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SENATE BILL 440

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Richard C. Martinez

AN ACT

RELATING TO THE ENVIRONMENT; AMENDING THE RADIOACTIVE AND
HAZARDOUS MATERIALS ACT TO SUPPLEMENT THE RESPONSIBILITIES OF
THE RADIOACTIVE AND HAZARDOUS MATERIALS COMMITTEE AND TO CHANGE
ITS NAME.

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

SECTION 1. Section 74-4A-3 NMSA 1978 (being Laws 1979,
Chapter 380, Section 2, as amended) is amended to read:

"74-4A-3. FINDINGS AND PURPOSE.--

A. The legislature finds that there is [~~presently~~]
currently much public and state concern in the area of public
health and safety over:

(1) the [~~proposed~~] waste isolation pilot plant
for defense-related radioactive wastes;

(2) the safe treatment and disposal of

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1 hazardous wastes and the regulation of hazardous waste
2 generators;

3 (3) the effective provision of regulation and
4 information regarding hazardous chemicals in the community and
5 in the work place;

6 (4) the effective control of contamination
7 from underground storage tanks;

8 (5) the transportation on New Mexico highways
9 and streets of radioactive and hazardous materials;

10 (6) the disposition of uranium mine and mill
11 tailings; ~~and~~

12 (7) the need to provide efficient and timely
13 emergency response to accidents or natural disasters involving
14 the disposal, storage or transportation of radioactive and
15 hazardous materials;

16 (8) the need to examine critical energy issues
17 relating to the environment; and

18 (9) the need to review environmental policies
19 and administration of those policies.

20 B. The legislature further finds that there is a
21 need to centralize and coordinate information on these concerns
22 and to develop recommendations for action by the state. It is
23 the purpose of the Radioactive and Hazardous Materials Act to
24 provide a vehicle for proper consideration of these legitimate
25 state concerns without unnecessarily hampering the nuclear

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1 energy industry, adversely affecting the state's economy or
2 compromising the nation's defense."

3 SECTION 2. Section 74-4A-4 NMSA 1978 (being Laws 1981,
4 Chapter 374, Section 3, as amended) is amended to read:

5 "74-4A-4. DEFINITIONS.--As used in the Radioactive and
6 Hazardous Materials Act:

7 A. "committee" means the joint interim legislative
8 [~~radioactive and hazardous materials~~] energy and environment
9 committee;

10 B. "disposal" means the long-term isolation of
11 radioactive material, including long-term monitored storage
12 [~~which~~] that permits retrieval of the radioactive material
13 stored and includes the temporary or permanent disposal of all
14 hazardous wastes;

15 C. "environmental evaluation group" means the
16 independent state review facility administratively attached to
17 New Mexico institute of mining and technology and funded by the
18 United States department of energy;

19 D. "hazardous waste" means any garbage, refuse,
20 sludge from a waste treatment plant, water supply treatment
21 plant or air pollution control facility or other discarded
22 material, including solid, liquid, semisolid or containing
23 gaseous material resulting from industrial, commercial, mining
24 or agricultural operations or from community activities [~~which~~]
25 that because of its quantity, concentration or physical,

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1 chemical or infectious characteristics may cause or
2 significantly contribute to an increase in mortality or an
3 increase in serious irreversible or incapacitating reversible
4 illness or pose a substantial [~~present~~] current or potential
5 hazard to human health or the environment when improperly
6 treated, stored, transported, disposed of or otherwise managed.
7 The term "hazardous waste" does not include solid or dissolved
8 material in domestic sewage or animal excrement in connection
9 with farm, ranch or feedlot operations or solid or dissolved
10 materials in irrigation return flows or industrial discharges
11 that are point sources subject to permits under Section 402 of
12 the federal Water Pollution Control Act, as amended, as the
13 provisions exist on January 1, 1981, or source, special or
14 byproduct material as defined in the Atomic Energy Act of 1954,
15 as amended, as these definitions exist on January 1, 1981, or
16 any of the following, until the environmental improvement board
17 determines that they are subject to Subtitle C of the Resource
18 Conservation and Recovery Act of 1976, as amended (42 U.S.C.
19 6921 et seq.): drilling fluids, produced waters and other
20 wastes associated with the exploration, development or
21 production of crude oil or natural gas or geothermal energy,
22 any fly ash waste, bottom ash waste, slag waste, flue gas
23 emission control waste generated primarily from the combustion
24 of coal or other fossil fuels, solid waste from the extraction,
25 beneficiation or processing of ores and minerals, including

