

1 SENATE BILL 193

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

3 INTRODUCED BY

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9  
10 AN ACT

11 RELATING TO THE ENVIRONMENT; AMENDING SECTIONS OF THE WATER  
12 QUALITY ACT TO CHANGE THE NUMBER OF WATER QUALITY CONTROL  
13 COMMISSIONERS, REMOVE SOME CONSTITUENT AGENCIES AND EXTEND THE  
14 LIFE OF THE COMMISSION.

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

17 SECTION 1. Section 74-6-2 NMSA 1978 (being Laws 1967,  
18 Chapter 190, Section 2, as amended) is amended to read:

19 "74-6-2. DEFINITIONS.--As used in the Water Quality Act:

20 A. "gray water" means untreated household  
21 wastewater that has not come in contact with toilet waste and  
22 includes wastewater from bathtubs, showers, washbasins, clothes  
23 washing machines and laundry tubs, but does not include  
24 wastewater from kitchen sinks or dishwashers or laundry water  
25 from the washing of material soiled with human excreta, such as

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1       diapers;

2                   B. "water contaminant" means any substance that  
3       could alter, if discharged or spilled, the physical, chemical,  
4       biological or radiological qualities of water. "Water  
5       contaminant" does not mean source, special nuclear or by-  
6       product material as defined by the federal Atomic Energy Act of  
7       1954;

8                   C. "water pollution" means introducing or  
9       permitting the introduction into water, either directly or  
10      indirectly, of one or more water contaminants in such quantity  
11      and of such duration as may with reasonable probability injure  
12      human health, animal or plant life or property, or to  
13      unreasonably interfere with the public welfare or the use of  
14      property;

15                  D. "wastes" means sewage, industrial wastes or any  
16      other liquid, gaseous or solid substance that may pollute any  
17      waters of the state;

18                  E. "sewer system" means pipelines, conduits,  
19      pumping stations, force mains or any other structures, devices,  
20      appurtenances or facilities used for collecting or conducting  
21      wastes to an ultimate point for treatment or disposal;

22                  F. "treatment works" means any plant or other works  
23      used for the purpose of treating, stabilizing or holding  
24      wastes;

25                  G. "sewerage system" means a system for disposing

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1 of wastes, either by surface or underground methods, and  
2 includes sewer systems, treatment works, disposal wells and  
3 other systems;

4 H. "water" means all water, including water  
5 situated wholly or partly within or bordering upon the state,  
6 whether surface or subsurface, public or private, except  
7 private waters that do not combine with other surface or  
8 subsurface water;

9 I. "person" means an individual or any other  
10 entity, including partnerships, corporations, associations,  
11 responsible business or association agents or officers, the  
12 state or a political subdivision of the state or any agency,  
13 department or instrumentality of the United States and any of  
14 its officers, agents or employees;

15 J. "commission" means the water quality control  
16 commission;

17 K. "constituent agency" means, as the context may  
18 require, any or all of the following agencies of the state:

19 (1) the department of environment;

20 (2) the state engineer and the interstate  
21 stream commission;

22 [~~(3) the department of game and fish;~~

23 ~~(4) the oil conservation commission;~~

24 ~~(5) the state parks division of]~~

25 (3) the energy, minerals and natural resources

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1 department;

2 [~~(6)~~] (4) the New Mexico department of  
3 agriculture; and

4 [~~(7)~~] (5) the soil and water conservation  
5 commission; [~~and~~

6 ~~(8) the bureau of geology and mineral~~  
7 ~~resources at the New Mexico institute of mining and~~  
8 ~~technology;]~~

9 L. "new source" means:

10 (1) any source, the construction of which is  
11 commenced after the publication of proposed regulations  
12 prescribing a standard of performance applicable to the source;  
13 or

14 (2) any existing source when modified to treat  
15 substantial additional volumes or when there is a substantial  
16 change in the character of water contaminants treated;

17 M. "source" means a building, structure, facility  
18 or installation from which there is or may be a discharge of  
19 water contaminants directly or indirectly into water;

20 N. "septage" means the residual wastes and water  
21 periodically pumped from a liquid waste treatment unit or from  
22 a holding tank for maintenance or disposal purposes;

23 O. "sludge" means solid, semi-solid or liquid waste  
24 generated from a municipal, commercial or industrial wastewater  
25 treatment plant, water supply treatment plant or air pollution

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1 control facility that is associated with the treatment of these  
2 wastes. "Sludge" does not mean treated effluent from a  
3 wastewater treatment plant;

4 P. "substantial adverse environmental impact" means  
5 that an act or omission of the violator causes harm or damage:

6 (1) to human beings; or

7 (2) that amounts to more than ten thousand  
8 dollars (\$10,000) damage or mitigation costs to flora,  
9 including agriculture crops; fish or other aquatic life;  
10 waterfowl or other birds; livestock or wildlife or damage to  
11 their habitats; ground water or surface water; or the lands of  
12 the state;

13 Q. "federal act" means the Federal Water Pollution  
14 Control Act, its subsequent amendment and successor provisions;  
15 and

16 R. "standards of performance" means any standard,  
17 effluent limitation or effluent standard adopted pursuant to  
18 the federal act or the Water Quality Act."

