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SENATE BILL 489

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

INTRODUCED BY

Clinton D. Harden

AN ACT

RELATING TO THE ENVIRONMENT; AMENDING A SECTION OF THE AIR
QUALITY CONTROL ACT TO PROVIDE THAT NO GREENHOUSE GAS EMISSION
RULE MAY BE MORE STRINGENT THAN FEDERAL LAW OR REGULATION.

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

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1 to attain and maintain national ambient air quality standards
2 and prevent or abate air pollution, including regulations
3 prescribing air standards, within the geographic area of the
4 environmental improvement board's jurisdiction or the local
5 board's jurisdiction, or any part thereof; and

6 (2) adopt a plan for the regulation, control,
7 prevention or abatement of air pollution, recognizing the
8 differences, needs, requirements and conditions within the
9 geographic area of the environmental improvement board's
10 jurisdiction or the local board's jurisdiction or any part
11 thereof.

12 C. Regulations adopted by the environmental
13 improvement board or the local board may:

14 (1) include regulations to protect visibility
15 in mandatory class I areas to prevent significant deterioration
16 of air quality and to achieve national ambient air quality
17 standards in nonattainment areas; provided that such
18 regulations:

19 (a) shall be no more stringent than but
20 at least as stringent as required by the federal act and
21 federal regulations pertaining to visibility protection in
22 mandatory class I areas, pertaining to prevention of
23 significant deterioration and pertaining to nonattainment
24 areas; and

25 (b) shall be applicable only to sources

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1 subject to such regulation pursuant to the federal act;

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

5 (a) shall be no more stringent than but
6 at least as stringent as required by federal standards of
7 performance; and

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

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

14 (4) include regulations requiring the
15 installation of control technology for mercury emissions that
16 removes the greater of what is achievable with best available
17 control technology or ninety percent of the mercury from the
18 input fuel for all coal-fired power plants, except for coal-
19 fired power plants constructed and generating electric power
20 and energy before July 1, 2007;

21 (5) require notice to the department or the
22 local agency of the intent to introduce or permit the
23 introduction of an air contaminant into the air within the
24 geographical area of the environmental improvement board's
25 jurisdiction or the local board's jurisdiction; and

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1 (6) require any person emitting any air
2 contaminant to:

3 (a) install, use and maintain emission
4 monitoring devices;

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

8 (c) establish and maintain records of
9 the nature and amount of emissions;

10 (d) submit reports regarding the nature
11 and amounts of emissions and the performance of emission
12 control devices; and

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

15 D. Any regulation adopted pursuant to this section
16 shall be consistent with federal law, if any, relating to
17 control of motor vehicle emissions.

18 E. In making its regulations, the environmental
19 improvement board or the local board shall give weight it deems
20 appropriate to all facts and circumstances, including but not
21 limited to:

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

24 (2) the public interest, including the social
25 and economic value of the sources and subjects of air

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1 contaminants; and

2 (3) technical practicability and economic
3 reasonableness of reducing or eliminating air contaminants from
4 the sources involved and previous experience with equipment and
5 methods available to control the air contaminants involved.

6 F. The environmental improvement board or the local
7 board shall not adopt a rule more stringent than federal law or
8 regulation for reporting, verifying, limiting, trading or
9 capping the emission of greenhouse gases."

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