subject to Paragraph (3) of Subsection I of 20.2.92.507 NMAC in a single year, the department may produce a single root cause analysis for those regulated parties if it determines the same general set of causes contributed to those parties' inability to satisfy compliance obligations. The department may also analyze whether there were specific circumstances for one or more of the regulated parties.

(c) Based on the results of the root cause analysis, the department may develop, implement and enforce a remedy that addresses the root cause. The remedy cannot:

(i) Require a regulated party to purchase credits for an amount that exceeds the maximum price for credits in the most recent credit clearance market; or

(ii) Compel another registered party to sell credits.
[20.2.92.507 NMAC - N, 02/01/2026]

20.2.92.508 THIRD-PARTY VERIFICATION

A. Third-party verification definitions. The following terms are applicable to the third-party verification requirements in 20.2.92.508 NMAC:

(1) **"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.

(2) **"Difference in carbon intensities"** means the absolute value result of the reported operational carbon intensity minus the verification body, including the verification team, or the verifier's calculation of carbon intensity based on site-specific data inputs modified to include discrepancies, omissions and misreporting found during verification services.

(3) **"Full verification"** means all verification services as required under 20.2.92 NMAC.

(4) **"Independent reviewer"** means a lead verifier within a verification body that has not participated in providing verification services for the subject regulated party in the current quarter and completes an individual review of the verification services provided to the regulated party.

(5) **"Less intensive verification"** means a verification service that include data checks and document reviews but does not include site visits.

(6) **"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 S of 20.2.92.508 NMAC. 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.

(7) **"Sector-specific verifier"** means a person that is qualified and has been approved by the department to provide verification services related to a specific sector, transportation fuel or transportation fuel production process in accordance with Subsection S of 20.2.92.508 NMAC.

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

(1) A regulated party is required to complete third-party verification for all alternative fuel pathway applications, annual fuel pathway reports, and quarterly transportation fuel reports. The regulated party shall be responsible for ensuring a verification statement is received by the department from a verification body by the following dates:

(a) For annual fuel pathway reports and annual review of quarterly reports by September 15, 2027, and September 15 of each year after;

(b) For alternative fuel pathway applications, with the submission of the application; or
 (c) The date determined by the department if a regulated party requests an extension of a verification statement deadline.
 (2) To complete third-party verification, a regulated party shall:
 (a) Submit the report that is to be verified to the department and attest that the data and information submitted to in the reports is true, accurate and complete before verification services begin;
 (b) Engage the services of a verification body or verifier to perform full verification services per Paragraph (3) of Subsection B of 20.2.92.508 NMAC or less intensive verification services per Paragraph (4) of Subsection B of 20.2.92.508 NMAC;
 (c) Conduct and submit a conflict of interest evaluation in coordination with the verification body per Subsection T of 20.2.92.508 NMAC before verification services begin;
 (d) On an ongoing basis, evaluate, monitor and mitigate for a potential for a conflict of interest in accordance with Subsection T of 20.2.92.508 NMAC.
 (e) Ensure the submittal of a notice of verification is submitted to the department by the verification body in accordance with Subsection F of 20.2.92.508 NMAC;
 (f) Ensure that a verification statement is submitted to the department by the deadline specified per Paragraph (1) of Subsection B of 20.2.92.508 NMAC; and
 (g) Ensure the requirements of 20.2.92 NMAC are met, including ensuring that verification services are provided in compliance with the requirements of 20.2.92.508 NMAC
 (3) Before a verification body or verifier may provide verification services, Subsection T of 20.2.92.508 NMAC shall apply. Then, a full verification shall include, as applicable:
 (a) Notice of verification services per Subsection F of 20.2.92.508 NMAC;
 (b) A verification plan and scoping of verification services per Subsection G of 20.2.92.508 NMAC;
 (c) Site visits per Subsection H of 20.2.92.508 NMAC;
 (d) A sampling plan per Subsection I of 20.2.92.508 NMAC;
 (e) Data checks per Subsection J of 20.2.92.508 NMAC;
 (f) Documentation per Subsection K of 20.2.92.508 NMAC;
 (g) Findings per Subsection L of 20.2.92.508 NMAC;
 (h) A log of issues per Subsection M of 20.2.92.508 NMAC;
 (i) Material misstatement assessments per Subsection N of 20.2.92.508 NMAC;
 (j) Review of missing data substitution per Subsection O of 20.2.92.508 NMAC;
 and
 (k) Submittal of a verification statement to the department by the deadline per Paragraph (1) of this Subsection B of 20.2.92.508 NMAC.
 (4) A regulated party may engage the services of a verification body to provide less intensive verification for annual fuel pathway reports or annual review of quarterly reports in place of full verification. Less intensive verification includes the verification services per paragraph (3) except site visits per Subsection H of 20.2.92.508 NMAC and a sampling plan per Subsection I of 20.2.92.508 NMAC. Less intensive verification is permitted if:
 (a) Full verification shall be performed at least one year out of every three-year period;
 (b) There has not been a change in the verification body since the most recent full verification;
 (c) A positive verification statement was issued for the previous full verification and any less intensive verifications since the previous full verification;
 (d) No electricity-based transfer types are covered in the report or reports requiring verification
 (e) No change of operational control of the regulated party occurred in the previous year; and
 (f) In the professional opinion of the verification body or verifier, the less intensive verification can provide findings with a reasonable level of assurance. Instances that may require full verification include when the regulated party has made changes in sources, changes in emissions, changes in data management systems or any combination therein compared to the previous full verification. In instances where the total reported emissions differ by greater than 25 percent relative to the previous full verification the verification body shall

1 provide justification in the verification report if it did not opt for full verification. If the verification body or verifier
2 determines a full verification is necessary to attain reasonable assurance, the verification body shall perform those
3 services and provide reasons why it opted for full verification to the regulated party and to the department.

4 (5) A regulated party shall not use the same verification body or verifier to perform a third-
5 party verification for a period of more than six consecutive years.

6 (a) The six-year period begins on the execution date of the regulated party's
7 contract for a third-party verification under 20.2.92.508 NMAC and ends on the date the final verification statement
8 is submitted. The six-year limit does not reset upon a change in ownership or operational control of the regulated
9 party required to contract for verification services.

10 (b) A regulated party shall wait at least three years before re-engaging the previous
11 verification body or verifier to perform verification.

12 (c) Requirements to re-verify reports per Paragraph (2) of Subsection R of
13 20.2.92.508 NMAC do not affect this time limit.

14 (6) Notwithstanding any other provisions of 20.2.92 NMAC, transportation fuel for which
15 the department calculates credits or deficits as specified in 20.2.92.301 NMAC is not subject to third-party
16 verification requirements under 20.2.92.508 NMAC.

17 C. Requirements for third-party verification of alternative fuel pathway applications.

18 (1) The following regulated parties shall meet the requirements of Subsection B of
19 20.2.92.508 NMAC:

20 (a) Tier 1 and Tier 2 alternative fuel pathway applicants; and

21 (b) Specified source feedstock suppliers and other persons with site-specific carbon
22 intensity data that apply for separate department recognition as a joint applicant and elect to be responsible for
23 separate verification.

24 (2) Except as specified in Paragraph (3) of Subsection C of 20.2.92.508 NMAC, applications
25 for an alternative fuel pathway shall undergo full verification per Paragraph (3) of Subsection B of 20.2.92.508
26 NMAC.

27 (3) Applicants applying for a New Mexico alternative fuel pathway for a fuel production
28 facility or process that is currently approved by a similar program in another jurisdiction shall supply to the
29 department all verification reports associated with the fuel pathway in a similar program in another jurisdiction at
30 the time of application to the department.

31 (a) Reports that shall be submitted to the department under this paragraph include
32 the verification report or reports associated with the pathway application in another jurisdiction and all verification
33 reports associated with annual fuel pathway reports in another jurisdiction.

34 (b) If the alternative fuel pathway application was not required to undertake third-
35 party verification by another jurisdiction, the applicant shall engage a verification body or verifier to supply full
36 verification services per Paragraph (3) of Subsection B of 20.2.92.508 NMAC.

37 (c) If the alternative fuel pathway has received an adverse verification statement for
38 either the pathway application or for one or more annual fuel pathway reports in the previous five years, the
39 applicant shall engage a verification body or verifier to supply full verification services per Paragraph (3) of
40 Subsection B of 20.2.92.508 NMAC.

41 (4) The department may deny an alternative fuel pathway application due to an adverse
42 verification statement. The applicant may not reapply without addressing the cause of the adverse verification
43 statement.

44 D. Requirements for verification of annual fuel pathway reports.

45 (1) The following regulated parties shall meet the requirements of Subsection D of
46 20.2.92.508 NMAC:

47 (a) Holders of Tier 1 and Tier 2 certified alternative fuel pathways; and

48 (b) Specified source feedstock suppliers and other persons with site-specific carbon
49 intensity data that apply for separate department recognition as a joint applicant and elect to be responsible for
50 separate verification.

51 (2) Except as specified in Paragraph (3) and Paragraph (4) of Subsection D of 20.2.92.508
52 NMAC a regulated party that is subject to Paragraph (1) of Subsection D of 20.2.92.508 NMAC shall ensure that
53 each annual fuel pathway report submitted to the department undergoes full verification per Paragraph (3) of
54 Subsection B of 20.2.92.508 NMAC or less intensive verification per Paragraph (4) of Subsection B of 20.2.92.508
55 NMAC.

56 (3) A regulated party holds an alternative fuel pathway in New Mexico for the same fuel

1 production facility or process that has a currently approved fuel pathway in a similar program in another jurisdiction
2 may submit to the department the verification statements associated with the annual fuel pathway report from the
3 other jurisdiction in lieu of the requirements of Subsection D of 20.2.92.508 NMAC. If the regulated party receives
4 an adverse verification statement for the fuel pathway in another jurisdiction, the regulated party shall submit the
5 statements and the log of issues as specified in Subsection M of 20.2.92.508 NMAC to the department at the same
6 time it submits the information to the other jurisdiction.

7 (4) A regulated party that holds an alternative fuel pathway may defer third-party verification
8 of their annual fuel pathway reports for each fuel pathway that meets the following conditions:

9 (a) The alternative fuel pathway resulted in 1,000 or fewer gross credits or gross
10 deficits during the previous compliance period;

11 (b) The alternative fuel pathway does not include fuel, either as a transportation fuel
12 or as a process fuel in the production of the transportation fuel, supplied using book-and-claim accounting; and

13 (c) The alternative fuel pathway holder is not classified as joint applicant.

14 E. Requirements for annual verification of quarterly transportation fuel reports.

15 (1) A regulated party that submits quarterly reports per 20.2.92.504 NMAC shall meet the
16 requirements of Subsection E of 20.2.92.508 NMAC, except as otherwise provided under Paragraph (3) and
17 Paragraph (4) of Subsection E of 20.2.92.508 NMAC.

18 (2) Verification statements for the quarterly reports shall be submitted to the department
19 annually. Except as specified in Paragraph (4) of Subsection E of 20.2.92.508 NMAC, a regulated party that is
20 subject to Paragraph (1) of Subsection E of 20.2.92.508 NMAC shall ensure that quarterly reports submitted to the
21 department using the transaction types or fuel types undergo full verification per Paragraph (3) of Subsection B of
22 20.2.92.508 NMAC or less intensive verification per Paragraph (4) of Subsection B of 20.2.92.508 NMAC:

23 (a) For liquid transportation fuel, the transaction types listed in Subsection D of
24 20.2.92.504 NMAC;

25 (b) For non-liquid transportation fuel, the transaction types listed in Subsection E of
26 20.2.92.504 NMAC;

27 (c) For electricity as a transportation fuel, the transaction types listed in Subsection
28 F of 20.2.92.504 NMAC; and

29 (d) Notwithstanding any of the required transaction types or transportation fuel in
30 subparagraphs (a) through (c) of Paragraph (2) of Subsection E of 20.2.92.508 NMAC, any quarterly reports for
31 transportation fuel using book-and-claim accounting, or with alternative fuel pathways depending on book-and-
32 claim accounting.

