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HOUSE BILL 99

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Joseph Cervantes

AN ACT

RELATING TO AGRICULTURE; PROVIDING ENFORCEMENT POWERS TO THE  
DIRECTOR OF THE NEW MEXICO DEPARTMENT OF AGRICULTURE; PROVIDING  
A PENALTY.

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

Section 1. A new section of Chapter 76, Article 1 NMSA  
1978 is enacted to read:

"NEW MATERIAL POWERS-- ENFORCEMENT-- COMPLIANCE ORDERS--  
PENALTY. --

A. If the director determines that a person has  
violated or is violating a statute of the New Mexico department  
of agriculture, a regulation adopted pursuant to a statute or a  
condition of a permit, license, registration or certification  
issued under a statute, the director may:

- (1) issue a compliance order stating with

1 reasonable specificity the nature of the violation and  
2 requiring compliance immediately or within a specified time  
3 period;

4 (2) assess a civil penalty for a violation,  
5 not to exceed three thousand dollars (\$3,000) per violation; or

6 (3) commence a civil action in district court  
7 for appropriate relief, including a temporary or permanent  
8 injunction.

9 B. An order issued by the director pursuant to this  
10 section may include a suspension or revocation of a permit,  
11 license, registration or certification, or a portion thereof.

12 C. An order issued pursuant to this section shall  
13 become final unless, no later than thirty days after the order  
14 is served, the person named in the order submits a written  
15 request to the director for a hearing. Upon the request, the  
16 director shall conduct a hearing within sixty days of the  
17 request. The director shall appoint an independent hearing  
18 officer to preside over the hearing. The hearing officer shall  
19 make and preserve a complete record of the proceedings and  
20 forward his recommendation to the director, who shall make the  
21 final decision within thirty days of the hearing. The director  
22 may request the attendance and testimony of witnesses and the  
23 production of relevant papers, books and documents and may  
24 adopt rules for discovery procedures.

25 D. Penalties collected pursuant to an

underscored material = new  
[bracketed material] = delete

1 administrative order in excess of the cost of recovery and  
2 remedy shall be deposited in the general fund."

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