

SENATE CONSERVATION COMMITTEE SUBSTITUTE FOR  
SENATE BILL 1

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

AN ACT

RELATING TO THE ENVIRONMENT; PROVIDING FOR COUNTY AND MUNICIPAL  
RECYCLING PROGRAMS; RECONCILING MULTIPLE AMENDMENTS TO THE SAME  
SECTION OF LAW IN LAWS 2000; AMENDING AND ENACTING SECTIONS OF  
THE NMSA 1978; MAKING AN APPROPRIATION.

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

Section 1. [NEW MATERIAL] COUNTIES AND MUNICIPALITIES--  
RECYCLING PROGRAMS.--All counties and municipalities shall  
develop recycling programs by December 31, 2009 and implement  
them by July 1, 2010 pursuant to the Solid Waste Act and the  
environmental improvement board's rules for certification.  
Certified county and municipality recycling programs shall be  
eligible for financing from the litter control and  
beautification fund pursuant to Section 67-16-14 NMSA 1978.  
The board's rules shall provide for flexibility in

.176290.2

underscoring material = new  
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1 certification standards for compliance by counties or  
2 municipalities based on a county's or municipality's fiscal  
3 capacity and geographic location.

4 Section 2. Section 67-16-14 NMSA 1978 (being Laws 1985,  
5 Chapter 23, Section 14, as amended) is amended to read:

6 "67-16-14. LITTER CONTROL AND BEAUTIFICATION FUND--  
7 CREATED--BEAUTIFICATION FEE.--The "litter control and  
8 beautification fund" is created in the state treasury. The  
9 beautification fee of fifty cents (\$.50) per registration year  
10 imposed pursuant to Section 66-6-6.2 NMSA 1978, collected from  
11 the registration fee of vehicles registered pursuant to Section  
12 66-3-1 NMSA 1978 or the Motor Transportation Act, shall be  
13 deposited in the fund. All income earned on the fund shall be  
14 credited to the fund. Fifty percent of the fund is  
15 appropriated to the department for the purpose of carrying out  
16 the provisions of the Litter Control and Beautification Act,  
17 and fifty percent of the fund is appropriated to the department  
18 of environment to grant to counties and municipalities for  
19 their certified recycling programs based on prioritization  
20 standards adopted by the environmental improvement board. The  
21 money in the fund shall not revert at the end of any fiscal  
22 year."

23 Section 3. Section 74-1-8 NMSA 1978 (being Laws 1971,  
24 Chapter 277, Section 11, as amended by Laws 2000, Chapter 86,  
25 Section 2 and also by Laws 2000, Chapter 96, Section 2) is

.176290.2

1 amended to read:

2 "74-1-8. BOARD--DUTIES.--

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

6 (1) food protection;

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

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

19 (4) air quality management as provided in the  
20 Air Quality Control Act;

21 (5) radiation control and establishment of  
22 license and registration and other related fees not to exceed  
23 fees charged by the United States nuclear regulatory commission  
24 for similar licenses as provided in the Radiation Protection  
25 Act;

.176290.2

- 1 (6) noise control;
- 2 (7) nuisance abatement;
- 3 (8) vector control;
- 4 (9) occupational health and safety as provided
- 5 in the Occupational Health and Safety Act;
- 6 (10) sanitation of public swimming pools and
- 7 public baths;
- 8 (11) plumbing, drainage, ventilation and
- 9 sanitation of public buildings in the interest of public
- 10 health;
- 11 (12) medical radiation, health and safety
- 12 certification and standards for radiologic technologists as
- 13 provided in the Medical Radiation Health and Safety Act;
- 14 (13) hazardous wastes and underground storage
- 15 tanks as provided in the Hazardous Waste Act; and
- 16 (14) solid waste [~~as provided in~~] and
- 17 recycling programs pursuant to the Solid Waste Act.

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

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

.176290.2

1           D. On-site liquid waste system fees shall be  
2 deposited in the liquid waste fund.

3           ~~[D-]~~ E. Radiation license and registration and  
4 other related fees shall be deposited in the radiation  
5 protection fund."

6           Section 4. Section 74-9-3 NMSA 1978 (being Laws 1990,  
7 Chapter 99, Section 3) is amended to read:

8           "74-9-3. DEFINITIONS.--As used in the Solid Waste Act:

9           A. "agricultural" means all methods of production  
10 and management of livestock, crops, vegetation and soil. This  
11 includes, but is not limited to, raising, harvesting and  
12 marketing. It also includes, but is not limited to, the  
13 activities of feeding, housing and maintaining animals such as  
14 cattle, dairy cows, sheep, goats, hogs, horses and poultry;

15           B. "board" means the environmental improvement  
16 board;

17           C. "commercial hauler" means any person  
18 transporting solid waste for hire by whatever means for the  
19 purpose of disposing of the solid waste in a solid waste  
20 facility, except that the term does not include an individual  
21 transporting solid waste generated on or from ~~[his]~~ the  
22 person's residential premises for the purpose of disposing of  
23 it in a solid waste facility;

24           D. "construction and demolition debris" means  
25 materials generally considered to be not water soluble and