33 (3) A regulated party subject to Subsection E of 20.2.92.508 NMAC is not required to obtain
34 verification services for transportation fuel or transaction types not listed in Paragraph (2) of Subsection E of
35 20.2.92.508 NMAC. Regulated parties that do not have quarterly reports included in Paragraph (2) of Subsection E
36 of 20.2.92.508 NMAC are not subject to Subsection E of 20.2.92.508 NMAC.

37 (4) A regulated party generating 1,000 or fewer gross credits and gross deficits annually is
38 exempt from verification of the quarterly transportation fuel transactions reports for that compliance period if the
39 regulated party did not report any transportation fuel types reliant on book-and-claim accounting and did not report
40 any liquid transportation fuel using the transaction types produced in New Mexico, imported into New Mexico and
41 dispensed for use in New Mexico.

42 F. Notice of verification services.

43 (1) Before a verification body commences any verification services for a regulated party, the
44 verification body shall submit a notice of verification services to the department. The verification body shall submit
45 the notice of verification services a minimum of 14 calendar days before a site visit unless an earlier date is
46 approved by the department.

47 (2) The notice of verification services shall include the following:

48 (a) List of the members of the verification team, including the names of each
49 person, all subcontractors, the lead verifier, and the independent reviewer, and any verifiers in training and a
50 description of the roles and responsibilities each staff member and subcontractor shall have during verification
51 services;

52 (b) Documentation that the verification team has the skills required to provide
53 verification services for the regulated party and the type of report or fuel pathway application requiring verification.

54 (c) A demonstration that the verification team includes at least one person approved
55 by the department or a similar program in another jurisdiction as a sector-specific verifier. The sector-specific
56 verifier shall not also be the independent reviewer but may also be the lead verifier.

- 1 (d) The name and identification numbers of the regulated party.
2 (e) Contact information for the regulated party.
3 (f) A list of facilities and other locations that shall be subject to third-party
4 verification.
5 (g) Contact information for each facility or location subject to third-party
6 verification.
7 (h) The date or dates of the site visit if full verification is required per 20.2.92.508
8 NMAC.
9 (i) A brief description of expected verification services to be provided, including
10 expected completion date and whether quarterly review is planned in the context of an annual verification
11 requirement.
- 12 (3) The verification body shall submit an updated notice of verification services to the
13 department immediately if any of the information provided in the notice of verification services changes after it is
14 submitted to the department. When an updated notice of verification services is submitted to the department the
15 conflict of interest shall be reevaluated, and information shall be resubmitted under the provisions of Subsection T of
16 20.2.92.508 NMAC. Verification services shall be suspended until the department approves the resubmitted conflict
17 of interest evaluation information in writing.
- 18 G. Verification plan and scoping of verification services.
- 19 (1) Before beginning work on a third-party verification, the regulated party and the
20 verification team shall discuss the activities and scope of the verification services. Such scoping shall be included in
21 the drafting of the verification plan and sampling plan. The regulated party and the verification team shall agree on
22 the scope of verification services and the verification plan before the verification team may begin work.
- 23 (2) The verification plan shall be based on the requirements per 20.2.92.508 NMAC and the
24 information provided by the regulated party to the verification team. The regulated party shall provide information
25 to the verification team sufficient to ensure the requirements of 20.2.92.508 NMAC are met, including:
- 26 (a) Information to allow the verification team to develop an understanding of the
27 fuel production facility and the regulated party's boundaries, operations, and accounting practices;
28 (b) Type of reports and application for which the regulated party is responsible;
29 (c) The CTFP regulatory sections the regulated party is subject to;
30 (d) A similar program in another jurisdiction or the RFS in which the regulated
31 party participates, and other mandatory or voluntary auditing programs the regulated party is subject to;
32 (e) Information regarding the training or qualifications of personnel involved in
33 developing the reports or alternative fuel pathway applications;
34 (f) Description of the specific methodologies used to quantify and report data, as
35 required in 20.2.92 NMAC, including calibration procedures and logs for measurement devices capturing site-
36 specific data;
37 (g) Information about the data management systems and accounting procedures
38 used to capture and track data for fuel pathway applications and each type of report pursuant to 20.2.92 NMAC;
39 (h) Information about the persons in the supply chain upstream and downstream of
40 the transportation fuel producer that contribute to site-specific carbon intensity data, including a list of feedstock
41 suppliers and contact information;
42 (i) Evidence demonstrating that any joint applicants are being separately verified;
43 (j) Previous verification reports pursuant to 20.2.92 NMAC, as applicable, and
44 other audit reports including reports from production or management system certifications and internal audits; and
45 (k) For aggregators, information about the regulated parties for which the
46 aggregator reports, including a list of regulated parties and the fuel types they report.
- 47 (3) Verification plans shall contain information on the timing of verification services,
48 including:
- 49 (a) Details of proposed meetings and interviews with personnel of the regulated
50 party;
51 (b) Dates of proposed site visits;
52 (c) Types of proposed document and data reviews;
53 (d) If applicable, how quarterly review is planned in the context of an annual
54 verification requirement; and
55 (e) The expected date for completing verification services.
- 56 H. Site visits.

1 (1) Full verification services include site visits per Subsection H of 20.2.92.508 NMAC. A
2 site visit consists of members of the verification team visiting the location or locations of facilities and records
3 included in the report or application. Such visits shall include at least one department-approved lead verifier on the
4 verification team.

5 (2) For annual fuel pathway report verification, the verification team shall make at minimum
6 one site visit to each fuel production facility during each year full verification is required. If the regulated party
7 keeps non-digital records supporting a report subject to verification under 20.2.92 NMAC in a location that is
8 different from the fuel production facility, then the verification team or verifier shall at a minimum make one site
9 visit to the location where those records are stored.

10 (3) For verification of a new or revised alternative fuel pathway application, the verification
11 team shall make at minimum one site visit to each fuel production facility. If the regulated party keeps non-digital
12 records supporting a fuel pathway application subject to verification under 20.2.92 NMAC in a location that is
13 different from the fuel production facility, then the verification team or verifier shall at a minimum make one site
14 visit to the location where those records are stored. The site visit required for fuel pathway application shall be
15 separate from any site visits associated with verification of annual fuel pathway reports.

16 (4) For aggregators, the verification team or verifier shall make at least one site visit to the
17 location where the aggregator's records are stored, unless all the records are digital. Additional site visits to the
18 regulated parties using an aggregator are to be performed at the verification team's or verifier's discretion and shall
19 follow the requirements for sampling plan per Subsection I of 20.2.92.508 NMAC.

20 (5) For verification of quarterly transportation fuel reports site visits are at the discretion of
21 the verification body and may only be limited to the central location or company headquarters where non-digital
22 records are kept.

23 (6) The following shall be conducted during a site visit:

24 (a) Review supporting evidence used to develop reports listed in Subsection C of
25 20.2.92.508 NMAC submitted to the department;

26 (b) Review and understand the data management systems and accounting practices
27 used by the regulated party pursuant to 20.2.92 NMAC to acquire, process, track and report data and evaluate the
28 uncertainty and effectiveness of these systems;

29 (c) Conduct interviews with key personnel, such as process engineers, metering
30 experts, accounting personnel and project operators, as well as staff involved in compiling data and preparing the
31 reports pursuant to 20.2.92 NMAC;

32 (d) Make direct observations of production equipment, confirming diagrams for
33 processes, piping and instrumentation, measurement system equipment, and accounting systems for data types
34 determined in the sampling plan to be high risk;

35 (e) Assess conformance with measurement device accuracy, data capture, temporary
36 measurement method requirements and the monitoring plan for consistency with the requirements of 20.2.92
37 NMAC; and

38 (f) Review financial transactions to confirm complete and accurate reporting.

39 I. Sampling plan. As part of verifying fuel pathway applications and reports pursuant to 20.2.92
40 NMAC, the verification team shall develop a sampling plan. The sampling plan shall meet all the following
41 requirements:

42 (1) Be developed based on a strategic analysis developed from document reviews and
43 interviews to assess the likely nature, scale and complexity of the verification services for a regulated party and type
44 of report or fuel pathway application. The analysis shall review the inputs for the development of the submitted
45 reports and fuel pathway applications, the rigor and appropriateness of data management systems and the
46 coordination within the responsible party's organization to manage the operation and maintenance of equipment and
47 systems used to develop submitted reports and fuel pathway applications;

48 (2) Include a ranking of individual data sources by relative contribution to the combined data
49 type to be assessed for material misstatement and a ranking of data sources with the largest calculation uncertainty,
50 including risk of incomplete reporting, based on type of report or fuel pathway application;

51 (3) Include a qualitative narrative of uncertainty risk assessment in the following areas:

52 (a) Data acquisition equipment;

53 (b) Data sampling and frequency;

54 (c) Data processing and tracking;

55 (d) Tracking of transportation fuel transportation into New Mexico to include
56 modes of transportation and distances traveled, as applicable for fuel pathway applications or annual fuel pathway

1 reports;

- 2 (e) carbon intensity calculations, as applicable;
- 3 (f) Fuel pathway code allocation methodology, as applicable; and
- 4 (g) Management policies or practices in developing reports pursuant to 20.2.92

5 NMAC.

6 (4) After the verification team completes the strategic analysis and risk assessment required
7 by Subsection I of 20.2.92.508 NMAC, the sampling plan shall include a list with the information described in
8 Subparagraphs (a) through (c) of Paragraph (2) of Subsection I of 20.2.92.508 NMAC. The sampling plan list shall
9 be updated and finalized before the completion of verification services. The final sampling plan shall describe in
10 detail how the identified risks were addressed during the verification. When quarterly reviews are conducted as part
11 of annual verification services, the final sampling plan shall describe in detail how the risks and issues identified for
12 the annual data set were addressed during each quarterly review and final annual verification. Additionally, the
13 sampling plan shall include:

- 14 (a) Data sources that will be targeted for document reviews, data checks as specified
- 15 under Subsection K of 20.2.92.508 NMAC and an explanation of why they were chosen;
- 16 (b) Methods used to conduct data checks for each data type; and
- 17 (c) A summary of the information analyzed in the data checks and document
- 18 reviews conducted for each data type.

19 (5) Specified source feedstocks included in fuel pathway applications and annual fuel
20 pathway reports that require verification shall be included in the scope of verification services. When verification is
21 not required for a fuel pathway, specified source feedstocks shall be included in the scope of verification of the
22 quarterly reports. The verification team shall use professional judgment and include in its risk assessment and
23 sampling plan its analysis of the need for a review or site visit for verification of any person in the feedstock chain
24 of custody. This analysis shall include an evaluation of the need to trace feedstock through feedstock suppliers,
25 including aggregators, storage or pretreatment facilities and traders or brokers, to the point of origin. If an error is
26 detected during data checks of records maintained by the regulated party, the risk assessment and sampling plan
27 shall be updated to assure specified source feedstock characterization and quantities to the point of origin.

- 28 (6) Sampling plans for aggregators of credit generators shall include the following:
 - 29 (a) A ranking of credit generators by relative contribution to the data type to be
 - 30 assessed for material misstatement and a ranking of credit generators with the largest calculation uncertainty;
 - 31 (b) A qualitative narrative of uncertainty risk assessment for credit generators
 - 32 according to the requirements of Paragraph (3) of Subsection I of 20.2.92.508 NMAC; and
 - 33 (c) An indication of whether the verification team intends to make a site visit to
 - 34 credit generators listed based on the risk assessments described in this subsection.

