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AN ACT

RELATING TO THE ENVIRONMENT; AMENDING A SECTION OF THE AIR
QUALITY CONTROL ACT TO PROVIDE FOR ANY NEW EMISSION STANDARDS
TO TAKE EFFECT IN 2013.

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

Section 1. Section 74-2-5 NMSA 1978 (being Laws 1967,
Chapter 277, Section 5, as amended) is amended to read:

"74-2-5. DUTIES AND POWERS--ENVIRONMENTAL IMPROVEMENT
BOARD--LOCAL BOARD.--

A. The environmental improvement board or the
local board shall prevent or abate air pollution.

B. The environmental improvement board or the
local board shall:

(1) adopt, promulgate, publish, amend and
repeal regulations consistent with the Air Quality Control
Act to attain and maintain national ambient air quality
standards and prevent or abate air pollution, including
regulations prescribing air standards, within the geographic
area of the environmental improvement board's jurisdiction or
the local board's jurisdiction, or any part thereof; and

(2) adopt a plan for the regulation,
control, prevention or abatement of air pollution,
recognizing the differences, needs, requirements and
conditions within the geographic area of the environmental

1 improvement board's jurisdiction or the local board's
2 jurisdiction or any part thereof.

3 C. Regulations adopted by the environmental
4 improvement board or the local board may:

5 (1) include regulations to protect
6 visibility in mandatory class I areas to prevent significant
7 deterioration of air quality and to achieve national ambient
8 air quality standards in nonattainment areas; provided that
9 such regulations:

10 (a) shall be no more stringent than but
11 at least as stringent as required by the federal act and
12 federal regulations pertaining to visibility protection in
13 mandatory class I areas, pertaining to prevention of
14 significant deterioration and pertaining to nonattainment
15 areas; and

16 (b) shall be applicable only to sources
17 subject to such regulation pursuant to the federal act;

18 (2) prescribe standards of performance for
19 sources and emission standards for hazardous air pollutants
20 that, except as provided in this subsection:

21 (a) shall be no more stringent than but
22 at least as stringent as required by federal standards of
23 performance; and

24 (b) shall be applicable only to sources
25 subject to such federal standards of performance;

1 (3) include regulations governing emissions
2 from solid waste incinerators that shall be at least as
3 stringent as, and may be more stringent than, any applicable
4 federal emission limitations;

5 (4) include regulations requiring the
6 installation of control technology for mercury emissions that
7 removes the greater of what is achievable with best available
8 control technology or ninety percent of the mercury from the
9 input fuel for all coal-fired power plants, except for
10 coal-fired power plants constructed and generating electric
11 power and energy before July 1, 2007;

12 (5) require notice to the department or the
13 local agency of the intent to introduce or permit the
14 introduction of an air contaminant into the air within the
15 geographical area of the environmental improvement board's
16 jurisdiction or the local board's jurisdiction; and

17 (6) require any person emitting any air
18 contaminant to:

19 (a) install, use and maintain emission
20 monitoring devices;

21 (b) sample emissions in accordance with
22 methods and at locations and intervals as may be prescribed
23 by the environmental improvement board or the local board;

24 (c) establish and maintain records of
25 the nature and amount of emissions;

1 (d) submit reports regarding the nature
2 and amounts of emissions and the performance of emission
3 control devices; and

4 (e) provide any other reasonable
5 information relating to the emission of air contaminants.

6 D. Any regulation adopted pursuant to this section
7 shall be consistent with federal law, if any, relating to
8 control of motor vehicle emissions. Implementation of any
9 state or local emissions standards for new motor vehicles
10 registered in New Mexico shall not become effective before
11 model year 2013.

12 E. In making its regulations, the environmental
13 improvement board or the local board shall give weight it
14 deems appropriate to all facts and circumstances, including
15 but not limited to:

16 (1) character and degree of injury to or
17 interference with health, welfare, visibility and property;

18 (2) the public interest, including the
19 social and economic value of the sources and subjects of air
20 contaminants; and

21 (3) technical practicability and economic
22 reasonableness of reducing or eliminating air contaminants
23 from the sources involved and previous experience with
24 equipment and methods available to control the air
25 contaminants involved."