.176290.2

1 nonhazardous in nature, including, but not limited to, steel,  
2 glass, brick, concrete, asphalt roofing materials, pipe, gypsum  
3 wallboard and lumber from the construction or destruction of a  
4 structure as part of a construction or demolition project, and  
5 includes rocks, soil, tree remains, trees and other vegetative  
6 matter that normally results from land clearing or land  
7 development operations for a construction project, but if  
8 construction and demolition debris is mixed with any other  
9 types of solid waste, whether or not originating from the  
10 construction project, it loses its classification as  
11 construction and demolition debris;

12 E. "densified-refuse-derived fuel" means a product  
13 resulting from the processing of mixed municipal solid waste in  
14 a manner that produces a fuel suitable for combustion in  
15 existing or new solid-fuel-fired boilers;

16 F. "director" means the director of the  
17 environmental improvement division of the [~~health and~~  
18 ~~environment~~] department of environment;

19 G. "division" means the environmental improvement  
20 division of the [~~health and environment~~] department of  
21 environment;

22 H. "municipality" means any incorporated city, town  
23 or village, whether incorporated under general act, special act  
24 or special charter, incorporated counties and H class counties;

25 I. "person" means an individual or any entity,

1 including federal, state and local governmental entities,  
2 however organized;

3 J. "plan" or "state plan" means the solid waste  
4 management plan required to be developed under Section [~~4 of~~  
5 ~~the Solid Waste Act~~] 74-9-4 NMSA 1978;

6 K. "program" or "state program" means the  
7 comprehensive solid waste management program described in  
8 Section [~~12 of the Solid Waste Act~~] 74-9-12 NMSA 1978;

9 L. "recyclable materials" means materials that  
10 would otherwise become solid waste if not recycled and that can  
11 be collected, separated or processed and placed in use in the  
12 form of raw materials, products or densified-refuse-derived  
13 fuels and includes paper, metal, glass and plastics;

14 M. "recycling" means any process by which  
15 recyclable materials are collected, separated or processed and  
16 reused or returned to use in the form of raw materials or  
17 products;

18 N. "solid waste" means any garbage, refuse, sludge  
19 from a waste treatment plant, water supply treatment plant or  
20 air pollution control facility and other discarded material,  
21 including solid, liquid, semisolid or contained gaseous  
22 material resulting from industrial, commercial, mining and  
23 agricultural operations and from community activities. "Solid  
24 waste" does not include:

25 (1) drilling fluids, produced waters and other

.176290.2

1 non-domestic wastes associated with the exploration,  
2 development or production, transportation, storage, treatment  
3 or refinement of crude oil, natural gas, carbon dioxide gas or  
4 geothermal energy;

5 (2) fly ash waste, bottom ash waste, slag  
6 waste and flue gas emission control waste generated primarily  
7 from the combustion of coal or other fossil fuels and wastes  
8 produced in conjunction with the combustion of fossil fuels  
9 that are necessarily associated with the production of energy  
10 and that traditionally have been and actually are mixed with  
11 and are disposed of or treated at the same time with fly ash,  
12 bottom ash, boiler slag or flue gas emission control wastes  
13 from coal combustion;

14 (3) waste from the extraction, beneficiation  
15 and processing of ores and minerals, including phosphate rock  
16 and overburden from the mining of uranium ore, coal, copper,  
17 molybdenum and other ores and minerals;

18 (4) agricultural waste, including, but not  
19 limited to, manures and crop residues returned to the soil as  
20 fertilizer or soil conditioner;

21 (5) cement kiln dust waste;

22 (6) sand and gravel;

23 (7) solid or dissolved material in domestic  
24 sewage or solid or dissolved materials in irrigation return  
25 flows or industrial discharges that are point sources subject

.176290.2



1 to permits under Section 402 of the Federal Water Pollution  
 2 Control Act, 33 U.S.C. Section 1342 or source, special nuclear  
 3 or by-product material as defined by the Atomic Energy Act of  
 4 1954, 42 U.S.C. Section 2011 et seq.;

5 (8) densified-refuse-derived fuel; or

6 (9) any material regulated by Subtitle C of  
 7 the federal Resource Conservation and Recovery Act of 1976,  
 8 substances regulated by the federal Toxic Substances Control  
 9 Act or low-level radioactive waste;

10 O. "solid waste district" means a geographical area  
 11 designated by the board as a solid waste district under Section  
 12 [~~11 of the Solid Waste Act~~] 74-9-11 NMSA 1978;

13 P. "solid waste facility" means any public or  
 14 private system, facility, location, improvements on the land,  
 15 structures or other appurtenances or methods used for  
 16 processing, transformation, recycling or disposal of solid  
 17 waste, including landfill disposal facilities, transfer  
 18 stations, resource recovery facilities, incinerators and other  
 19 similar facilities not specified, but does not include  
 20 equipment specifically approved by order of the director to  
 21 render medical waste noninfectious or a facility [~~which~~] that  
 22 is permitted pursuant to the provisions of the Hazardous Waste  
 23 Act and does not apply to a facility fueled by a densified-  
 24 refuse-derived fuel that accepts no other solid waste;

25 Q. "source reduction" means any action that causes

.176290.2

1 a net reduction in the generation, volume or toxicity of solid  
2 waste;

3 R. "special waste" means solid waste that has  
4 unique handling, transportation or disposal requirements to  
5 assure protection of the environment and the public health and  
6 safety;

7 S. "transformation" means incineration, pyrolysis,  
8 distillation, gasification or biological conversion other than  
9 composting; and

10 T. "yard refuse" means vegetative matter resulting  
11 from landscaping, land maintenance and land clearing  
12 operations."