35 (7) The verification team shall revise the sampling plan to describe tasks completed as
36 information becomes available and potential issues emerge with material misstatement or nonconformance with
37 20.2.92 NMAC.

38 (8) The verification body shall retain the sampling plan and all material received, reviewed
39 or generated according to the recordkeeping requirements of 20.2.92.506 NMAC. The sampling plan shall be made
40 available to the department, within 15 calendar days, upon request.

41 J. Data checks.

42 (1) Verification services shall include data checks to determine the reliability of the
43 submitted report in the fuel pathway applications and reports pursuant to 20.2.92 NMAC, as applicable. Data
44 checks shall focus on the most uncertain data and on data with the largest contributions to greenhouse gas emissions,
45 including lifecycle greenhouse gas emissions and greenhouse gas emission reductions.

46 (2) The selection of data checks shall meet all the following requirements:

- 47 (a) The verification team shall use data checks to confirm the appropriate
- 48 methodologies and emission factors have been applied for the data submitted in applications and reports required in
- 49 20.2.92 NMAC.

50 (b) The verification team shall choose data checks to confirm the accuracy of the
51 data submitted in applications and reports required in 20.2.92 NMAC.

52 (c) The verification team shall choose data checks based on the relative contribution
53 to greenhouse gas emissions or reductions and the associated risks of contributing to material misstatement or
54 nonconformance, as indicated in the sampling plan.

55 (d) The verification team shall use professional judgment in establishing the extent
56 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 shall 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 20.2.92 NMAC; and
 - (v) Reviewing meter and analytical instrumentation measurement accuracy and calibration for consistency with the requirements of 20.2.92 NMAC.
- (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 20.2.92 NMAC.
- (g) The verification team shall compare its own calculated results with the submitted data to confirm the extent and impact of any omissions or errors. Any discrepancies shall be investigated. Data checks involving the comparison of reported results and results recalculated by verification teams shall 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 fuel pathway application or reports pursuant to 20.2.92 NMAC.

K. Documentation of differences and modifications to reports and fuel pathway applications.

- (1) While conducting verification services and data checks, the verification team shall:
 - (a) Determine correctable errors using professional judgment, including whether differences are not errors but result from truncation, rounding or averaging; and
 - (b) Identify 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 shall 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 reports pursuant to 20.2.92 NMAC represents a nonconformance but does not, absent other errors, result in an adverse verification statement.

L. 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 J of 20.2.92.508 NMAC.
- (2) The verification team shall determine whether there is reasonable assurance that the fuel pathway application or report pursuant to 20.2.92 NMAC does not contain a material misstatement assessed pursuant to Paragraph (2) and Paragraph (3) of Subsection N of 20.2.92.508 NMAC using the units required by the applicable sections of 20.2.92 NMAC.
- (3) To assess conformance with 20.2.92 NMAC, the verification team shall review the methods and factors used to develop the fuel pathway application or report for adherence to the requirements of 20.2.92 NMAC and identify whether other requirements of 20.2.92 NMAC are met.

M. Log of issues. The verification team shall keep a log that documents any issues identified during 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 shall:

- (1) 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;
- (2) Identify any other concerns that the verification team has with the preparation of the

1 application or report and communicate the concerns to the regulated party during verification services; and

2 (3) Indicate whether each issue has a potential bearing on material misstatement,
3 nonconformance, or both, and whether an adverse verification statement may result if not addressed.

4 N. Material misstatement assessments.

5 (1) The verification team shall conduct separate assessments of material misstatement on
6 each calculated operational carbon intensity and each quarterly transportation fuel transaction quantity for each fuel
7 pathway code.

8 (2) Assessments of material misstatement of carbon intensity shall meet the following
9 requirements:

10 (a) A controlled version of the simplified carbon intensity calculator for Tier 1
11 pathways, a department-approved Tier 2 calculator for Tier 2 pathways or another substantially equivalent model
12 approved by the department for the specific fuel pathway application, as applicable, shall be populated to assess
13 whether a fuel pathway application or report contains a material misstatement of carbon intensity.

14 (b) Each fuel pathway carbon intensity is subject to data checks in Subsection J of
15 20.2.92.508 NMAC and shall be assessed separately for material misstatement. The inputs and annual operational
16 carbon intensity for fuel pathway codes that are novel to New Mexico shall be assessed.

17 (c) One or more material misstatements results in a finding of material misstatement
18 for the fuel pathway application or for the fuel pathway report.

19 (d) Material misstatement of carbon intensity includes any discrepancy as described
20 in Item (i) of Subparagraph (d) of Paragraph (2) of Subsection N of 20.2.92.508 NMAC, omission as described in
21 Item (ii) of Subparagraph (d) of Paragraph (2) of Subsection N of 20.2.92.508 NMAC or misreporting as described
22 in Item (iii) of Subparagraph (d) of Paragraph (2) of Subsection N of 20.2.92.508 NMAC or aggregation of the
23 three, identified in the course of verification services that leads a verification team to believe that the reported
24 operational carbon intensity in a fuel pathway application or report pursuant to 20.2.92 NMAC contains one or more
25 errors that, individually or collectively, result in an overstatement or understatement more than five percent of the
26 reported operational carbon intensity or two gCO₂e/MJ, whichever is greater.

27 (i) Discrepancies include any differences between the reported site-
28 specific carbon intensity inputs and the verification body or verifier's calculated site-specific carbon intensity inputs
29 subject to data checks under Subsection J of 20.2.92.508 NMAC.

30 (ii) Omissions include any site-specific carbon intensity inputs or
31 associated source data the verification team or verifier concludes shall be part of a fuel pathway application or report
32 but were not included.

33 (iii) Misreporting includes duplicate, incomplete or other carbon intensity
34 input data the verification team or verifier concludes should or should not be part of a fuel pathway application or
35 report.

36 (e) The following terms and calculations for percent error, relative error threshold
37 and absolute error threshold shall be used to determine whether any reported operational carbon intensity contains a
38 material misstatement and shall be included in the final verification report where:

39 (i) The difference in carbon intensity means the absolute value result of
40 the reported operational carbon intensity minus the verification team or verifier's calculation of carbon intensity.
41 The verification body or verifier's calculation of carbon intensity is based on site-specific data inputs modified to
42 include discrepancies, omissions and misreporting found during verification services.

43 (ii) The reported operational carbon intensity means the absolute value of
44 the operational carbon intensity submitted in the fuel pathway application or fuel pathway report.

45 (iii) The percent error carbon intensity is determined by dividing the
46 difference in carbon intensity by the reported operational carbon intensity and then multiplying this quotient by 100.

47 (iv) The relative error threshold for carbon intensities is determined by
48 multiplying the difference in carbon intensity equal to or greater than 0.05 times the reported operational carbon
49 intensity.

50 (v) The absolute error threshold for carbon intensities is equal to or greater
51 than 2.00 gCO₂e.

52 (3) Assessments of material misstatement of quarterly transportation fuel quantity for each
53 fuel pathway code shall meet all the following requirements of 20.2.92.508 NMAC:

54 (a) Each aggregated quarterly transportation fuel quantity for each fuel pathway
55 code is subject to data checks under Subsection J of 20.2.92.508 NMAC and shall be assessed separately for
56 material misstatement of quarterly transportation fuel quantity.

1 (b) One or more material misstatements of quarterly transportation fuel quantity
2 shall result in a finding of material misstatement for the annual verification of the quarterly transportation fuel
3 quantity for each fuel pathway code.

4 (c) Material misstatement of quarterly transportation fuel quantity includes any
5 discrepancy as described in Item (i) of Subparagraph (c) of Paragraph (3) of Subsection N of 20.2.92.508 NMAC,
6 omission as described in Item (ii) of Subparagraph (c) of Paragraph (3) of Subsection N of 20.2.92.508 NMAC,
7 misreporting as described in Item (iii) of Subparagraph (c) of Paragraph (3) of Subsection N of 20.2.92.508 NMAC
8 or aggregation of the three, identified in the course of verification services that leads a verification team to believe
9 that the reported transportation fuel quantity for each fuel pathway code per quarter in a quarterly report contains
10 one or more errors that, individually or collectively, result in an overstatement or understatement greater than five
11 percent.

12 (i) Discrepancies include any differences between the transportation fuel
13 quantity for the fuel pathway code reported and the verification team or verifier's review of calculation of
14 transportation fuel quantity subject to data checks under Subsection J of 20.2.92.508 NMAC.

15 (ii) Omissions include any transportation fuel quantity the verification team
16 or verifier concludes shall be part of a quarterly report but were not included.

17 (iii) Misreporting includes duplicate, incomplete or other transportation fuel
18 quantity data the verification body or verifier concludes should or should not be part of a quarterly report.

19 (d) The total quantity difference percent error in transportation fuel quantity,
20 reported quarterly transportation fuel transaction quantity and percent error in transportation fuel quantity shall be
21 used to determine whether any quarterly transportation fuel quantity for each fuel pathway code contains a material
22 misstatement of quarterly transportation fuel quantity and shall be included in the log of issues in the final
23 verification report according to Item (vii) in Subparagraph (a) of in Paragraph (3) of Subsection P of 20.2.92.508
24 NMAC, where:

25 (i) The total quantity difference is the summation of a fuel pathway's
26 discrepancies, omissions and misreporting values.

27 (ii) The reported quarterly transportation fuel transaction quantity for the
28 fuel pathway code means the total of all reported transportation fuel quantities for each fuel pathway code for each
29 transaction type specified in Paragraph (2) of Subsection E of 20.2.92.508 NMAC for each quarter for which the
30 verification body or verifier is conducting a material misstatement assessment.

31 (iii) The percent error in transportation fuel quantity is determined each
32 quarter by dividing the total quantity difference by the reported quarterly transportation fuel transaction quantity and
33 then multiplying this quotient by 100.

34 (e) When evaluating material misstatement of quarterly transportation fuel quantity,
35 correctly substituted missing data shall be deemed to be accurate, regardless of the amount of missing data.

36 O. Review of missing data substitution.

37 (1) If a source selected for a data check was affected by a loss of data used for the reported
38 data in the fuel pathway application or report pursuant to 20.2.92 NMAC, then the verification team shall confirm
39 that the reported data were calculated using:

40 (a) The applicable missing data procedures in Paragraph (4) of Subsection C. in
41 20.2.92.202 NMAC; or

42 (b) A department-approved alternate method.

43 (2) If a source selected for a data check was affected by a loss of data used for the reported
44 data in the report or fuel pathway application, the verification team shall note the date, time and source of any plan
45 substitutions discovered during verification in the verification report.

46 P. Independent review and completion of verification services.

47 (1) The verification team shall complete the verification statement upon completion of
48 verification services, provide its statement to the regulated party and submit its statement to the department by the
49 applicable verification deadline specified under Paragraph (1) of Subsection B of 20.2.92.508 NMAC. Each
50 positive, qualified positive or adverse verification statement shall describe the findings of the verification; and

51 (a) For every qualified positive verification statement, the verification team shall
52 explain the nonconformances contained within the report or fuel pathway application, if any, and if needed cite the
53 section or sections in 20.2.92 NMAC that correspond to the nonconformances. Additionally, the verification team
54 shall provide an explanation for why any nonconformances do not result in a material misstatement; and

55 (b) For every adverse verification statement, the verification team shall explain all
56 nonconformances or material misstatements leading to the adverse verification statement and cite the sections in

20.2.92 NMAC that corresponds to the nonconformance and material misstatement.

(2) The verification body shall 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 shall:

(a) Be employed by the verification body and shall be a lead verifier not part of the verification team for the regulated party during that reporting year or for that fuel pathway application, 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;

(d) Review documents applicable to the verification services provided and identify any failure to comply with requirements of 20.2.92 NMAC and with the verification body's internal policies and procedures for providing verification services; and

(e) 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 shall provide the regulated party with a detailed verification report, which shall 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) A detailed description of the fuel production facility or regulated party;

(iii) A detailed description of persons in the supply chain contributing carbon intensity parameters;

(iv) A detailed description of the accounting procedures and data management systems, including data acquisition, tracking and emissions calculation, as applicable;

(v) The verification plan;

(vi) The detailed comparison of the data checks conducted during verification services;

(vii) The log of any issues identified during verification services and the resolution of the logged issues;

(viii) Any qualifying comments on findings during verification services; and

(ix) Findings of omissions, discrepancies and misreporting and the material misstatement calculations required in Subsection N of 20.2.92.508 NMAC.

