

AN ACT

RELATING TO THE ENVIRONMENT; ENACTING A NEW SECTION OF THE AIR QUALITY CONTROL ACT TO PROVIDE FOR REGULATION OF SOURCES OF EMISSIONS THAT CAUSE THE FORMATION OF OZONE.

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

Section 1. A new section of the Air Quality Control Act is enacted to read:

"DUTIES AND POWERS OF ENVIRONMENTAL IMPROVEMENT BOARD AND LOCAL BOARD FOR ATTAINMENT AND MAINTENANCE OF NATIONAL AMBIENT AIR QUALITY STANDARDS FOR OZONE.--

A. If the environmental improvement board or the local board determines that emissions from sources within its jurisdiction cause or contribute to ozone concentrations in excess of ninety-five percent of a national ambient air quality standard for ozone, it shall adopt a plan, including regulations, to control emissions of oxides of nitrogen and volatile organic compounds to provide for attainment and maintenance of the standard. Regulations adopted pursuant to this section shall be limited to sources of emissions within the area of the state where the ozone concentrations exceed ninety-five percent of the national ambient air quality standard.

B. Notwithstanding the limitations in Section 74-2-5 NMSA 1978, the environmental improvement board or the

local board may adopt standards of performance for sources of emissions for which no federal standard of performance has been adopted and may adopt standards of performance more stringent than federal standards of performance for sources for which a federal standard of performance has been adopted. The standards of performance shall reflect the degree of emission limitation achievable through the application of control technology that is reasonably available considering technological and economic feasibility. The standards of performance may be more stringent than applicable federal standards of performance if the board determines that the federal standards of performance do not reflect the degree of emission limitation achievable through the application of control technology that is reasonably available, considering technological and economic feasibility, and that methods to further reduce emissions are commercially available and will result in substantially greater reductions in emissions than the federal standards for such sources.

C. In adopting regulations, the environmental improvement board or the local board shall consider the following:

(1) the public interest, including the social and economic value of the sources of emissions and subjects of air contaminants;

(2) previous experience with equipment and

methods available to control the air contaminants involved;

(3) energy, environmental and economic impacts and other social costs;

(4) efforts by sources of emissions to reduce emissions prior to the effective date of regulations adopted under this section; and

(5) for existing sources of emissions, the remaining useful life of any existing source to which the regulation would apply.

D. No regulation adopted pursuant to this section shall require emission reductions for sources that between March 25, 2004 and January 1, 2009:

(1) implemented and are operating reasonable control measures, considering technological and economic feasibility, that result in quantifiable reductions for emission of oxides of nitrogen or volatile organic compounds; or

(2) are mandated by other requirements enforceable by the department or the local authority to implement reductions in emissions of oxides of nitrogen or volatile organic compounds." _____