

**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 - 23(R)**

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**NEW MEXICO ENVIRONMENT DEPARTMENT’S NOTICE OF INTENT TO FILE  
MOTION IN LIMINE REGARDING PARTY DISCUSSIONS**

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The New Mexico Environment Department (“Department”) respectfully files this *Notice of Intent to File Motion in Limine Regarding Party Discussions*.

Now that direct testimony in the rulemaking proceeding has concluded and we are moving into the rebuttal phase with final rule language, on October 9, 2025, the Department announced to the parties a save the date for two four-hour long discussion sessions on October 30-31, 2025. See Exhibit A, attached hereto, pp. 8-11. The purpose of the discussion sessions is to find alignment among the parties on issues in the above captioned rulemaking proceeding and rule language for 20.2.92 NMAC. In the invitation, the Department shared its participation guidelines regarding confidentiality:

NMED intends for the discussion sessions to proceed with a confidential mindset to facilitate communication and find understanding between and among parties, such that only the outcomes are shared and not the back-and-forth exchanges. The approach respects the parameters set forth in Rule 11-408 of the New Mexico Rules of Evidence.

Any person who does not agree to be bound by the confidential approach to the discussion sessions is asked to not attend, as their participation may create fear that the discussions could later be used against a party.

The only information NMED intends to provide the Board regarding the discussion sessions is as follows:

- The fact that the meeting occurred and when

- The attendance list
- Copies of the invitation (such as this email)
- The topics identified by NMED to guide the discussion
- NMED's draft redline of the rule used for the discussion
- Issues that remain unresolved after the discussion session; Issues there were resolved through the discussions

NMED requests the same courtesy of information sharing limits from those attending the discussion sessions.

**Exhibit A**, pp. 10-11. The Department requests confidentiality to facilitate open and solution-focused dialogue in an environment that reflects the confidentiality and candor customary in mediation or settlement settings. Without this protection, there is a chilling effect to the parties ability to discuss matters in an open and forthright manner. On October 24, 2025, the Department provided additional details regarding the discussion sessions and again reiterated the participation guidelines for confidentiality. **Exhibit A**, pp. 4-10. Not all the parties agreed to the confidentiality considerations. **Exhibit A**, pp. 2-4.

NMED is committed to maintaining the integrity of the discussion sessions and preventing circumstances in which statements made in good faith could be taken out of context or later used in advocacy, litigation, or media. If circumstances necessitate, the Department may seek to limit testimony or evidence that breaches the confidentiality considerations expected as a condition of participating in the discussion sessions.

Filed: October 30, 2025

Respectfully submitted,

**ROBLES, RAEL & ANAYA, P.C.**

/s/ Kelsea E. Sona

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*Attorneys for the Department*

**CERTIFICATION**

I hereby certify that on October 30, 2025, an electronic copy of this New Mexico Environment Department's Notice of Intent to File Motion in Limine Regarding Party Discussions was filed with the Board via email and served on the parties, as follows:

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By: /s/ Kelsea E. Sona  
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**Cc:** [Villescas, Dylan, ENV](#); ["Aaron B. Tucker"](#); [AGRankin@hollandhart.com](#); [LCJones@hollandhart.com](#); [Stuart R. Butzier](#); [Stan N. Harris](#); [Moellenberg, Dalva L.](#); [Trujillo, TJ](#); [Catalano, Samantha H.](#); [Seluja, Serafina](#); [jwechsler@spencerfane.com](#); [kaolson@spencerfane.com](#); [sshaheen@spencerfane.com](#); [tpacheco@spencerfane.com](#); [Charles de Saillan](#); [Cara Lynch](#); [Sara Gersen](#); [sam@rngcoalition.com](#); [Yanni Psareas](#); [tlobdell@fwwatch.org](#); [areynaud@fwwatch.org](#); [lauren.tremblay@wnco.com](#); [Nick Maxwell](#); [John Duff](#); [Graham Noyes](#); [Anne Minard](#); [Robin Vercruse](#); [Thomas Hnasko](#); [jed.smith@riovalleybiofuels.com](#); [Villanueva, Kelly, ENV](#); [Marcus Rael](#); [Kimberly Rael](#); [Amanda Rivera](#); [zachary.ogaz](#); [Amanda Lavin](#); [Miano, Michelle, ENV](#); [Borchert, Claudia, ENV](#); [Vaughn, Kolt, ENV](#); [Ford, Michael, ENV](#); [Raso, Angela, ENV](#); [svalentine](#); [mstandefer-skinner](#); [Christine Barber](#); [Amanda Lavin](#); [Inez Russell Gomez](#); [Dan Boyd](#); [Morgan Lee](#)  
**Subject:** RE: CTFP Discussion Sessions - Save the Date  
**Date:** Wednesday, October 29, 2025 5:55:00 PM