(b) The verification body shall 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 shall be made available to the department upon request.

(c) The verification team shall have a final discussion with the regulated party explaining the verification team's findings and shall notify the regulated party of any unresolved issues noted in the issues log before the verification statement is finalized.

(d) The verification statement shall 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 shall notify the regulated party of the potential of an adverse verification statement and provide at least 14 calendar 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 notification to a regulated party under Subsection P of 20.2.92.508 NMAC:

(i) The regulated party shall make modifications to correct any material misstatements or nonconformance found by the verification team;

(ii) The modified report and verification statement shall be submitted to the

1 department before the applicable verification deadline specified in Subsection B of 20.2.92.508 NMAC, even if the
2 regulated party makes a request to the department in the CTFP-DMS according to Subparagraph (b) of Paragraph (a)
3 of Subsection P of 20.2.92.508 NMAC; and

4 (iii) The verification body shall provide notice to the department of the
5 potential for an adverse verification statement at the same time it notifies the regulated party and include in its notice
6 the department the current issues log.

7 (b) When a verification body has provided notice under Subparagraph (a) of
8 Paragraph (a) of Subsection P of 20.2.92.508 NMAC and the regulated party and the verification body cannot reach
9 an agreement on modifications that result in a positive or qualified verification statement because of a disagreement
10 on the requirements of 20.2.92 NMAC, the regulated party may petition the department in the CTFP-DMS before
11 the verification deadline and before the verification statement is submitted to make a final decision as to the
12 verifiability of the submitted report or fuel pathway application. When the regulated party files a petition with the
13 department for a final decision from the department as to the verifiability of the submitted report or fuel pathway
14 application:

15 (i) The regulated party shall submit all the information it believes is
16 necessary for the department to make a determination with its petition;

17 (ii) The regulated party and the verification body shall submit to the
18 department within 10 calendar days any additional information requested by the department;

19 (iii) The department shall review the information submitted and based on
20 the requirements of 20.2.92 NMAC and the submitted information, shall decide on whether modifications are
21 necessary for the verification body to issue a positive or qualified positive verification statement, or if the statement
22 could be issued without modifications; and

23 (iv) The department shall notify both the regulated party and the
24 verification body of its determination.

25 (v) Within 30 calendar days of the department's notice the regulated party
26 or the verification body may appeal the department's decision in accordance with Subsection B of 20.2.92.605
27 NMAC.

28 Q. Department review and approval of verification statement and re-verification requirements.

29 (1) In addition to any other enforcement authority, the department retains full authority in
30 determining whether to approve, modify or reject any verification statement submitted for a report or fuel pathway
31 application by a verification body on behalf of a regulated party under 20.2.92 NMAC.

32 (a) The department may issue an adverse verification statement for a report or fuel
33 pathway application if it has more recent and significant evidence to support such a conclusion, even if it has
34 received a positive verification statement from a verification body.

35 (b) The department may also issue an adverse verification statement for failure to
36 submit a complete or accurate fuel pathway application or annual or quarterly report in a timely manner for failure to
37 conduct or complete third-party verification as required by 20.2.92.508 NMAC or any other violation of 20.2.92
38 NMAC.

39 (c) A regulated party may file a petition with the department in the CTFP-DMS to
40 resolve a disagreement with the verification body on the requirements of 20.2.92 NMAC.

41 (2) If a verification body submits a positive or qualified positive verification statement, the
42 department may reject and set aside the submitted verification statement and require in the CTFP-DMS that the
43 applicable regulated party have a fuel pathway application or report pursuant to 20.2.92 NMAC re-verified by a
44 different verification body within 180 calendar days of written notification by the department.

45 (a) Paragraph (2) of Subsection Q of 20.2.92.508 NMAC shall apply if:

46 (i) The department finds an unacceptable level of conflict of interest
47 according to Paragraph (4) of Subsection T of 20.2.92.508 NMAC;

48 (ii) The department finds a potential conflict of interest has arisen between
49 the regulated party and the verification body or any verifier engaged by the regulated party to perform verification
50 through monitoring as required under 20.2.92.508 NMAC;

51 (iii) The department makes a determination that any of the bases for
52 modification, suspension or revocation of approval under Paragraph (10) of Subsection S of 20.2.92.508 NMAC for
53 a verification body or verifier engaged by the regulated party to perform verification have occurred, and impacted
54 the verification services provided or impacted the verification statements submitted to the department;

55 (iv) An error is identified that affects the credit or deficit calculations in a
56 fuel pathway application or report pursuant to 20.2.92 NMAC submitted under 20.2.92 NMAC; or

(v) A report that received a positive or qualified positive verification statement fails department verification or audit under Subsection R of 20.2.92.508 NMAC.

(b) If the department identifies an error and determines that the error does not affect the credit or deficit calculations in a fuel pathway application or report pursuant to 20.2.92 NMAC, 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 shall not continue to provide verification services to a regulated party, and the regulated party shall have any reports or fuel pathway applications verified by a different verification body, upon receiving 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 shall have a report or fuel pathway application verified by a different verification body according to Subparagraph (c) of Paragraph 2 of Subsection Q of 20.2.92.508 NMAC may submit a request to the department in the CTFP-DMS for an extension if it believes it cannot meet the applicable verification deadline under Paragraph (1) of Subsection B of 20.2.92.508 NMAC and it shall receive written approval from the department of any extended deadline.

R. Department data requests and audits.

(1) Upon written request by the department, the regulated party shall:

(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 calendar days; and

(b) Make itself, its personnel and other regulated parties in its feedstock and finished transportation fuel supply chain, as applicable, available for a department audit.

(2) Upon written request by the department, the verification body shall:

(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 calendar days; and

(b) Make itself and its personnel available for a department audit.

S. Applications and criteria for approval of verification bodies and verifiers.

(1) A person seeking department approval or renewal of approval to perform verification under 20.2.92 NMAC as a verification body or verifier shall submit an application 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 reports pursuant to 20.2.92 NMAC shall be submitted, or any combination therein, for which the applicant is seeking approval to perform verification;

(c) Documentation demonstrating the person holds the accreditation requirements described in paragraph (2) of Subsection S of 20.2.92.508 NMAC;

(d) Additional information as required by Paragraph (2) through Paragraph (7) of Subsection S of 20.2.92.508 NMAC, as applicable;

(e) A certification that the person agrees to comply with and be subject to the requirements of 20.2.92 NMAC 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) A person that wants to perform verification under 20.2.92 NMAC shall 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 a similar program in another jurisdiction or the ANSI or American National Standards Institute for Greenhouse Gas Validation/Verification Bodies.

(b) All applicants shall 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 a similar program in another jurisdiction or organization-level sector

1 accreditations by ANSI, as applicable, to demonstrate qualifications to provide verification services for specific
2 types of fuel pathway applications or specific types of reports submitted under 20.2.92 NMAC, or any combination
3 therein.

4 (3) To be approved as a verification body, the applicant shall submit the following
5 information to the department in the application:

6 (a) A list of all verification staff and subcontractors and a description of the duties
7 and qualifications for each verification staff and subcontractor, including department-approved verifiers on staff.
8 The applicant shall demonstrate staff qualifications by listing each person's education, experience, professional
9 licenses, accreditations, status as verifier, lead verifier or sector-specific verifier and other relevant information. A
10 verification body shall employ or retain at least two lead verifiers, which may include retention as subcontractors.
11 Any subcontractor used to meet minimum lead verifier requirements shall be approved as a lead verifier by the
12 department.

13 (b) A list of any judicial proceedings, enforcement actions or administrative actions
14 filed against the verification body within the previous five years, with an explanation as to the nature of the listed
15 proceeding or action;

16 (c) Documentation that demonstrates the body maintains a minimum of four million
17 U.S. dollars of professional liability insurance;

18 (d) Identification of services provided by the verification body, the industries that
19 the body serves and the locations where those services are provided;

20 (e) A detailed organizational chart that includes the verification body, its
21 management structure and any related persons; and

22 (f) The verification body's internal conflict of interest policy that identifies
23 activities and limits to monetary or non-monetary gifts that apply to all employees and procedures to monitor
24 potential conflicts of interest.

25 (4) To be approved as a verifier, the applicant shall submit the following information to the
26 department in the application:

27 (a) An applicant shall indicate the applicant's employer or affiliated verification
28 body on the application; and

29 (b) An applicant shall demonstrate verification qualifications by providing
30 information on education, experience, professional licenses, accreditations, status as verifier, lead verifier or sector-
31 specific verifier and other relevant information or other personal development activities that demonstrate
32 communication, technical and analytical skills necessary to perform verification. Evidence demonstrating necessary
33 skills may include:

34 (i) A bachelor's level college degree or equivalent in engineering, science,
35 technology, business, statistics, mathematics, environmental policy, economics or financial auditing; or

36 (ii) Work experience in a professional role involved in emissions data
37 management, emissions technology, emissions inventories, environmental auditing, financial auditing, lifecycle
38 analysis, transportation fuel production or other technical skills necessary to perform verification.

39 (5) To be approved as a lead verifier for verification of fuel pathway applications or reports
40 submitted under 20.2.92 NMAC, in addition to submitting information as required by Paragraph (4) of Subsection S
41 of 20.2.92.508 NMAC, the applicant shall also submit the following documentation to the department in the
42 application:

43 (a) Evidence that the applicant is accredited or designated as a lead verifier by a
44 similar program in another jurisdiction;

45 (b) To be approved as a lead verifier for verification of fuel pathway applications or
46 annual fuel pathway reports, the applicant shall also submit documentation to the department in the application that
47 demonstrates experience in alternative transportation fuel production technology and process engineering; and

48 (c) To be approved as a lead verifier for the verification of transportation fuel
49 transaction reports submitted by producers and importers of gasoline or diesel, the applicant shall submit
50 documentation to the department in the application that demonstrates experience with oil and gas systems. This
51 evidence may include accreditation as an oil and gas systems sector-specific specialist.

52 (6) To be approved as a sector-specific verifier, in addition to submitting information as
53 required by Paragraph (4) of Subsection S of 20.2.92.508 NMAC, the applicant shall also submit documentation to
54 the department in the application demonstrating that the verifier has specific competency in a particular sector,
55 transportation fuel production method, or transportation fuel as evidenced by:

56 (a) At least two years of professional experience related to the sector, transportation

fuel or transportation fuel production method in which the person is seeking approval;

(b) Experience or education in alternative transportation fuel production technology and process engineering when providing verification services for fuel pathway applications or verification services for fuel pathway reports; or

(c) Other specific competency as evidenced by accreditation in a similar program in another jurisdiction as an oil and gas systems specialist pursuant to mandatory reporting requirements in the programs when providing verification services for quarterly transportation fuel transaction reports submitted by producers, importers or distributors of gasoline or diesel.