19 SECTION 2. Section 74-6-3 NMSA 1978 (being Laws 1967,  
20 Chapter 190, Section 3, as amended) is amended to read:

21 "74-6-3. WATER QUALITY CONTROL COMMISSION CREATED.--

22 A. There is created the "water quality control  
23 commission" consisting of:

24 (1) the secretary of environment or a member  
25 of the secretary's staff designated by the secretary;

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1                   ~~[(2) the secretary of health or a member of~~  
2 ~~the secretary's staff designated by the secretary;~~

3                   ~~(3) the director of the department of game and~~  
4 ~~fish or a member of the director's staff designated by the~~  
5 ~~director;~~

6                   ~~(4)]~~ (2) the state engineer or a member of the  
7 state engineer's staff designated by the state engineer;

8                   ~~[(5) the chair of the oil conservation~~  
9 ~~commission or a member of the chair's staff designated by the~~  
10 ~~chair;~~

11                   ~~(6) the director of the state parks division~~  
12 ~~of the energy, minerals and natural resources department or a~~  
13 ~~member of the director's staff designated by the director;~~

14                   ~~(7)]~~ (3) the secretary of energy, minerals and  
15 natural resources or a member of the secretary's staff  
16 designated by the secretary;

17                   (4) the director of the New Mexico department  
18 of agriculture or a member of the director's staff designated  
19 by the director;

20                   ~~[(8)]~~ (5) the chair of the soil and water  
21 conservation commission or a soil and water conservation  
22 district supervisor designated by the chair;

23                   ~~[(9) the director of the bureau of geology and~~  
24 ~~mineral resources at the New Mexico institute of mining and~~  
25 ~~technology or a member of the director's staff designated by~~

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1 ~~the director;~~

2 ~~(10)]~~ (6) a municipal or county government  
3 representative; and

4 ~~[(11)—four]~~ (7) three representatives of the  
5 public to be appointed by the governor for terms of four years  
6 and who shall be compensated from the budgeted funds of the  
7 department of environment in accordance with the provisions of  
8 the Per Diem and Mileage Act. At least one member appointed by  
9 the governor shall be a member of a New Mexico Indian tribe or  
10 pueblo.

11 B. A member of the commission shall not receive, or  
12 shall not have received during the previous two years, a  
13 significant portion of the member's income directly or  
14 indirectly from permit holders or applicants for a permit. A  
15 member of the commission shall, upon the acceptance of the  
16 member's appointment and prior to the performance of any of the  
17 member's duties, file a statement of disclosure with the  
18 secretary of state disclosing any amount of money or other  
19 valuable consideration, and its source, the value of which is  
20 in excess of ten percent of the member's gross personal income  
21 in each of the preceding two years, that the member received  
22 directly or indirectly from permit holders or applicants for  
23 permits required under the Water Quality Act. A member of the  
24 commission shall not participate in the consideration of an  
25 appeal if the subject of the appeal is an application filed or

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1 a permit held by an entity that either employs the commission  
2 member or from which the commission member received more than  
3 ten percent of the member's gross personal income in either of  
4 the preceding two years.

5 C. The commission shall elect a chair and other  
6 necessary officers and shall keep a record of its proceedings.

7 D. A majority of the commission constitutes a  
8 quorum for the transaction of business, but no action of the  
9 commission is valid unless concurred in by [~~six or more~~] a  
10 majority of the members present at a meeting.

11 E. The commission is the state water pollution  
12 control agency for this state for all purposes of the federal  
13 act and the wellhead protection and sole source aquifer  
14 programs of the federal Safe Drinking Water Act of 1974 and may  
15 take all action necessary and appropriate to secure to this  
16 state, its political subdivisions or interstate agencies the  
17 benefits of that act and those programs.

18 F. The commission is administratively attached, as  
19 defined in the Executive Reorganization Act, to the department  
20 of environment."

21 SECTION 3. Section 74-6-17 NMSA 1978 (being Laws 1987,  
22 Chapter 333, Section 15, as amended) is amended to read:

23 "74-6-17. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--  
24 The water quality control commission is terminated on July 1,  
25 [~~2013~~] 2019 pursuant to the Sunset Act. The commission shall

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1 continue to operate according to the provisions of Chapter 74,  
2 Article 6 NMSA 1978 until July 1, ~~[2014]~~ 2020. Effective July  
3 1, ~~[2014]~~ 2020, Sections 74-6-3 ~~[and]~~ through 74-6-4 NMSA 1978  
4 are repealed."