

1 HOUSE BILL 426

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 Kristina Ortez and Mimi Stewart and Christine Chandler

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10 AN ACT

11 RELATING TO THE ENVIRONMENT; AUTHORIZING THE ENVIRONMENTAL
12 IMPROVEMENT BOARD TO ADOPT RULES TO ESTABLISH AND ASSESS FEES
13 FOR A CLEAN TRANSPORTATION FUELS STANDARD.

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. Section 74-1-3 NMSA 1978 (being Laws 1971,
17 Chapter 277, Section 3, as amended) is amended to read:

18 "74-1-3. DEFINITIONS.--As used in the Environmental
19 Improvement Act:

20 A. "board" means the environmental improvement
21 board;

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

25 [B.] C. "department" or "environmental improvement

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1 department" means the department of environment;

2 D. "disproportionately impacted communities" means
3 a community or populations of people for which multiple
4 burdens, including environmental and socioeconomic stressors,
5 inequity, poverty, high unemployment, pollution or
6 discrimination, may act to persistently and negatively affect
7 the health, well-being and environment of the community or
8 population and includes tribal communities, communities of
9 color, low-income rural communities, native people, people of
10 color, women, immigrants, youth, formerly incarcerated people,
11 lesbian, gay, bisexual, transgender and queer people and people
12 with disabilities;

13 E. "fuel lifecycle" means an assessment of the
14 aggregate of greenhouse gas emissions, including direct
15 anthropogenic emissions and significant indirect emissions,
16 such as significant indirect emissions from land use changes as
17 determined by the department, for all stages of fuel and
18 feedstock production and distribution, from feedstock
19 generation or extraction through the distribution and delivery
20 and use of the finished fuel by the ultimate consumer
21 considering location-specific fuel characteristics, fuel
22 production, storage, transportation, combustion and associated
23 changes in land use;

24 ~~[G.]~~ F. "on-site liquid waste system" means a
25 liquid waste system, or part thereof, serving a dwelling,

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1 establishment or group, and using a liquid waste treatment unit
2 designed to receive liquid waste followed by either a soil
3 treatment or other type of disposal system. "On-site liquid
4 waste system" includes holding tanks and privies but does not
5 include systems or facilities designed to receive or treat mine
6 or mill tailings or wastes;

7 ~~[D.]~~ G. "person" means the state or any agency,
8 institution or political subdivision thereof, any public or
9 private corporation, individual, partnership, association or
10 other entity and includes any officer or governing or managing
11 body of any political subdivision or public or private
12 corporation;

13 ~~[E.]~~ H. "residential on-site liquid waste system"
14 means an on-site liquid waste system serving up to four
15 dwelling units; and

16 ~~[F.]~~ I. "secretary" means the secretary of
17 environment."

18 SECTION 2. Section 74-1-7 NMSA 1978 (being Laws 1971,
19 Chapter 277, Section 10, as amended by Laws 2000, Chapter 86,
20 Section 1 and also by Laws 2000, Chapter 96, Section 1) is
21 amended to read:

22 "74-1-7. DEPARTMENT--DUTIES.--

23 A. The department is responsible for environmental
24 management and consumer protection programs. In that respect,
25 the department shall maintain, develop and enforce rules and

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1 standards in the following areas:

2 (1) food protection;

3 (2) water supply, including implementing a
4 capacity development program to assist water systems in
5 acquiring and maintaining technical, managerial and financial
6 capacity in accordance with Section 1420 of the federal Safe
7 Drinking Water Act of 1974 and establishing administrative
8 penalties for enforcement;

9 (3) liquid waste, including exclusive
10 authority to collect on-site liquid waste system fees that are
11 no more than the average charged by the contiguous states to
12 New Mexico for similar permits and services and to implement
13 and administer an inspection and permitting program for on-site
14 liquid waste systems;

15 (4) air quality management as provided in the
16 Air Quality Control Act;

17 (5) radiation control and collection of
18 license, registration and other related fees as provided in the
19 Radiation Protection Act;

20 (6) noise control;

21 (7) nuisance abatement;

22 (8) vector control;

23 (9) occupational health and safety as provided
24 in the Occupational Health and Safety Act;

25 (10) sanitation of public swimming pools and

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1 public baths;

2 (11) plumbing, drainage, ventilation and
3 sanitation of public buildings in the interest of public
4 health;

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

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

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

13 (15) carbon intensity of transportation fuels
14 as provided in the Environmental Improvement Act.

