

Alert | Energy & Natural Resources



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Mexican Official Standard NOM-017-CRE-2019: Clean Energy Measurement and Compliance Assessment

On March 19, 2020, the Energy Regulatory Commission (*Comisión Reguladora de Energía*, “CRE”) published Mexican Official Standard (*Norma Oficial Mexicana*) NOM-107-CRE-2019, Methods for measuring variables to calculate the percentage of clean energy and compliance assessment procedure (the “NOM”).

A. Background

In order to understand the NOM’s content, below are the reasons that led to its creation:

1. On March 30, 2016, the general administrative provisions for the operation of the Management System for Certificates and Compliance with Clean Energy Obligations (*Disposiciones administrativas de carácter general para el funcionamiento del Sistema de Gestión de Certificados y Cumplimiento de Obligaciones de Energías Limpias*) (the “CEL System Provisions”) were published in the Federal Official Gazette (“DOF”), with the purpose of regulating the management system for issuing clean energy certificates, related compliance obligations, and establishing the administrative procedure whereby Clean Energy Certificates (the “CEL”) are granted.

2. The Second Transitory Article of the CEL System Provisions set forth that until the relevant provisions were issued, receipt of a CEL for calculating clean energy percentage would need to be confirmed by a unit accredited by the CRE. Issuance of the CEL would also require compliance with the administrative provisions for measurement of variables.
3. Given #2 above, on December 22, 2016, the general administrative provisions that contain the efficiency criteria and establish the calculation methodology to determine the percentage of fuel-free energy in energy sources and electricity generation processes (*Disposiciones administrativas de carácter general que contienen los criterios de eficiencia y establecen la metodología de cálculo para determinar el porcentaje de energía libre de combustible en fuentes de energía y procesos de generación de energía eléctrica*) were published in the DOF (the “Efficiency and ELC Provisions”). Item 1.2 of the Efficiency and ELC Provisions sets forth the following five cases in which the percentage of fuel-free energy will be calculated:
 - power plants with efficient cogeneration processes;
 - clean power plants that use fossil fuels;
 - low emissions technologies and thermal power plants with carbon dioxide geologic storage or sequestration processes;
 - hydrogen exploitation, and
 - hydroelectric power plants.
4. Although the Efficiency and ELC Provisions set forth, among other things, the calculation methodology to obtain fuel-free energy from the five aforementioned cases, the CRE deemed it necessary to establish, through the NOM, the minimum measurement requirements and methods to obtain the values of the required variables.

In this respect, and in accordance with Article 12, Section XX of the Electrical Industry Law (*Ley de la Industria Eléctrica*), the NOM was issued by the CRE, which is the agency entrusted to establish the standards, directives, methodologies and other administrative provisions that regulate and promote the generation of electricity from clean energy sources.

B. Purpose.

The NOM establishes the measurement requirements and methodologies that must be used in power plants to obtain the values of variables for determining fuel-free energy, for such energy to be deemed clean energy, and for the related compliance assessment.

To receive a CEL, compliance with the Efficiency and ELC Provisions and the NOM must be shown. Pursuant to item 1.2 of the Efficiency and ELC Provisions, there are five cases, listed above, in which the percentage of fuel-free energy will be calculated.

C. Scope of Application

The NOM applies to power plants that must obtain the values of the variables used to determine whether energy generated using any of the five above-listed processes is fuel-free energy.

It is important to mention that the NOM is not applicable to power plants that have a cogeneration permit and are not accredited as efficient generation plants under the terms of the Electricity Public Service Law (*Ley del Servicio Público de Energía Eléctrica*), provided their interconnection agreements are effective.

D. Measurement Methods

The NOM provides that the applicable measurement methods to comply may be those determined in the regulations, standards or codes from internationally renowned bodies in accordance with the list of international standardization bodies that the Ministry of the Economy (*Secretaría de Economía*) publishes for such purpose, or those applicable to common use within the national industry sector. For this purpose, the NOM establishes the measurement specifications for the flow metering systems with respect to both gas and liquid fuels.

E. Compliance Assessment

The NOM establishes the guidelines for power plants using the above-referenced generation processes for the compliance assessment procedure.

Power plants that wish to be assessed by the NOM must declare the case or process under which the power plant operates and submit the following documents:

- description of the power plant;
- type of fuel used;
- technical information that shows full compliance with the measurement requirements;
- clean energy generation process flow diagrams, and
- effective calibration certificates of the metering equipment installed in the power plant, issued by a calibration laboratory.

Subsequently, a verification unit accredited and approved by the CRE (the “Unit”) must analyze all documentary information mentioned above to certify whether the information is complete and useful. Once the Unit verifies the information, an onsite inspection date will be scheduled jointly with the power plant’s legal representative and responsible technical person(s).

The Unit must consist of a natural or legal person, duly accredited under the terms of the Federal Law on Metrology and Standardization (*Ley Federal sobre Metrología y Normalización*), and approved by the CRE to carry out the verification of compliance with the NOM.

During the verification, the Unit must document the findings, to define whether the power plant complies with the requirements set forth in the NOM, including a review of the facilities’ instrumentation, and conduct the visual and documentary inspection on the instruments for measuring flow, temperature, pressure, among other variables.

The Unit must prepare an inspection report to determine whether the metering processes of the relevant power plant comply with the requirements set forth in the NOM.

Inspections must be made on an annual basis, starting on the date when the last one was carried out. Furthermore, the CRE may, with reason, order special inspection visits to supervise and oversee compliance with the NOM’s requirements.

F. Oversight Authority of the CRE.

The CRE may at any time require the power plant to provide metering results from relevant devices, and order special inspections.

This GT Alert is limited to non-U.S. matters and law.

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