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Good afternoon, Mr. Wetherbee,

NMED expects all persons who participate in the October 30-31, 2025, meetings to comport their conduct with the confidentiality considerations set forth in my emails on October 9, 2025, and October 24, 2025. As previously stated, any person who does not agree to be bound by the confidential approach to the discussion sessions is asked to not attend, as their participation may create fear that the discussions could later be used against a party. By participating, all the other parties have agreed to proceed under the auspices of this process.

NMED appreciates your interest in the discussion sessions and your stated support for collaborative progress in this rulemaking. However, these meetings are not part of the formal Environmental Improvement Board proceeding and are not public meetings; rather, they are informal, pre-hearing discussions convened by NMED to explore potential areas of alignment among technical participants about the rule language. They are designed to foster open and solution-oriented dialogue under conditions that are essential to candid exchange in mediation and settlement forums. This type of mediation process regularly happens in a contested legal venue. As previously indicated in my emails, at the conclusion of these sessions, NMED will publicly provide the Board with information about issues that remain unresolved and those where alignment was achieved, consistent with the confidentiality framework shared by all participants and in the same manner that could have been achieved with individual meetings.

While NMED has no obligation to include every party in informal settlement-style discussions, you were invited as a courtesy to support collaboration, contingent upon agreement with the established confidentiality and participation guidelines. NMED intends to preserve the integrity of that process and to ensure that no participant feels constrained by concerns that statements made in good faith could later be used in advocacy or litigation - or in the media. Since you will not agree to the confidentiality considerations, NMED must respectfully decline your participation in these sessions.

EXHIBIT

A

Thank you for your time and attention to this matter. Please contact me should you have any questions or concerns.

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**From:** Bruce Wetherbee <editor@thecandlepublishing.com>

**Sent:** Wednesday, October 29, 2025 1:57 PM

**To:** Kelsea Sona <kelsea@roblesrael.com>; 'Aaron B. Tucker' <abtucker@hollandhart.com>; AGRankin@hollandhart.com; LCJones@hollandhart.com; Stuart R. Butzier <sbutzier@modrall.com>; Stan N. Harris <sharris@modrall.com>; Moellenberg, Dalva L. <dml@gknet.com>; Trujillo, TJ <ajt@gknet.com>; Catalano, Samantha H. <samantha.catalano@gknet.com>; Seluja, Serafina <serafina.seluja@gknet.com>; jwechsler@spencerfane.com; kaolson@spencerfane.com; sshahen@spencerfane.com; tpacheco@spencerfane.com; Charles de Saillan <desaillan.ccae@gmail.com>; Cara Lynch <lynch.cara.nm@gmail.com>; Sara Gersen <sgersen@earthjustice.org>; sam@rngcoalition.com; Yanni Psareas <yanni@rngcoalition.com>; tlobdell@fwwatch.org; areynaud@fwwatch.org; lauren.tremblay@wnco.com; Nick Maxwell <inspector@sunshineaudit.com>; John Duff <john@sorghumgrowers.com>; Graham Noyes <graham@noyeslawcorp.com>; Anne Minard <anne.minard@gmail.com>; Robin Vercrease <robin@lcfcoalition.com>; Thomas Hnasko <thnasko@hinklelawfirm.com>; jed.smith@riovalleybiofuels.com

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**Subject:** Re: CTFP Discussion Sessions - Save the Date

Kelsea E. Sona  
Attorney Representing the New Mexico  
Environment Department  
Mikayla Standefer-Skinner, Consultant  
cc- Zachary Ogaz, General Counsel,  
New Mexico Environment Department

Re: CTFP Discussion Sessions on Thursday, October 30, 2025, and Friday, October 31, 2025.