13 Section 5. Section 74-9-6 NMSA 1978 (being Laws 1990,  
14 Chapter 99, Section 6) is amended to read:

15 "74-9-6. ~~PLAN--REQUIRED PROVISIONS.--~~The plan shall  
16 include at least the following elements:

17 A. a waste characterization element that identifies  
18 the constituent materials, including but not limited to type,  
19 quantity and source, that compose solid waste generated or  
20 disposed of, or both, within the state;

21 B. a source reduction element that identifies  
22 types, quantities and toxicities of solid waste to be reduced,  
23 mechanisms to stimulate and enhance reduction, including the  
24 impacts on generation of solid waste of packaging, rate  
25 structures for collection and disposal economic incentives, and

.176290.2

1 a program implementation schedule to meet the goal stated in  
2 Subsection J of this section;

3 C. a recycling element that requires counties and  
4 municipalities to develop recycling programs, identifies types  
5 and quantities of recyclable materials, evaluates and  
6 quantifies current levels of recycling efforts in New Mexico,  
7 and describes, evaluates and identifies the current and future  
8 market structure for recycling, including procurement  
9 preferences for recycled materials, and a program  
10 implementation schedule to meet the goal stated in Subsection J  
11 of this section;

12 D. a composting element that identifies both the  
13 types and quantities of solid waste that are and those that  
14 could be composted, procurement preferences for composted  
15 products, a description of the methods and facilities needed to  
16 implement the composting element and a program implementation  
17 schedule to meet the goal stated in Subsection J of this  
18 section;

19 E. a solid waste facility capacity element that  
20 identifies, for each solid waste district, current landfill  
21 disposal capacity and projects the quantity of landfill  
22 disposal space that will have to be permitted to maintain an  
23 average landfill disposal capacity that will be needed to  
24 manage the quantity of solid waste projected to be generated  
25 over the next ten years from sources both within and outside of

.176290.2

1 the state, reduced by source reduction, recycling, composting  
2 and other programs;

3 F. an education and public information element that  
4 identifies existing public information and education programs  
5 and describes how the state will increase awareness of and  
6 cooperation of the public in environmentally safe solid waste  
7 management;

8 G. a funding element that includes a projected cost  
9 of implementation of the plan and recommendations for  
10 developing revenue sources for plan implementation to meet the  
11 goal stated in Subsection J of this section;

12 H. a special waste and household hazardous waste  
13 element that identifies types and quantities of those  
14 categories of and recommends methods for waste handling,  
15 collecting, transporting and disposing of those wastes;  
16 identifies existing and future strategies for managing those  
17 wastes; and includes an implementation schedule to meet the  
18 goal stated in Subsection J of this section;

19 I. a siting element that locates and provides a  
20 description of areas that could be used for development of  
21 adequate transformation or landfill disposal capacity  
22 concurrent and consistent with the development and  
23 implementation of the plan; and

24 J. a goal to divert twenty-five percent of all  
25 solid waste from solid waste disposal facilities by July 1,

1 1995 and fifty percent of all solid waste by July 1, 2000, with  
 2 a base rate of disposal calculated by multiplying the  
 3 population of the state by four pounds per person per day for  
 4 the period used as the base period."

5 Section 6. Section 74-9-10 NMSA 1978 (being Laws 1990,  
 6 Chapter 99, Section 10) is amended to read:

7 "74-9-10. BOARD ADOPTION OF REGULATIONS FOR SOURCE  
 8 REDUCTION AND CERTIFIED COUNTY AND MUNICIPAL RECYCLING  
 9 PROGRAMS.--

10 A. After its approval of the plan, the board shall  
 11 adopt regulations to establish source reduction and recycling  
 12 programs consistent with the source reduction and recycling  
 13 element of the plan and designed to meet the schedule for goal  
 14 achievement provided in Subsection J of Section [~~6 of the Solid~~  
 15 ~~Waste Act]~~ 74-9-6 NMSA 1978.

16 B. The board shall adopt rules for the  
 17 certification of county and municipal recycling programs by the  
 18 department, and every county and municipality shall develop a  
 19 recycling program by December 31, 2009 and implement it by July  
 20 1, 2010. The board's rules shall provide for flexibility in  
 21 certification standards for compliance by counties or  
 22 municipalities based on a county's or municipality's fiscal  
 23 capacity and geographic location. County or municipal  
 24 recycling programs existing prior to the effective date of this  
 25 2009 act may apply to the department for certification of their

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1 programs for eligibility for funding from the litter control  
2 and beautification fund."

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