(7) To be approved by the department, all applicants shall:

(a) Provide evidence of completing and passing exams from a similar program in another jurisdiction, based on the application submitted and for the type of approval the applicant has requested; and

(b) Beginning January 1, 2030, complete and pass exams for the CTFP-specific training regarding the unique or different requirements of 20.2.92 NMAC compared to a similar program in another jurisdiction, as provided for 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 receiving an application under 20.2.92.508 NMAC, the department shall notify 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 verify the applicant met all applicable requirements and passes the performance review as defined in Paragraph (10) of Subsection A of 20.2.92.508 NMAC, prior to notifying an applicant in writing which other jurisdictions' verification training or trainings and exams are required to be completed according to Paragraph (7) of Subsection S of 20.2.92.508 NMAC.

(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 Subsection S of 20.2.92.508 NMAC and all required verification training or trainings and exams, as deemed applicable and required by the department under Paragraph (7) of this Subsection S of 20.2.92.508 NMAC, 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 the application 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 Subsection S of 20.2.92.508 NMAC and successfully complete verification training or trainings and exams as required under Paragraph (7) of Subsection S of 20.2.92.508 NMAC.

(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 20.2.92 NMAC, 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 active 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 Subsection S of 20.2.92.508 NMAC. The department may require verification bodies and verifiers 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 Subsection S of 20.2.92.508 NMAC and shall satisfy all department training and exam requirements applicable at the time of re-application. The performance review requirement shall be met for accreditation to be renewed.

(9) Requirements to maintain department approval.

(a) Except as provided under Subparagraph (c) of Paragraph (9) of Subsection S of 20.2.92.508 NMAC, a verification body, verifier, lead verifier or sector-specific verifier shall notify the department within 30 calendar days of when it no longer meets the requirements for approval under Paragraph (1) through Paragraph (7) of Subsection S of 20.2.92.508 NMAC as applicable.

1 (b) A verification body shall notify the department of any verifier staffing changes
2 within 30 calendar days of the change, as these changes are considered an amendment to the verification body's
3 approval.

4 (c) The department shall be notified immediately if a verification body or verifier
5 loses or withdraws from accreditation under any program specified or approved under Subparagraph (a) of
6 Paragraph (2) of Subsection S of 20.2.92.508 NMAC.

7 (d) Within 30 calendar days of being notified of any nonconformance in another
8 voluntary or mandatory greenhouse gas emissions reporting program or a similar program in another jurisdiction, a
9 department-approved verification body or verifier shall provide notice to the department in the CTFP-DMS of the
10 non-conformance, including a copy of any written notification of nonconformance from the agency or body that
11 administers the program and information about any corrective actions taken by the verification body or verifier. That
12 notification shall include reasons for the corrective action and the type of corrective action. The verification body or
13 verifier shall provide additional information to the department upon request.

14 (e) Within 30 calendar days, verification bodies and verifiers shall provide all the
15 information that the department requires for the purpose of evaluating continued compliance with the requirements
16 of 20.2.92 NMAC, including the criteria for approval.

17 (10) Modification, suspension or revocation of department approval.

18 (a) The department may modify, suspend or revoke an approval to perform
19 verification if a verification body or verifier allegedly or actually:

20 (i) Fraudulently obtained or attempted to obtain accreditation under any
21 program specified under paragraph (2) of Subsection S of 20.2.92.508 NMAC;

22 (ii) Fraudulently obtained or attempted to obtain approval from the
23 department under 20.2.92 NMAC;

24 (iii) Failed at any time to satisfy the eligibility criteria and requirements
25 specified under Paragraphs (1) through Paragraph (7) of this Subsection S of 20.2.92.508 NMAC;

26 (iv) Does not satisfy the requirements to maintain approval according to
27 Paragraph (9) of Subsection S of 20.2.92.508 NMAC;

28 (v) Provided verification services that failed to meet the requirements
29 under 20.2.92.508 NMAC;

30 (vi) Violated the conflict of interest requirements under Subsection T of
31 20.2.92.508 NMAC; or

32 (vii) Knowingly or recklessly submitted false or inaccurate information or
33 verification statements to the department.

34 (b) A verifier or verification body that is subject to a department action to modify,
35 suspend or revoke an approval to perform verification may contest the department's action by providing the
36 department with a request for reconsideration in the CTFP-DMS within 15 calendar days of being notified of the
37 department's action.

38 (i) The department shall evaluate the request in the CTFP-DMS and
39 provide a written response to the verifier or verification body within 30 calendar days.

40 (ii) Any department action taken shall remain in place pending department
41 consideration of the request in the CTFP-DMS.

42 (iii) A verification body or verifier that has had approval to perform
43 verification revoked may re-apply pursuant to the requirements under Paragraph (1) through Paragraph (7) of
44 Subsection S of 20.2.92.508 NMAC after the applicant demonstrates to the department that the cause of the
45 revocation has been resolved.

46 (11) An approved verification body or verifier may request to voluntarily withdraw its
47 approval by providing a notice to the department requesting withdrawal in the CTFP-DMS.

48 T. Conflict of interest requirements.

49 (1) Conflict of interest evaluation. Before verification services begin, each regulated party
50 shall coordinate with the verification body with which it has engaged to perform verification to conduct a conflict of
51 interest evaluation between itself and any verification bodies, verifiers, lead verifiers, sector-specific verifiers,
52 independent reviewers and subcontractors intending to perform verification under the requirements of 20.2.92
53 NMAC.

54 (2) The potential for a conflict of interest shall be deemed to be high where:

55 (a) The regulated party and the verification body share any management staff or
56 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 parent company, direct subsidiary or a company with common ownership or control, or subcontractor that 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 20.2.92 NMAC unless the review was part of providing independent quality assurance audit services, attestation engagement services, verification services according to the RFS or third-party engineering services according to the RFS;
- (ii) Developing carbon intensity or transportation fuel transfer data or other greenhouse gas-related engineering analysis that includes fuel production 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, Renewable Identification Numbers, 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 20.2.92 NMAC, 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 20.2.92 NMAC, 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 is not 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 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.

1 (3) No part of Paragraph (2) of Subsection T of 20.2.92.508 NMAC shall be construed to
2 indicate that providing verification services to a regulated party under a similar program in another jurisdiction
3 produces a conflict of interest.

4 (4) Conflict of interest evaluation and submittal requirements. Before verification services
5 are performed under the requirements of 20.2.92 NMAC, the regulated party, verification body and any direct parent
6 company, direct subsidiary or sister company shall submit to the department a conflict of interest evaluation that
7 includes the following:

8 (a) Identification of whether any of the factors specified under Paragraph (2) of
9 Subsection T of 20.2.92.508 NMAC regarding a high conflict of interest are present;

10 (b) Identification of whether the verification body, related entities or any member of
11 the verification team has previously provided verification services for the regulated party or related entities and, if
12 so, a description of the work and years of service;

13 (c) Identification of whether any member of the verification team, verification body
14 or parent company, direct subsidiary or a company with common ownership or control, has engaged in services of
15 any nature with the regulated party or related entities either within or outside New Mexico during the previous five
16 years.

17 (d) Attestation in the CTFP-DMS that the information provided in the conflict of
18 interest self-evaluation is true, accurate and complete.

19 (5) Approval of conflict of interest submittals.

20 (a) The department shall review the conflict of interest evaluation submitted by the
21 regulated party and shall notify the regulated party in writing whether the verification body is authorized to proceed
22 with verification services.

23 (b) If the department determines the verification body or any member of the
24 verification team meets the criteria for a high conflict of interest pursuant to Paragraph (2) of Subsection S of
25 20.2.92.508 NMAC, verification services may not proceed. The department may determine that a high conflict of
26 interest exists when a member of the verification team provided services within the previous five years, but the
27 services were not services that resulted in a high conflict of interest under Paragraph (2) of Subsection S of
28 20.2.92.508 NMAC. If the department decides that there is a high conflict of interest, the department shall explain
29 to the verification body or any member of the verification team in writing why it believes the work performed
30 creates a high conflict of interest.

31 (6) Monitoring conflict of interest situations.

32 (a) After commencement of verification services, both the verification body and the
33 regulated party shall each:

34 (i) Monitor and immediately make full disclosure to the department in the
35 CTFP-DMS of any potential conflict of interest situation that arises. This disclosure shall include a description of
36 actions that the verification body and the regulated party have taken or propose to take to avoid, neutralize or
37 mitigate the potential for a conflict of interest;

38 (ii) Notify the department within 30 calendar days of any conflicts of
39 interest that arise after verification services begin and until one year after verification services are completed.

40 (b) If the department determines that a disclosed potential conflict of interest is a
41 high risk and this risk cannot be adequately mitigated, the department shall notify the verification body in writing
42 that they may not continue to provide verification services to the regulated party and may be subject to suspension or
43 revocation of department accreditation based on conflict of interest.

44 [20.2.92.508 NMAC - N, 2/1/2026]

45
46 **20.2.92.509 - 600 [RESERVED]**

47
48 **20.2.92.601 AUTHORITY TO DEFER:**

49 A. The department may defer compliance with provisions of 20.2.92 NMAC by issuing a declaration
50 for an emergency in accordance with Subsection B of 20.2.92.601 NMAC, or when a forecasted transportation fuel
51 supply shortage exists in accordance with Subsection C of 20.2.92.601 NMAC.

52 B. Emergency deferral.

53 (1) To determine if a transportation fuel supply emergency exists, the department shall
54 consider the following relevant facts and circumstances and give each the weight the department deems appropriate:

55 (a) The existence of an extreme and unusual circumstance that prevents the
56 dispensing of an adequate supply of transportation fuel for regulated parties to comply with 20.2.92.507 NMAC;

1 (b) Whether the extreme and unusual circumstance is the result of a natural disaster,
2 a significant supply chain disruption or fuel production facility equipment failure, or another event that could not
3 reasonably have been foreseen or prevented and is not due to the regulated parties' lack of prudent planning;

4 (c) The availability of other methods of obtaining compliance credits to compensate
5 for the shortage, including whether there are mitigation measures such as the same transportation fuel is available
6 from other sources, substitutes for the affected transportation fuel and the carbon intensities of those substitutes are
7 available, or banked credits are available; and

8 (d) Whether deferral of compliance with provisions of 20.2.92 NMAC is in the
9 public interest to protect public and environmental health and welfare.

10 (2) To determine the extent of the transportation fuel supply emergency, the department shall
11 consider the:

12 (a) Amount of the transportation fuel needed for regulated parties to comply with
13 the CTFS;

14 (b) Quantity and carbon intensity of the transportation fuel the department has
15 determined is not available; and

16 (c) Estimated duration of the emergency; and

17 (d) Applicability of the mitigation measures considered under Subparagraph (c) of
18 Paragraph (1) of Subsection B of 20.2.92.601 NMAC.

19 (3) The department shall determine the duration of the emergency deferral with an expiration
20 date for the emergency declaration based on the shortest time necessary to allow for correction of the extreme and
21 unusual circumstances for the applicable quarter or compliance period, as determined by the department.

22 (4) If the department determines a transportation fuel supply emergency exists, the
23 department shall issue a proposed emergency declaration and announce the action upon issuance. The proposed
24 emergency declaration shall not defer compliance with 20.2.92 NMAC, as only the final emergency declaration shall
25 defer compliance with 20.2.92 NMAC. The proposed emergency declaration shall:

26 (a) State the department may declare a transportation fuel supply emergency;

27 (b) Identify the type of transportation fuel the emergency declaration shall govern;

28 (c) Describe the extent of the transportation fuel supply emergency, as determined
29 by the department pursuant to Paragraph (2) of Subsection B of 20.2.92.601 NMAC;

30 (d) State the proposed duration of the emergency deferral with a proposed
31 expiration date for a final emergency declaration, if issued, as the department has determined in accordance with
32 Paragraph (3) of Subsection B of 20.2.92.601 NMAC, with a statement that the department may terminate the
33 emergency declaration before the expiration date in accordance with Subsection F of 20.2.92.601 NMAC; and

34 (e) Describe the deferral methods the department proposes to implement to defer
35 compliance with provisions of 20.2.92 NMAC, as set forth in Paragraph (1) of Subsection D of 20.2.92.601 NMAC.