15 B. Nothing in Subsection A of this section imposes
16 requirements for the approval of subdivision plats in addition
17 to those required elsewhere by law. Nothing in Subsection A of
18 this section preempts the authority of any political
19 subdivision to approve subdivision plats."

20 SECTION 3. Section 74-1-8 NMSA 1978 (being Laws 1971,
21 Chapter 277, Section 11, as amended) is amended to read:

22 "74-1-8. BOARD--DUTIES.--

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

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1 (1) food protection;

2 (2) water supply, including a capacity
3 development program to assist water systems in acquiring and
4 maintaining technical, managerial and financial capacity in
5 accordance with Section 1420 of the federal Safe Drinking Water
6 Act of 1974 and rules authorizing imposition of administrative
7 penalties for enforcement;

8 (3) liquid waste, including exclusive
9 authority to establish on-site liquid waste system fees that
10 are no more than the average charged by the contiguous states
11 to New Mexico for similar permits and services and to implement
12 and administer an inspection and permitting program for on-site
13 liquid waste systems;

14 (4) air quality management as provided in the
15 Air Quality Control Act;

16 (5) radiation control and establishment of
17 license and registration and other related fees not to exceed
18 fees charged by the United States nuclear regulatory commission
19 for similar licenses as provided in the Radiation Protection
20 Act;

21 (6) noise control;

22 (7) nuisance abatement;

23 (8) vector control;

24 (9) occupational health and safety as provided
25 in the Occupational Health and Safety Act;

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1 (10) sanitation of public swimming pools and
2 public baths;

3 (11) plumbing, drainage, ventilation and
4 sanitation of public buildings in the interest of public
5 health;

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

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

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

14 (15) carbon intensity of transportation fuels;
15 provided that, prior to the board issuing a draft rule, the
16 secretary shall convene an advisory committee composed of
17 stakeholders from disproportionately impacted communities,
18 industry sectors, government, Indian nations, tribes and
19 pueblos, environmental groups and other individuals with
20 relevant expertise to provide input to the secretary and
21 department on program design; and provided further that the
22 rules:

23 (a) establish a statewide technology-
24 neutral clean transportation fuel standard;

25 (b) apply the clean transportation fuel

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1 standard to account for the fuel lifecycle and reduce the
2 carbon intensity of transportation fuels used in the state by
3 at least twenty percent below 2018 levels by 2030 and at least
4 thirty percent below 2018 levels by 2040;

5 (c) allow for the trading of credits
6 among regulated entities and producers, suppliers and other
7 entities that enable the use of low-carbon-intensity
8 transportation fuels and may include mechanisms to monitor and
9 stabilize the credit market, enforce compliance and limit costs
10 to consumers;

11 (d) take into consideration equivalent
12 rules and standards adopted by other jurisdictions and, as
13 appropriate, coordinate with other jurisdictions to promote
14 regional reductions in greenhouse gas emissions;

15 (e) require investor-owned electric
16 utilities and other participating electric utilities to invest
17 all net credit revenue in transportation electrification
18 infrastructure and projects, with at least fifty percent of
19 that revenue to be invested in transportation electrification
20 that primarily benefits disproportionately impacted
21 communities;

22 (f) consider adoption of one or more
23 additional mechanisms that will reduce air pollution from high-
24 carbon fuels in disproportionately impacted communities,
25 including providing for third-party, nonprofit credit

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1 aggregators that use proceeds of otherwise unclaimed credits
2 for reduction of air contaminant emissions and increases in
3 vehicle electrification in disproportionately impacted
4 communities;

5 (g) not discriminate against fuels
6 solely on the basis of having originated in another state or
7 jurisdiction; and

8 (h) establish permits and fees for
9 regulated entities or credit generators, including fees
10 assessed on credit transactions, to cover and pay for the costs
11 of the department's administration and enforcement of the
12 program; provided that any fees for the permits are deposited
13 in the state air quality permit fund.

14 B. Nothing in Subsection A of this section imposes
15 requirements for the approval of subdivision plats in addition
16 to those required elsewhere by law. Nothing in Subsection A of
17 this section preempts the authority of any political
18 subdivision to approve subdivision plats.

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

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

24 E. Radiation license and registration and other
25 related fees shall be deposited in the radiation protection

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