Good Afternoon Ms. Sona and Ms. Standefer-Skinner,

It is my intent to participate in the sessions being conducted by Adelante Consulting and being organized by Mikayla Standefer-Skinner on Thursday, October 30, 2025, and Friday, October 31, 2025, as described in the email thread below.

While I will generally be observing, I anticipate I might speak to:

- the Ground Rules (Day 1), and
- the topic identified as Enforcement (Day 2),

although I reserve my right to weigh in with questions on other matters described on the Draft Agenda emailed to me and others from Ms. Sona on Friday, October 24, 2025.

I want to be perfectly clear, I do NOT accept the confidentiality restrictions, described by Ms. Sona in the same email, as a condition of participation, as I believe them to be a violation of, among other things, my First Amendment rights, and those of any participant in this proceeding.

I support the effort to try to reach some agreements or at least narrow items of dispute, however this is a rulemaking undertaking by a state government board and organized by a state agency and its contracted attorneys and consultants, both of which are public entities.

This is not a matter regarding a dispute between private interests/parties.

Therefore, secrecy has no place in the process

If it is your intent to exclude me from participating in the meetings because I will not accept

the conditions of confidentiality described in Ms. Sona's email, I formally request to be informed of that before the meeting tomorrow morning so that I may begin pursuit of legal remedies available to me.

Thanks for the work you do for the people of New Mexico.

Sincerely,

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**Subject:** RE: CTFP Discussion Sessions - Save the Date

Good afternoon,

As previously shared, the New Mexico Environment Department is hosting two virtual discussion sessions for parties to the Clean Transportation Fuels Rulemaking in advance of the filing deadline for rebuttal testimony and exhibits.

Attached for your consideration to review in advance of the discussion sessions, please see attached a draft redline of the rule. Below is a list of the topics that NMED plans to cover in the discussion sessions and the order in which they will tentatively be raised. Please keep planned statements brief to allow for more facilitated open discussion time.

### **Draft Agenda**

#### **Day 1**

1. Welcome, Introductions, Ground Rules
2. Extended Compliance Period
3. Project Approval & Crediting
4. Book and Claim
5. Avoided Emissions

#### **Day 2**

6. Authority to Defer
7. Registration Fees
8. Periodic Review & Advisory Committee
9. Enforcement
10. Appeals
11. Other Updates

Adelante Consulting is assisting NMED with organizing the discussions sessions. To help them with planning, by **4 p.m. on Wednesday, October 29th**, please respond to Mikayla Standefer-Skinner ([mstandefer-skinner@adelanteconsulting.com](mailto:mstandefer-skinner@adelanteconsulting.com)) with the following:

- Your plans for attending;

- Which topics you client would like to speak to; *and*
- Your client's spokesperson for each respective topic they would like to speak to.

As a reminder, the Environmental Improvement Board has indicated an interest in parties reaching alignment where possible. The purpose of the discussion sessions is to facilitate reaching that alignment. Again, NMED intends for the discussion sessions to proceed with a confidential mindset to facilitate communication and find understanding between and among parties, such that only the outcomes are shared and not the back-and-forth exchanges.

**Below is the meeting link for Thursday, October 30th at 8:30 AM - 12:30 p.m.:**

NMED Discussion Session - Day 1

Time zone: America/Denver

Google Meet joining info

Video call link: <https://meet.google.com/mfv-ezya-rus>

Or dial: (US) +1 530-777-5283 PIN: 142 831 321#

More phone numbers: <https://tel.meet/mfv-ezya-rus?pin=8426388156823>

**Below is the meeting link for Friday, October 31st at 8:30 AM - 12:30 p.m.:**

NMED Discussion Session - Day 2

Time zone: America/Denver

Google Meet joining info

Video call link: <https://meet.google.com/hxa-kium-ems>

Or dial: (US) +1 413-728-2265 PIN: 814 779 586#

More phone numbers: <https://tel.meet/hxa-kium-ems?pin=3437990253942>

**Participation Guidelines:**

1. Please come prepared with concerns about specific language in the draft redline of the rule and tied to the topics identified. NMED will request that each party

identify a spokesperson for each topic to ensure all parties who wish to share will have time and the information exchange does not digress into differing/multiple perspectives among a party's own experts.