36 (5) No later than 10 calendar days after the department issues the proposed emergency
37 declaration, the department may issue a final emergency declaration and announce the action upon issuance. An
38 emergency deferral of compliance with provisions of 20.2.92 NMAC shall not be effective unless the department
39 issues the final emergency declaration. If the department determines new information is available and relevant since
40 the department issued the proposed emergency declaration, the department may include in the final emergency
41 declaration the new information and modify the information and determinations from the proposed emergency
42 declaration. The department is not required to issue a new proposed emergency declaration if it modifies the
43 information for the final emergency declaration. The final emergency declaration shall:

44 (a) State the department declares a transportation fuel supply emergency;

45 (b) Identify the type of transportation fuel the emergency declaration shall govern;

46 (c) Describe the extent of the transportation fuel supply emergency, as the
47 department has determined pursuant to Paragraph (2) of Subsection B of 20.2.92.601 NMAC;

48 (d) State the duration the emergency deferral with an expiration date for the final
49 emergency declaration that the department has determined in accordance with Paragraph (3) of Subsection B of
50 20.2.92.601 NMAC, with a statement that the department may terminate the emergency declaration before the
51 expiration date in accordance with Subsection F of 20.2.92.601 NMAC; and

52 (e) Describe the deferral methods the department shall implement to defer
53 compliance with the provisions of 20.2.92 NMAC, as set forth in Paragraph (1) of Subsection D of 20.2.92.601
54 NMAC, including the manner the department shall apply 20.2.92.502 NMAC for fees.

55 C. Forecast deferral.

56 (1) The department shall announce a transportation fuel supply forecast by October 1, 2026,

1 and by October 1 each year after. The transportation fuel supply forecast shall evaluate the availability of credit-
2 generating transportation fuel and banked credits to satisfy forecasted deficits during the next complete compliance
3 period. If a transportation fuel supply forecast concludes a shortage, meaning the amount of credits available during
4 the next compliance period is less than 100 percent of the credits projected as necessary for registered parties to
5 comply with the CTFS, the department shall issue a forecast deferral declaration no later than December 1 the year
6 of the transportation fuel supply forecast concluding a shortage and announce the action upon issuance.

7 (2) The department shall determine the duration of the forecast deferral with an expiration
8 date for the forecast deferral declaration based on the shortest time necessary to allow for correction of the forecast
9 shortage for the applicable quarter or compliance period, as determined by the department, but the forecast deferral
10 shall not be shorter than a quarter and shall not be longer than one compliance period.

11 (3) In the forecast deferral declaration, the department shall:

12 (a) State that a transportation fuel supply forecast evaluation concludes a shortage,
13 as set forth in Paragraph (1) of Subsection C of 20.2.92.601 NMAC, and provide information for a person to view
14 the applicable transportation fuel supply forecast;

15 (b) Identify the transportation fuel the forecast declaration shall govern;

16 (c) State the duration of the forecast deferral with an expiration date for the forecast
17 deferral declaration that the department has determined pursuant to Paragraph (2) of Subsection C of 20.2.92.601
18 NMAC, with a statement that the department may terminate the emergency declaration before the expiration date in
19 accordance with Subsection F of 20.2.92.601 NMAC; and

20 (d) Describe the deferral methods the department shall implement to defer
21 compliance with the provisions of 20.2.92 NMAC, as set forth in Paragraph (2) of Subsection D of 20.2.92.601
22 NMAC, including the manner the department shall apply 20.2.92.502 NMAC for fees.

23 D. Methods of deferral.

24 (1) For an emergency deferral, the department may defer compliance with provisions of
25 20.2.92 NMAC by implementing one or more of the following methods:

26 (a) Temporarily adjusting the CTFS to a standard identified by the department that
27 better reflects the availability of credits during the emergency deferral and requiring regulated parties to comply with
28 the temporary standard;

29 (b) Allowing regulated parties to carry over deficits accrued by the regulated party
30 during the emergency deferral into the next compliance period without penalty; or

31 (c) Suspending deficit accrual for regulated parties during the emergency deferral.

32 (2) For a forecast deferral, the department may defer compliance with provisions of 20.2.92
33 NMAC by implementing one or more of the following methods:

34 (a) Temporarily adjusting the CTFS to a standard identified by the department that
35 better reflects the forecast availability of credits during the forecast compliance period and requiring regulated
36 parties to comply with the temporary standard;

37 (b) Requiring regulated parties to comply only with the CTFS applicable during the
38 compliance period of the forecast deferral declaration;

39 (c) Suspending deficit accrual for part or all of the duration of the forecast deferral
40 for the transportation fuel the forecast declaration governs; or

41 (d) Using other methods the department determines are necessary for deferring
42 compliance because none of the methods in Subparagraphs (a) to (c) of Paragraph (2) of Subsection D of
43 20.2.92.601 NMAC provide a mechanism sufficient to contain the regulated parties' costs of compliance with the
44 applicable carbon intensity standard during the forecast deferral, provided the department gives written notification,
45 upon announcing the deferral, to the New Mexico governor, president of the New Mexico senate and speaker of the
46 New Mexico house of representatives and the environmental improvement board of the other method selected by the
47 department.

48 E. Credit and deficit generation and reporting requirements during deferral. Unless the department
49 exempts a regulated party in a declaration under Subsection E of 20.2.92.601 NMAC, the regulated party during a
50 deferral:

51 (1) May continue to generate credits pursuant to 20.2.92 NMAC;

52 (2) Shall continue to generate deficits pursuant to 20.2.92 NMAC;

53 (3) Shall be a registered party in accordance with 20.2.92 NMAC; and

54 (4) Shall continue to report information as specified by 20.2.92 NMAC.

55 F. Termination of declarations. The department may terminate a final emergency declaration or
56 forecast deferral declaration before the deferral duration had concluded and the deferral declaration has expired if

1 the department determines new information is available and relevant and the department concludes the basis for the
2 deferral has ended. The department shall issue a termination of a declaration and announce the action upon
3 issuance. The termination of a declaration shall state a new expiration date for the declaration, which shall be no
4 fewer than 10 calendar days after the department announcement.

5 [20.2.92.601 NMAC - N, 02/01/2026]

6
7 **20.2.92.602 PUBLIC DISCLOSURE AND INFORMATION:**

8 A. Public disclosure.

9 (1) Subject to the provisions of law restricting the public disclosure of records, a record or a
10 particular portion thereof relating to activities under 20.2.92 NMAC obtained by or a record of the department shall
11 be available to the public.

12 (2) A person submitting a record to the department that the person believes contains
13 confidential business information or trade secrets and that the person believes is entitled to disclosure protections
14 pursuant to 20.2.92.602 NMAC shall designate the record or portions therein as confidential and submit the
15 designated records separately from other records submitted pursuant to 20.2.92 NMAC. "Trade secrets" means the
16 same as set forth in Subsection D of Section 57-3A-2 NMSA 1978. A person shall not designate as confidential a
17 carbon intensity or the associated fuel pathway code.

18 (3) A record or a particular portion thereof designated by a person as confidential in
19 accordance with Paragraph (2) of Subsection A of 20.2.92.602 NMAC may be disclosed:

20 (a) In accordance with the Inspection of Public Records Act, Sections 14-2-1 to 14-
21 2-12 NMSA 1978;

22 (b) To officers, employees or authorized representatives of the department,
23 including, as applicable, verification bodies, verification teams, members and verifiers;

24 (c) When relevant, in any proceeding under the Environmental Improvement Act,
25 20.2.92 NMAC, or other applicable state or federal act; or

26 (d) When used in any civil or criminal action, subject to protection as the court may
27 give.

28 B. List of the department-approved registered parties. A registered party may access a list of the
29 department-approved registered parties in the CTFP-DMS. The list shall include, at a minimum, the name and
30 contact information of the department-approved registered party.

31 C. Monthly credit trading activity report. The department shall announce no later than the last
32 calendar day of the following month, a credit trading activity report that:

33 (1) Summarizes the aggregate credit transaction information for the:

34 (a) Most recent month;

35 (b) Previous three months;

36 (c) Previous three quarters; and

37 (d) Previous compliance periods; and

38 (2) Includes, at a minimum, the:

39 (a) Total number of credits transacted;

40 (b) Number of transactions;

41 (c) Number of registered parties making transactions; and

42 (d) Quantity-weighted average price of that month's transactions;

43 (3) Is based on the information submitted into the CTFP-DMS; and

44 (4) Presents aggregated information on all transportation fuel produced, imported or
45 dispensed for use in New Mexico and does not disclose individual registered parties' transactions or other actions
46 pursuant to Paragraph (4) of Subsection C of 20.2.92.602 NMAC.

47 D. Quarterly data summary. The department shall announce at least quarterly an aggregate data
48 summary of credit and deficit generation for the most recent quarter and all prior quarters in the current compliance
49 period. The summary of credit and deficit generation shall include information on the contribution of credit
50 generation by different fuel types.

51 E. CTFP annual report. Annually, the department shall announce the total greenhouse gas emissions
52 reductions from the previous compliance period and a summary of the quarterly and monthly report data.

53 F. Transportation fuel supply forecast. The department shall announce the transportation fuel supply
54 forecast as provided for in Paragraph (1) of Subsection C of 20.2.92.601 NMAC.

55 [20.2.92.602 NMAC - N, 02/01/2026]

1 **20.2.92.603 PERIODIC REVIEW:**

2 A. The department shall perform a periodic review of the CTFP performance and 20.2.92 NMAC at
3 least once every three years to determine whether adjustments are necessary. The department's review may include:
4 the quantity of transportation fuel produced in New Mexico, imported into New Mexico or dispensed for use in New
5 Mexico; the credits and deficits generated under the program for some or all of the transportation fuel types listed in
6 Subsection B and Subsection C of 20.2.92.101 NMAC; the price of credits sold pursuant to 20.2.92 NMAC and the
7 quantity of credits banked and retired pursuant to 20.2.92 NMAC; the findings and information from the annual
8 transportation fuel supply forecast produced under Paragraph (1) of Subsection C of 20.2.92.601 NMAC; an
9 analysis of complementary or superseding federal regulations; and advisory committee input on the CTFP
10 performance and 20.2.92 NMAC.

11 B. The secretary shall convene an advisory committee pursuant to Subsection B of Section 74-1-18
12 NMSA 1978 at least once every three years and the advisory committee shall perform a periodic review of the CTFP
13 performance and 20.2.92 NMAC to provide input to the department on whether adjustments are necessary. The
14 department shall provide information to the advisory committee on the CTFP performance for the advisory
15 committee to consider.

16 [20.2.92.603 NMAC - N, 02/01/2026]

17
18 **20.2.92.604 ENFORCEMENT:**

19 A. Authority of the department to investigate. The department may take the following actions at any
20 time to determine if a person has violated or is violating a requirement of 20.2.92 NMAC or to verify compliance
21 with the requirements of 20.2.92 NMAC:

22 (1) Conduct an inspection of a person or facility owned or operated by a person subject to
23 20.2.92 NMAC;

24 (2) Review records of a person subject to 20.2.92 NMAC;

25 (3) Require additional information or records from a person subject to 20.2.92 NMAC; or

26 (4) An action the department has authority for elsewhere in 20.2.92 NMAC.