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1 phosphate rock and overburden from the mining of uranium ore or
2 cement kiln dust waste;

3 E. "high-level waste" means the highly radioactive
4 wastes resulting from the reprocessing of spent nuclear fuel
5 and includes both the liquid waste ~~[which]~~ that is produced
6 directly in reprocessing and any solid material into which such
7 liquid waste is made;

8 F. "low-level waste" means material contaminated
9 with radioactive elements emitting beta or gamma particles or
10 with traces of transuranic elements in concentrations of less
11 than one hundred nanocuries per gram;

12 G. "mixed waste" means any mixture of hazardous
13 waste regulated under the Hazardous Waste Act and radioactive
14 waste regulated under the federal Atomic Energy Act of 1954;

15 H. "radioactive materials" means any material or
16 combination of materials ~~[which]~~ that spontaneously emits
17 ionizing radiation. Materials in which the estimated specific
18 activity is not greater than 0.002 microcuries per gram of
19 material, and in which the radioactivity is essentially
20 uniformly distributed, are not considered to be radioactive
21 materials;

22 I. "radioactive waste" means high-level waste,
23 transuranic contaminated waste and low-level waste;

24 J. "spent fuel" means nuclear fuel that has been
25 irradiated in and recovered from a civilian nuclear power

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1 plant;

2 K. "task force" means the radioactive waste
3 consultation task force; and

4 L. "transuranic contaminated waste" means material
5 contaminated with radionuclides emitting alpha radiation having
6 an atomic number greater than ninety-two, including neptunium,
7 plutonium, americium and curium, in concentrations of greater
8 than one hundred nanocuries per gram."

9 SECTION 3. Section 74-4A-9 NMSA 1978 (being Laws 1979,
10 Chapter 380, Section 8, as amended) is amended to read:

11 "74-4A-9. COMMITTEE.--There is created a joint interim
12 legislative committee, which shall be known as the
13 "~~[radioactive and hazardous materials]~~ energy and environment
14 committee". The committee shall function from the date of its
15 appointment."

16 SECTION 4. Section 74-4A-11 NMSA 1978 (being Laws 1979,
17 Chapter 380, Section 10, as amended) is amended to read:

18 "74-4A-11. COMMITTEE DUTIES.--At the beginning of each
19 interim, the committee shall hold one organizational meeting to
20 develop a work plan and budget for the period prior to January
21 1 preceding the next regular session of the legislature. The
22 work plan and budget shall be submitted to the New Mexico
23 legislative council for approval. Upon approval of the work
24 plan and budget by the legislative council, the committee shall
25 examine all matters relevant to the purposes of the Radioactive

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1 and Hazardous Materials Act and state policies on energy and
2 the environment and shall submit recommended legislation,
3 together with a report on the activities and expenditures of
4 the committee, to the legislature. In making recommendations,
5 the committee shall review and monitor the following areas:

6 A. the generation, treatment, storage,
7 transportation or disposal of radioactive or hazardous
8 materials and wastes;

9 B. the control and handling of mixed waste
10 transported to the waste isolation pilot plant site for
11 disposal;

12 C. the progress and effectiveness of remediation
13 actions at sites contaminated by radioactive or hazardous
14 materials;

15 D. the compliance with the environmental protection
16 agency, the council on environmental quality and the office of
17 surface mining reclamation and enforcement regulations and
18 standards pursuant to federal environmental statutes;

19 E. the provision of activities and investigations
20 and the dissemination of information by the environmental
21 evaluation group; however, nothing in the Radioactive and
22 Hazardous Materials Act shall be construed to limit the
23 independent technical review and evaluation by that group of
24 the impact on health and safety of the waste isolation pilot
25 plant;

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- 1 F. the disposition of uranium mine and mill
2 tailings;
- 3 G. the means through which disposition of low-level
4 wastes may be accomplished, such as participation in a regional
5 compact with other states;
- 6 H. the state emergency response capability;
- 7 I. the Ground Water Protection Act, in cooperation
8 with other legislative committees, regarding the use or
9 management of storage tanks and releases;
- 10 J. the Hazardous Chemicals Information Act, in
11 cooperation with other legislative committees; [~~and~~]
- 12 K. such matters assigned by the legislature and
13 consultations and negotiations with the federal government and
14 other state governments or their representatives and agreements
15 and revisions thereto; and
- 16 L. energy issues relating to the environment and
17 environmental policies and administration of those policies."