2. Parties may invite any persons necessary to listen to the discussions or to provide information on the party's position about a topic, with the understanding stated in point 1 above.
3. Counsel for the parties are welcome to attend but NMED intends for the discussions to be between the subject-matter experts and will not invite discussion from counsel.
4. NMED will conform the discussion session to the confidentiality considerations set forth below to facilitate frank conversation.
5. Adelante Consulting and NMED's counsel will manage the process to ensure that all parties interested have a chance to be heard and that the discussion stays focused on problem-solving.

#### Confidentiality Considerations:

NMED intends for the discussion sessions to proceed with a confidential mindset to facilitate communication and find understanding between and among parties, such that only the outcomes are shared and not the back-and-forth exchanges. The approach respects the parameters set forth in Rule 11-408 of the New Mexico Rules of Evidence.

Any person who does not agree to be bound by the confidential approach to the discussion sessions is asked to not attend, as their participation may create fear that the discussions could later be used against a party.

The only information NMED intends to provide the Board regarding the discussion sessions is as follows:

- The fact that the meeting occurred and when
- The attendance list
- Copies of the invitation (such as this email)
- The topics identified by NMED to guide the discussion
- NMED's draft redline of the rule used for the discussion
- Issues that remain unresolved after the discussion session; Issues there were resolved through the discussions

NMED requests the same courtesy of information sharing limits from those attending the discussion sessions.

Thank you for your time and attention to this matter. Please contact me should you have any questions or concerns.

Kelsea E. Sona

*Associate Attorney*

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**From:** Kelsea Sona

**Sent:** Thursday, October 9, 2025 8:20 AM

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**Subject:** CTFP Discussion Sessions - Save the Date

Good morning,

The New Mexico Environment Department will be hosting two virtual discussion sessions for parties to the Clean Transportation Fuels Rulemaking in advance of the filing deadline for rebuttal testimony and exhibits. The Environmental Improvement Board has indicated an interest in parties reaching alignment where possible. The purpose of the discussion sessions is to facilitate reaching that alignment.

Please save the date/times and inform your clients. More information will be forthcoming. Topics and a draft redline of the rule will be provided by NMED in advance of the meetings. NMED anticipates this will be ready to share by October 24.

**October 30th from 8:30am to 12:30pm**

Discussion of Topics and Redline Text

**October 31st from 8:30am to 12:30pm**

Discussion of Topics and Redline Text

Follow-Up from October 30th Discussions

### Participation Guidelines:

1. Please come prepared with concerns about specific language in the draft redline of the rule and tied to the topics identified. NMED will request that each party identify a spokesperson for each topic to ensure all parties who wish to share will have time and the information exchange does not digress into differing/multiple perspectives among a party's own experts.
2. Parties may invite any persons necessary to listen to the discussions or to provide information on the party's position about a topic, with the understanding stated in point 1 above.
3. Counsel for the parties are welcome to attend but NMED intends for the discussions to be between the subject-matter experts and will not invite discussion from counsel.
4. NMED will conform the discussion session to the confidentiality considerations set forth below to facilitate frank conversation.
5. NMED's counsel will manage the process to ensure that all parties interested have a chance to be heard and that the discussion stays focused on problem-solving.

### Confidentiality Considerations:

NMED intends for the discussion sessions to proceed with a confidential mindset to facilitate communication and find understanding between and among parties, such that only the outcomes are shared and not the back-and-forth exchanges. The approach respects the parameters set forth in Rule 11-408 of the New Mexico Rules of Evidence.

Any person who does not agree to be bound by the confidential approach to the discussion sessions is asked to not attend, as their participation may create fear that the discussions could later be used against a party.

The only information NMED intends to provide the Board regarding the discussion sessions is as follows:

- The fact that the meeting occurred and when
- The attendance list

- Copies of the invitation (such as this email)
- The topics identified by NMED to guide the discussion
- NMED's draft redline of the rule used for the discussion
- Issues that remain unresolved after the discussion session; Issues there were resolved through the discussions

NMED requests the same courtesy of information sharing limits from those attending the discussion sessions.

Thank you for your time and attention to this matter. Please contact me should you have any questions or concerns.

Kelsea E. Sona

*Associate Attorney*

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