27 B. General enforcement actions the department may enact. When, on the basis of any information,
28 the department determines a person has violated or is violating a requirement of 20.2.92 NMAC or is not in
29 compliance with a requirement of 20.2.92 NMAC, after meeting the requirements for a preliminary administrative
30 enforcement action in Subsection C of 20.2.92.604 NMAC, the department may:

31 (1) Initiate an administrative enforcement action pursuant to Subsection D of 20.2.92.604
32 NMAC; or

33 (2) Issue a compliance order stating with reasonable specificity the nature of the violation,
34 requiring the person to return to compliance immediately or within a specified time period, and assessing a civil
35 penalty for the past or current violation, or both, as determined by the department; or

36 (3) Commence a civil action in district court for appropriate relief, including a temporary or
37 permanent injunction.

38 C. Preliminary administrative enforcement actions. When, on the basis of any information, the
39 department determines a person has violated or is violating a requirement of 20.2.92 NMAC, or is not in compliance
40 with a requirement of 20.2.92 NMAC, the department shall initiate a preliminary administrative enforcement action
41 as follows:

42 (1) Notice of noncompliance.

43 (a) The notice of noncompliance issued by the department shall contain:

44 (i) A statement that the person is in noncompliance with the requirements
45 of 20.2.92 NMAC and that any further noncompliance with the requirements of 20.2.92 NMAC may result in an
46 administrative enforcement action per Subsection D of 20.2.92.604 NMAC, including the possibility of a
47 compliance order being issued and civil penalties being assessed;

48 (ii) A statement of each instance of noncompliance by the person;

49 (iii) For each instance of noncompliance, a citation to the specific provision
50 of 20.2.92 NMAC the person is noncompliant with;

51 (iv) A statement of corrective action the person shall take for each instance
52 of noncompliance, if applicable; and

53 (v) Instructions for the person to respond to the notice of noncompliance,
54 including any deadlines for responding and taking corrective action, if applicable.

(b) In the event that the department takes corrective action pursuant to Paragraph (2) of Subsection C of 20.2.92.604 NMAC, the department shall include in the notice of noncompliance a notice of corrective action containing:

- (i) The specific noncompliance basis requiring corrective action by the department;
- (ii) Each corrective action taken or to be taken by the department; and
- (iii) A statement regarding the status of credits, deficits, and approved pathways, as applicable.

(c) If the department identifies additional instances of noncompliance or the need for corrective action through conducting inspections of the person, reviewing records, reviewing additional information provided pursuant to the department's request, or through any other basis of information gathering, the department may issue a revised notice of noncompliance or issue a separate notice of noncompliance, which may include a notice of corrective action in accordance with Subparagraph (b) of Paragraph (1) of Subsection C of 20.2.92.604 NMAC.

(2) Corrective actions by the department.

(a) The department may take any corrective action described in Subparagraphs (b) and (c) of Paragraph (2) of Subsection C of 20.2.92.604 NMAC, as applicable, in the following instances of noncompliance:

- (i) Transportation fuel transfer data or other data reported into the CTFP-DMS and used to calculate credits and deficits is incorrect or has omitted material information;
- (ii) Credits or deficits that are generated or transacted in violation of the requirements of 20.2.92 NMAC or otherwise illegitimate generated or transacted;
- (iii) Transportation fuel reported using a carbon intensity under an alternative fuel pathway where the transportation fuel was produced or transported in a manner that varies in any way from the methods set forth in the corresponding approved alternative fuel pathway application administrative record such that the carbon intensity of the transportation fuel changes materially;
- (iv) A pathway holder violates an alternative fuel pathway condition imposed by the department;
- (v) Incorrect information is used to generate or support a certified carbon intensity under an alternative fuel pathway, including material information being omitted or a change in process following the submission of the fuel pathway application;
- (vi) Incorrect information is used to generate or support a new EER under an alternative fuel pathway, including material information being omitted or a change in vehicles' use following the submission of the alternative fuel pathway application;
- (vii) Incorrect information is used to apply for, report or support an FSE pathway, including material information being omitted or a change in the FSE station or FSE units after the FSE pathway application.
- (vii) Incorrect material information is submitted in connection with a credit transaction or omitted material information is not included;
- (viii) A person's failure to provide a record or report as required in 20.2.92 NMAC or within the required timeframe;
- (ix) A person's failure to submit a verification statement when required by 20.2.92.508 NMAC;
- (x) Following an adverse verification statement; or
- (xi) Any other noncompliance with 20.2.92 NMAC identified by the department in a notice of noncompliance.

(b) The department may take the following actions immediately to prevent imminent or ongoing harm following the issuance of a notice of noncompliance to the person:

- (i) Suspend an approved alternative fuel pathway;
- (ii) Suspend an account in the CTFP-DMS;
- (iii) Place an administrative hold on a specified number of credits; or
- (iv) Place an administrative hold on the generation or issuance of credits.

(c) The department may take the following actions in the event of a determination of noncompliance pursuant to Paragraph (2) of Subsection C of 20.2.92.604 NMAC:

- (i) Suspend, restrict, modify or revoke an account in the CTFP-DMS;
- (ii) Suspend, modify or delete an approved alternative fuel pathway;

(iii) Suspend, restrict, invalidate or cancel credits;
(iv) Recalculate deficits or assign deficits as an administrative mechanism in the event invalidated credits cannot be canceled;
(v) Assess reasonable costs not accounted for in the annual CTFP budget for the Department's expense of investigating and pursuing a violation or noncompliance; or
(vi) An action the department has authority for elsewhere in 20.2.92 NMAC.

(d) If the corrective action restricts, invalidates or cancels credits per item (iii) of Subparagraph (c) of Paragraph (2) of Subsection C of 20.2.92.604 or recalculates deficits per item (iv) of Subparagraph (c) of Paragraph (2) of Subsection C of 20.2.92.604, the corresponding credits and deficits shall be added or subtracted from the appropriate accounts in the CTFP-DMS. A person that generated, previously held or holds invalidated credits or a registered party whose CTFP-DMS account reflects an invalid deficit calculation shall be responsible for returning its account to compliance without regard to the person's fault or role with respect to the invalidation of the credits or miscalculation of deficits.

(3) Determination of compliance.

(a) The department, after issuing a notice of noncompliance and after the expiration of the last deadline imposed by the notice of noncompliance, shall make a determination in the department's sole discretion of whether to conclude the preliminary administrative enforcement action with no further enforcement action by the department or to initiate an administrative enforcement action in accordance with Subsection D of 20.2.92.604 NMAC.

(b) If the department determines in the department's sole discretion that the person has taken sufficient corrective action and is currently in compliance with the requirements of 20.2.92 NMAC, the department may close the preliminary administrative enforcement action and take no further enforcement action on any noncompliance identified in the notice of noncompliance. If the department closes the preliminary administrative enforcement action and takes no further enforcement action on any noncompliance identified in the notice of noncompliance, and new or additional information is later received by the department that affects or would have affected the department's determination of compliance, then the department may issue a new notice of noncompliance in accordance with Subparagraph (b) of Paragraph (1) of Subsection C of 20.2.92.604 NMAC, which may include a notice of corrective action in accordance with Subparagraph (b) of Paragraph (1) of Subsection C of 20.2.92.604 NMAC, for the same instance of noncompliance by the person.

(c) If the department determines in the department's sole discretion that the person has not taken sufficient corrective action, continues to be in noncompliance with the requirements of 20.2.92 NMAC, or the instances of noncompliance identified in the notice of noncompliance otherwise demand, the department shall initiate an administrative enforcement action against the person pursuant to Subsection D of 20.2.92.604 NMAC.

D. Administrative enforcement actions.

(1) The department shall initiate an administrative enforcement action by issuing a notice of violation to the person containing at minimum:

(a) A statement of each violation by the person with a description;
(b) A citation to the specific provision of 20.2.92 NMAC the person violated for each violation;
(c) A statement of corrective actions required for the person to take for each violation;
(d) An assessment of the civil penalty for each violation;
(e) A statement giving notice to the person of their right to request an administrative hearing;
(f) Instructions for the person to respond to the notice of violation, including any deadlines for responding, making payment for civil penalties issued, and taking corrective action.

(2) Upon receipt of the notice of violation, the person may:

(a) Pay the assessed civil penalty and undertake any corrective actions required in the notice of violation to resolve the administrative enforcement action; or
(b) Engage in informal discussions with the department for the purpose of reaching a resolution of the administrative enforcement action.

(3) The department may engage in informal discussions with a person and, following the informal discussions, execute a settlement agreement resolving the administrative enforcement action as agreed upon by the department and the person. For the department to close the administrative enforcement action pursuant

to the settlement agreement, the executed settlement agreement shall explicitly provide for the department to close the administrative enforcement action.

(4) In the event the person does not take any of the actions described in Paragraph 2 of Subsection D of 20.2.92.604 NMAC or where the department determines in its sole discretion that informal discussions are not likely to lead to resolution of the administrative enforcement action after participating in good faith, the department may issue a compliance order or commence civil action in district court for appropriate relief.

(5) Compliance order.

(a) A compliance order issued by the department shall contain, at minimum, the following:

- (i) A statement with specificity of the nature of each violation;
 - (ii) A citation to the specific provision of 20.2.92 NMAC the person violated for each violation;
 - (iii) A statement requiring compliance immediately or within a period the department specifies; and
 - (iv) A civil penalty for each violation.
- (b) The person may appeal the compliance order by following the process contained in 20.2.92.605 NMAC.

(6) The department may commence civil action in a New Mexico district court in accordance with the New Mexico Rules of Civil Procedure for the District Courts to pursue any relief available, including a temporary or permanent injunction, enforcement of a compliance order or settlement agreement, or collection of an assessed civil penalty.[20.2.92.604 NMAC - N, 02/01/2026]

20.2.92.605 APPEALS

A. Protest to the department.

(1) Where provided for in 20.2.92 NMAC, within 30 calendar days of the date of the department's decision, the regulated party subject to the department's decision may protest the decision by submitting a protest in writing to the department.

(2) The protest shall contain:

- (a) The name, address and telephone number of the regulated party;
 - (b) A detailed description of and grounds for the alleged error or basis of the challenge;
 - (c) Sufficient information for the department to reconsider the decision the regulated party alleges the department has made in error or the regulated party is challenging; and
 - (d) Other information the department requires or identified in the protest authorities throughout 20.2.92 NMAC.
- (3) The department shall consider the protest the regulated party has provided and the information provided and determine whether to issue a new decision.
- (4) The department shall notify the regulated party in writing of the department's decision. If the department determines a new decision is appropriate, the department shall promptly issue the necessary revised decision in the same manner as the department issued the original decision.

B. Administrative Hearing

(1) Request for Administrative Hearing.

(a) A person shall make a request for an administrative hearing in writing to the department within 30 calendar days of the date the department issued a notice of violation, a compliance order or a department notification of a decision in accordance with Subsection A of 20.2.92.605 NMAC.

(b) A person shall include a statement of the department action being challenged as part of the written request for administrative hearing. The statement the person submits shall include a brief explanation of the grounds for the challenge, and an estimation of the amount of time needed for an administrative hearing. The person's written request for administrative hearing shall also include a copy of the protest to the department the person has filed in accordance with Subsection A of 20.2.92.605 NMAC and shall also include the department's decision pursuant to Paragraph (4) of Subsection A of 20.2.92.605 NMAC.

(c) Within 30 calendar days of receipt of the written request for an administrative hearing, the department shall schedule an administrative hearing in consultation with the person for scheduling purposes and issue a notice of administrative hearing containing the subject matter, time, date, location, estimated length of the hearing, rules governing the hearing, and, if applicable, virtual links to the hearing.

(2) Administrative Hearing General Requirements.

(a) The secretary or the secretary's designee shall preside over an administrative hearing held pursuant to Subsection B of 20.2.92.605 NMAC. The secretary or the secretary's designee shall make any rulings or decisions as necessary to conduct the hearing and shall make a final decision on the matter at issue in the administrative hearing.

