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SENATE BILL 257

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

INTRODUCED BY

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AN ACT

RELATING TO HAZARDOUS WASTE; REQUIRING THE DEPARTMENT OF ENVIRONMENT TO PRIORITIZE DISPOSAL OF HAZARDOUS WASTE GENERATED IN STATE WHEN ISSUING, RENEWING OR MODIFYING HAZARDOUS WASTE PERMITS.

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

SECTION 1. Section 74-4-4.2 NMSA 1978 (being Laws 1981 (1st S.S.), Chapter 8, Section 6, as amended) is amended to read:

"74-4-4.2. PERMITS--ISSUANCE--DENIAL--MODIFICATION--SUSPENSION--REVOCATION.--

A. An application for a permit pursuant to the Hazardous Waste Act shall contain information required pursuant to Section 74-4-4.7 NMSA 1978 or to regulations promulgated by the board and shall include:

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1 (1) estimates of the composition, quantity and
2 concentration of any hazardous waste identified or listed under
3 Subsection A of Section 74-4-4 NMSA 1978 or combinations of any
4 hazardous waste and other solid waste proposed to be disposed
5 of, treated, transported or stored and the time, frequency or
6 rate at which the waste is proposed to be disposed of, treated,
7 transported or stored; ~~[and]~~

8 (2) an identification and description of, and
9 other pertinent information about, the site where hazardous
10 waste or the products of treatment of hazardous waste will be
11 disposed of, treated, transported to or stored; and

12 (3) for hazardous waste disposal facilities,
13 information on anticipated hazardous waste streams, disposal
14 capacity for hazardous waste generated in the state and how
15 different waste streams will be managed.

16 B. Hazardous waste permits shall require corrective
17 action for all releases of hazardous waste or constituents from
18 any solid waste management unit at a treatment, storage or
19 disposal facility seeking a permit under this section.

20 C. The department shall provide timely review on
21 all permit applications. Upon a determination by the secretary
22 that the applicant has met the requirements adopted pursuant to
23 Section 74-4-4 NMSA 1978, the secretary may issue a permit or a
24 permit subject to any conditions necessary to protect human
25 health and the environment for the facility.

1 D. The secretary may deny any permit application or
2 modify, suspend or revoke any permit issued pursuant to the
3 Hazardous Waste Act if the applicant or permittee has:

4 (1) knowingly and willfully misrepresented a
5 material fact in the application for a permit;

6 (2) refused to disclose the information
7 required under the provisions of Section 74-4-4.7 NMSA 1978;

8 (3) been convicted in any court, within ten
9 years immediately preceding the date of submission of the
10 permit application, of:

11 (a) a felony or other crime involving
12 moral turpitude; or

13 (b) a crime defined by state or federal
14 statutes as involving or being in restraint of trade, price-
15 fixing, bribery or fraud;

16 (4) exhibited a history of willful disregard
17 for environmental laws of any state or the United States;

18 (5) had any permit revoked or permanently
19 suspended for cause under the environmental laws of any state
20 or the United States; or

21 (6) violated any provision of the Hazardous
22 Waste Act, any regulation adopted and promulgated pursuant to
23 that act or any condition of a permit issued under that act.

24 E. In making a finding under Subsection D of this
25 section, the secretary may consider aggravating and mitigating

1 factors.

2 F. If an applicant or permittee whose permit is
3 being considered for denial or revocation, respectively, on any
4 basis provided by Subsection D of this section has submitted an
5 action plan that has been approved in writing by the secretary,
6 and plan approval includes a period of operation under a
7 conditional permit that will allow the applicant or permittee a
8 reasonable opportunity to demonstrate its rehabilitation, the
9 secretary may issue a conditional permit for a reasonable
10 period of time. In approving an action plan intended to
11 demonstrate rehabilitation, the secretary may consider:

12 (1) implementation by the applicant or
13 permittee of formal policies;

14 (2) training programs and management control
15 to minimize and prevent the occurrence of future violations;

16 (3) installation by the applicant or permittee
17 of internal environmental auditing programs;

18 (4) the applicant's release or the permittee's
19 release subsequent to serving a period of incarceration or
20 paying a fine, or both, after conviction of any crime listed in
21 Subsection D of this section; and

22 (5) any other factors the secretary deems
23 relevant.

24 G. Notwithstanding the provisions of Subsection D
25 of this section:

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1 (1) a research, development and demonstration
2 permit may be terminated upon the determination by the
3 secretary that termination is necessary to protect human health
4 or the environment; and

5 (2) a permit may be modified at the request of
6 the permittee for just cause as demonstrated by the permittee.

7 H. No ruling shall be made on permit issuance,
8 major modification, suspension or revocation without an
9 opportunity for a public hearing at which all interested
10 persons shall be given a reasonable chance to submit data,
11 views or arguments orally or in writing and to examine
12 witnesses testifying at the hearing; provided, however, that
13 the secretary may, pursuant to Section 74-4-10 NMSA 1978, order
14 the immediate termination of a research development and
15 demonstration permit whenever the secretary determines that
16 termination is necessary to protect human health or the
17 environment and may order the immediate suspension or
18 revocation of a permit for a facility that has been ordered to
19 take corrective action or other response measures for releases
20 of hazardous waste into the environment.

21 I. The secretary shall hold a public hearing on a
22 minor permit modification if the secretary determines that
23 there is significant public interest in the minor modification.

24 J. The board shall provide a schedule of fees for
25 businesses generating hazardous waste, conducting permitted

1 hazardous waste management activities or seeking a permit for
2 the management of hazardous waste, including but not limited
3 to:

4 (1) a hazardous waste business fee applicable
5 to any business engaged in a regulated hazardous waste
6 activity, which shall be an annual flat fee based on the type
7 of activity;

8 (2) a hazardous waste generation fee
9 applicable to any business generating hazardous waste, which
10 shall be based on the quantity of hazardous waste generated
11 annually; however, when any material listed in Paragraph (2) of
12 Subsection K of Section 74-4-3 NMSA 1978 is determined by the
13 board to be subject to regulation under Subtitle C of the
14 federal Resource Conservation and Recovery Act of 1976, the
15 board may set a generation fee under this paragraph for that
16 waste based on its volume, toxicity, mobility and economic
17 impact on the regulated entity;

18 (3) a hazardous waste permit application fee,
19 not exceeding the estimated cost of investigating the
20 application and issuing the permit, to be paid at the time the
21 secretary notifies the applicant by certified mail that the
22 application has been deemed administratively complete and a
23 technical review is scheduled; and

24 (4) an annual hazardous waste permit
25 management fee based on and not exceeding the estimated cost

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1 of conducting regulatory oversight of permitted activities.

2 K. The department and a business generating
3 hazardous waste, conducting permitted hazardous waste
4 management activities or seeking a permit for the management of
5 hazardous waste may enter into a voluntary fee agreement in
6 addition to and that includes all of the fees required by
7 Subsection J of this section.

8 L. In connection with the operation of hazardous
9 waste disposal facilities, the department shall consider a
10 permittee's capacity to accept and prioritize hazardous waste
11 generated within the state when issuing, renewing or modifying
12 a hazardous waste permit."

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