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FISCAL IMPACT REPORT

ORIGINAL DATE 3-01-07

SPONSOR Cravens LAST UPDATED _____ HB _____

SHORT TITLE Protest Federal Arsenic Standards SM 24

ANALYST Aubel

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
NFI			

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB 677, SB 710
 Duplicates HM 24

SOURCES OF INFORMATION

LFC Files

Responses Received From

- Department of Health (DOH)
- New Mexico Environment Department (NMED)
- Energy, Minerals and Natural Resources Department (EMNRD)
- New Mexico Municipal League (NMML)

SUMMARY

Synopsis of Bill

Senate Memorial 24 requests that the Governor and the Environment Department request U.S. Congress and the President to rescind the decision by the Environmental Protection Agency (EPA) to lower the arsenic standard for drinking water.

FISCAL IMPLICATIONS

NFI

SIGNIFICANT ISSUES

The question raised in SM 24 is whether as a policy matter the State should request the EPA rescind the arsenic standard. The two primary issues involve the risk arsenic poses to public health and the cost of implementing the new standard.

On June 22, 2000, EPA proposed a new drinking water standard of 5 parts per billion (ppb) for arsenic and requested comment on options of 3 ppb, 10 ppb, and 20 ppb. EPA evaluated over 6,500 pages of comments from 1,100 responders. Under the Safe Drinking Water Act Amendments of 1996, EPA issued the rule on January 22, 2001 that set the standard at 10 ppb. The rule gave water systems five years (until January 23, 2006) to come into compliance with the new standard for arsenic. According to DOH, in New Mexico in 2004, an estimated 100 public water supply systems in the state, representing a service population approximating 756 thousand (40 percent of the state population) were affected by the 2001 standard.

NMED notes that numerous public drinking water systems in New Mexico have already begun or completed construction of treatment to comply with the lower Maximum Contaminant Load (MCL), including Albuquerque, the City of Santa Fe, Columbus, Espanola, La Union MDWCA, Los Lunas, and Rio Rancho. According to NMED, about 24 municipalities have not begun the process.

The cost to implement the new standard is substantial and includes both infrastructure and operating components, which SM 24 identifies. During the 2007 Legislative Session alone, approximately \$30 million is listed in capital outlay requests for water infrastructure needs related to reducing arsenic in public systems. In addition, SB 677 is requesting \$10 million general fund annually to establish a new fund for providing grants to help communities comply with the arsenic standard.

Arsenic is an established human carcinogen that occurs naturally in drinking water in New Mexico. International studies have shown that chronic consumption of water containing arsenic in excess of 400 micrograms per liter (ug/l) is associated with increased risks of skin cancer and various internal cancers, particularly bladder and lung. The 2001 EPA reduction from 50 to 10 ppm was based on low-dose extrapolation of the international data and risk assessment modeling indicating excess cancer risks below the 50 ppm level.

The impact of lower levels of arsenic on public health is an issue that has no clear consensus. However, DOH does submit that DOH and the University of New Mexico conducted a study to examine age-adjusted bladder cancer incidence rates in New Mexico in relation to drinking water arsenic levels, as follows:

Information on bladder cancer newly diagnosed among New Mexico residents between 1988 and 2002 was obtained from the state cancer registry and linked at the census tract level with drinking water arsenic regulatory compliance data using a geographic information system (GIS). A positive significant association was observed between arsenic in drinking water and the age-adjusted incidence of bladder transitional cell carcinoma in the White population of New Mexico, but not the Hispanic population. Among Whites, bladder cancer incidence in areas above the arsenic MCL was statistically-elevated by 16% over that in areas below the MCL. Excess incidence in areas with drinking water estimated to contain more than 20.0 micrograms per liter (ug/l) arsenic was roughly twice that of areas with between 10.1 and 20.0 ug/l arsenic. The risk

estimates remained largely unchanged when analyzed across various potential confounders, including area education and poverty measures, population density, nativity, residential mobility, and tumor stage at diagnosis and sequence.

Additional health effects, such as learning disabilities, depression, and increased cardiovascular problems (high blood pressure and chronic heart disease), have been recently reported in the literature associated with arsenic at low levels in drinking water, including those levels between 10 ug/l and 50 ug/l.

ADMINISTRATIVE IMPLICATIONS

NMED states that if NMED did not comply with the federal arsenic standard, its primacy under the federal Safe Drinking Water Act would be put at risk, thereby jeopardizing federal grants of over \$1.0 million to assist public water systems.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to SB 677, which would establish a fund to place grants in communities to upgrade public water systems to meet the new EPA arsenic standard.

Duplicates HM 24.

OTHER SUBSTANTIVE ISSUES

EMNRD points to a related issue: in areas where there is significant arsenic in the soils, oil field workers are subject to higher exposure levels; however this issue is not addressed by either SM 24 or by the more stringent EPA arsenic level standards in drinking water.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

No request will be made to the President or the U.S. Congress for the EPA to rescind the lower arsenic standard.

POSSIBLE QUESTIONS

1. How can New Mexico address the underlying policy issue of federal requirements placed on the state without substantive or supplementary federal funding to implement the requirements?
2. How can the state encourage development of low-cost technologies for arsenic reduction in drinking water?
3. What is the status of the ARS electroflocculation and filtration pilot project for arsenic removal being tested in Bernalillo?