(b) The secretary may delegate all powers and duties pertaining to the administrative hearing to a designee, including an independent hearing officer, by specifying what powers and duties are to be delegated to the designee in a notice of administrative hearing. The secretary is not required to delegate any powers or duties to a designee and may do so in the secretary's sole discretion. The secretary shall retain any powers and duties the secretary does not delegate to a designee in a notice of administrative hearing. The secretary or the secretary's designee shall not have a personal bias or prejudice concerning a party, have personal knowledge of disputed facts concerning the proceeding, be related to a party within the third degree of relationship or have a financial interest in the proceeding.

(c) The New Mexico Rules of Civil Procedure and the New Mexico Rules of Evidence shall not apply, unless otherwise directed by the secretary in the notice of administrative hearing.

(d) The administrative hearing shall be open to the public.

(e) The secretary or the secretary's designee shall conduct the hearing in a manner that is fair and equitable to all parties. The secretary or the secretary's designee shall admit all evidence and testimony that is, in the secretary's or the secretary's designee discretion, relevant, material, reliable, and probative.

(f) The secretary or the secretary's designee shall take all testimony under oath or affirmation.

(g) The administrative hearing shall have a record that includes a verbatim transcript of all testimony and arguments made and all exhibits admitted during the hearing.

(3) Administrative Hearing Procedure.

(a) The hearing shall begin with the requesting party delivering an opening statement, followed by the department.

(b) The requesting party shall present its case first by conducting oral examination of the requesting party's witnesses and admitting the requesting party's exhibits.

(c) A witness that provides testimony is subject to cross examination from any other party limited in scope to the subject matter of that witness's direct examination testimony or matters affecting that witness's credibility. A witness that is cross-examined by another party may be re-directed by the party that called the witness for direct examination. A witness shall complete direct examination, cross examination, and redirect examination before the administrative hearing moves on to the next witness.

(d) The party offering the exhibit shall mark each exhibit with an identifying designation by numbering or alphabetizing the party's exhibits sequentially.

(e) After the requesting party has presented its case by completing examination of the requesting party's last witness, the department shall present its case by conducting oral examination of the department's witnesses and admitting the department's exhibits.

(f) Upon the completion of examination of all party's witnesses, the requesting party shall deliver a closing argument, followed by the department delivering a closing argument.

(g) Following the completion of closing arguments by all parties, the secretary or the secretary's designee shall close the record for the hearing.

(h) Once the secretary or the secretary's designee closes the record, the secretary or the secretary's designee shall immediately deliberate and give the appropriate weight as determined by the secretary or the secretary's designee to the facts and circumstances presented in the hearing and on the record. After deliberating, the secretary or the secretary's designee shall issue a written decision on the ultimate matter at issue in the administrative hearing to include any facts, findings, and reasons determined by the secretary. The secretary's or the secretary's designee's written decision shall constitute a final action.

[20.2.92.605 NMAC - N, 02/01/2026]

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	Carbon Intensity (gCO ₂ e/MJ)	Percent Reduction
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Baseline (2018)	95.01	0.0%
Initial	93.30	1.8%
2027	91.87	3.3%
2028	89.31	6.0%
2029	84.56	11.0%
2030	76.01	20.0%
2031	75.06	21.0%
2032	74.11	22.0%
2033	73.16	23.0%
2034	72.21	24.0%
2035	71.26	25.0%
2036	70.31	26.0%
2037	69.36	27.0%
2038	68.41	28.0%
2039	67.46	29.0%
2040 and subsequent years	66.51	30.0%

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

Compliance Period	Carbon Intensity (gCO ₂ e/MJ)	Percent Reduction
Baseline (2018)	94.42	0.0%
Initial	92.72	1.8%
2027	91.30	3.3%
2028	88.75	6.0%
2029	84.03	11.0%
2030	75.54	20.0%
2031	74.59	21.0%
2032	73.65	22.0%
2033	72.70	23.0%
2034	71.76	24.0%
2035	70.82	25.0%
2036	69.87	26.0%
2037	68.93	27.0%
2038	67.98	28.0%
2039	67.04	29.0%
2040 and subsequent years	66.09	30.0%

C. Table 3 - New Mexico Clean Transportation Fuel Standard for Alternative Jet Fuel Based on the Carbon Intensity of Conventional Jet Fuel

Compliance Period	Carbon Intensity (gCO ₂ e/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 subsequent years	56.88	30.0%

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

Transportation Fuel	Pathway Identification Code	Fuel Pathway Description	Carbon Intensity (gCO ₂ e / MJ) Total Lifecycle Emissions
Gasoline	NMGAS001	Clear gasoline - based on a weighted average of gasoline supplied to New Mexico	96.9
Diesel	NMULSD001	Clear diesel, based on a weighted average of ultra-low sulfur diesel supplied to New Mexico	95.3
Fossil Compressed Natural Gas	NMCNG001	North American fossil CNG delivered via pipeline; compressed in New Mexico	74.3
Fossil Liquefied Natural Gas	NMLNG001	North American fossil LNG delivered via pipeline; liquefied in New Mexico using liquefaction with 80 percent efficiency	87.1
Liquefied Petroleum Gas	NMLPG001	North American fossil liquefied petroleum gas	87.0
Electricity	NMELEC001	Renewable electricity determined to have a carbon intensity of zero according to 20.2.92.206 NMAC	0.0

E. Table 5 - New Mexico Temporary Carbon Intensities

Transportation Fuel	Fuel Pathway Identifier Code	Fuel Pathway / Process Description	Carbon intensities (gCO ₂ e/MJ): Total Lifecycle Emissions
Ethanol	NMETOH001	Denatured fuel corn-based ethanol based on North American average (E100)	69.6
Renewable Naphtha	NMRN001	Neat renewable naphtha derived from any non-palm virgin plant oil, based on North American average	59.1
	NMRN002	Neat renewable naphtha derived from an animal fat or waste oil feedstock, based on North American average	18.3
Biodiesel	NMBD001	Neat biodiesel (B100) derived from any non-palm virgin plant oil, based on North American average	56.6
	NMBD002	Neat biodiesel (B100) derived from an animal fat or waste oil feedstock, based on North American average	19.9
Renewable Diesel	NMRD001	Neat renewable diesel (R100) derived from any non-palm virgin plant oil, based on North	59.1

		American average	
	NMRD002	Neat renewable diesel (R100) derived from an animal fat or waste oil feedstock, based on North American average	18.3
Renewable Compressed Natural Gas	NMRCNG001	Biomethane derived from anaerobic digestion of North American livestock manure, delivered by pipeline and compressed in New Mexico. Does not include counterfactual avoided emissions	62.7
	NMRCNG002	Biomethane derived from anaerobic digestion of North American livestock manure, delivered by pipeline and compressed in New Mexico; includes counterfactual avoided emissions	-27.3
	NMRCNG003	Biomethane derived from landfill gas or wastewater treatment, delivered by pipeline and compressed in New Mexico	21.4
Renewable Liquefied Natural Gas	NMRLNG001	Biomethane derived from anaerobic digestion of North American livestock manure, delivered by pipeline and liquefied in New Mexico using liquefaction with 80 percent efficiency. Does not include counterfactual avoided emissions	71.8
	NMRNLG002	Biomethane derived from anaerobic digestion of North American livestock manure, delivered by pipeline and liquefied in New Mexico using liquefaction with 80 percent efficiency; includes counterfactual avoided emissions	-18.2
	NMLNG003	North American natural gas derived from landfill gas or wastewater treatment delivered via pipeline; liquefied in New Mexico using liquefaction with 80 percent efficiency.	31.0
Gaseous Compressed Hydrogen	NMHYG001	Compressed H2 produced in North America via central steam methane reformation of North American natural gas	94.5
	NMHYG002	Compressed H2 produced in North America via central steam methane reformation (SMR) of biomethane from North American animal agriculture, with SMR process heat derived from North American fossil natural gas. Does not include counterfactual avoided emissions	88.3
	NMHYG003	Compressed H2 produced in North America via central steam methane reformation of biomethane from North American animal agriculture, with SMR process heat derived from North American fossil natural gas; includes counterfactual avoided emissions	-1.7
	NMHYG004	Compressed H2 produced in North America via central steam methane reformation of biomethane from North American landfills or wastewater treatment, with SMR process heat	46.1

		derived from North American fossil natural gas	
	NMHYG005	Compressed H2 produced in North America via electrolysis using American average grid electricity	217.8
	NMHYG006	Compressed H2 produced in North America via electrolysis using renewable electricity	14.3
Liquid Hydrogen	NMHYL001	Liquified H2 produced in North America via central steam methane reformation of North American fossil natural gas	135.7
	NMHYL002	Liquified H2 produced in North America via central steam methane reformation of biomethane from North American animal agriculture, with SMR process heat derived from North American fossil natural gas	127.0
	NMHYL003	Liquified H2 produced in North America via central steam methane reformation of biomethane from North American animal agriculture, with SMR process heat derived from North American natural gas; includes counterfactual avoided emissions	37.0
	NMHYL004	Liquified H2 produced in North America via central steam methane reformation of biomethane from North American landfills or wastewater treatment, with SMR process heat derived from North American fossil natural gas	89.8
	NMHYL005	Liquified H2 produced in North America via electrolysis using American average grid electricity	221.7
	NMHYL006	Liquified H2 produced in North America via electrolysis using renewable electricity	1.9

F. Table 6 - 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
Regulated party name and federal employer identification number if available	x	x	x	x	x
Reporting quarter	x	x	x	x	x
Fuel pathway code	x	x	x	x	x
Transaction type or types	x	x	x	x	x
Transaction date or dates	x	x	x	x	x
Name of business partner or partners, if applicable	x	x	x	x	x
Name and federal employer identification number if available of all fuel production facility owners,	n/a	x	n/a	n/a	x

if different from the regulated party					
Name and identification number of fuel production facility or facilities, as applicable	x	x	x	x	x
Indication of whether the regulated party is a credit aggregator	x	x	x	x	x
EER or EERs of the fuel pathway from its expected use or uses in a motor vehicle as provided in Table 8 of Subsection H of 20.2.92.701 NMAC	x	x	x	x	x
Amount of transportation fuel used as gasoline or a gasoline substitute	x	x	x	x	x
Amount of transportation fuel used as diesel or a diesel substitute	x	x	x	x	x
Amount of transportation fuel used as an alternative jet fuel	x	x	x	x	x
Quantity of transportation fuel sold to exempt users if applicable	x	x	x	x	x
Credits and deficits that the regulated party generated in the applicable quarter	x	x	x	x	x

G. Table 7 - New Mexico Energy Densities of Transportation Fuel Types

Transportation 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)

H. Table 8 - New Mexico Energy Economy Ratio Values

Light-Medium-Duty Vehicle Applications		Medium-Heavy-Duty Vehicle or Off-Road Applications		Aviation Applications	
Transportation Fuel/Vehicle Combination	EER Value Relative to Gasoline	Transportation Fuel/Vehicle Combination	EER Value Relative to Diesel	Transportation Fuel/Vehicle Combination	EER Value Relative to Conventional Jet
Gasoline or any	1	Diesel or any blend	1	Alternative jet	1

gasoline-ethanol blend		of diesel, biodiesel and renewable diesel		fuel	
CNG/Internal Combustion Engine Vehicle	1	CNG, LNG or LPG/Spark-Ignition Engines	0.9		
Electricity/Battery EV or Plug-In Hybrid EV	3.4	CNG, LNG or LPG/Compression-Ignition Engines	1		
Electricity/On-Road Electric Motorcycle	4.4	Electricity/Battery EV or Plug-In Hybrid EV	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		
		Electricity/Ground Support Equipment	3.2		

I. Table 9 - Indirect Land-Use Change Values

Feedstock	Indirect Land Use Change 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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