

HOUSE BILL 426

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

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This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO THE ENVIRONMENT; AUTHORIZING THE ENVIRONMENTAL
IMPROVEMENT BOARD TO ADOPT RULES TO ESTABLISH AND ASSESS FEES
FOR A CLEAN TRANSPORTATION FUELS STANDARD.

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

SECTION 1. Section 74-1-3 NMSA 1978 (being Laws 1971,
Chapter 277, Section 3, as amended) is amended to read:

"74-1-3. DEFINITIONS.--As used in the Environmental

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Improvement Act:

A. "board" means the environmental improvement board;

B. "carbon intensity" means the quantity of fuel lifecycle emissions per unit of fuel energy, expressed in grams of carbon dioxide equivalent per megajoule;

[B-] C. "department" or "environmental improvement department" means the department of environment;

D. "disproportionately impacted communities" means a community or populations of people for which multiple burdens, including environmental and socioeconomic stressors, inequity, poverty, high unemployment, pollution or discrimination, may act to persistently and negatively affect the health, well-being and environment of the community or population and includes tribal communities, communities of color, low-income rural communities, native people, people of color, women, immigrants, youth, formerly incarcerated people, lesbian, gay, bisexual, transgender and queer people and people with disabilities;

E. "fuel lifecycle" means an assessment of the aggregate of greenhouse gas emissions, including direct anthropogenic emissions and significant indirect emissions, such as significant indirect emissions from land use changes as determined by the department, for all stages of fuel and feedstock production and distribution, from feedstock

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generation or extraction through the distribution and delivery and use of the finished fuel by the ultimate consumer considering location-specific fuel characteristics, fuel production, storage, transportation, combustion and associated changes in land use;

[G-] F. "on-site liquid waste system" means a liquid waste system, or part thereof, serving a dwelling, establishment or group, and using a liquid waste treatment unit designed to receive liquid waste followed by either a soil treatment or other type of disposal system. "On-site liquid waste system" includes holding tanks and privies but does not include systems or facilities designed to receive or treat mine or mill tailings or wastes;

[D-] G. "person" means the state or any agency, institution or political subdivision thereof, any public or private corporation, individual, partnership, association or other entity and includes any officer or governing or managing body of any political subdivision or public or private corporation;

[E-] H. "residential on-site liquid waste system" means an on-site liquid waste system serving up to four dwelling units; HENRC→and←HENRC

[F-] I. "secretary" means the secretary of environment HENRC→."←HENRC HENRC→; and

J. "transportation fuel" means electricity or a

liquid or gaseous fuel that is blended, sold, supplied, used or offered for sale to power vehicles or equipment for on-road or off-road purposes."←HENRC

SECTION 2. Section 74-1-7 NMSA 1978 (being Laws 1971, Chapter 277, Section 10, as amended by Laws 2000, Chapter 86, Section 1 and also by Laws 2000, Chapter 96, Section 1) is amended to read:

"74-1-7. DEPARTMENT--DUTIES.--

A. The department is responsible for environmental management and consumer protection programs. In that respect, the department shall maintain, develop and enforce rules and standards in the following areas:

(1) food protection;

(2) water supply, including implementing a capacity development program to assist water systems in acquiring and maintaining technical, managerial and financial capacity in accordance with Section 1420 of the federal Safe Drinking Water Act of 1974 and establishing administrative penalties for enforcement;

(3) liquid waste, including exclusive authority to collect on-site liquid waste system fees that are no more than the average charged by the contiguous states to New Mexico for similar permits and services and to implement and administer an inspection and permitting program for on-site liquid waste systems;

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(4) air quality management as provided in the Air Quality Control Act;

(5) radiation control and collection of license, registration and other related fees as provided in the Radiation Protection Act;

(6) noise control;

(7) nuisance abatement;

(8) vector control;

(9) occupational health and safety as provided in the Occupational Health and Safety Act;

(10) sanitation of public swimming pools and public baths;

(11) plumbing, drainage, ventilation and sanitation of public buildings in the interest of public health;

(12) medical radiation, health and safety certification and standards for radiologic technologists as provided in the Medical Imaging and Radiation Therapy Health and Safety Act;

(13) hazardous wastes and underground storage tanks as provided in the Hazardous Waste Act; ~~and~~

(14) solid waste as provided in the Solid Waste Act; and

(15) carbon intensity of transportation fuels as provided in the Environmental Improvement Act.

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B. Nothing in Subsection A of this section imposes requirements for the approval of subdivision plats in addition to those required elsewhere by law. Nothing in Subsection A of this section preempts the authority of any political subdivision to approve subdivision plats."

SECTION 3. Section 74-1-8 NMSA 1978 (being Laws 1971, Chapter 277, Section 11, as amended) is amended to read:

"74-1-8. BOARD--DUTIES.--

A. The board is responsible for environmental management and consumer protection. In that respect, the board shall promulgate rules and standards in the following areas:

(1) food protection;

(2) water supply, including a capacity development program to assist water systems in acquiring and maintaining technical, managerial and financial capacity in accordance with Section 1420 of the federal Safe Drinking Water Act of 1974 and rules authorizing imposition of administrative penalties for enforcement;

(3) liquid waste, including exclusive authority to establish on-site liquid waste system fees that are no more than the average charged by the contiguous states to New Mexico for similar permits and services and to implement and administer an inspection and permitting program for on-site liquid waste systems;

(4) air quality management as provided in the

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Air Quality Control Act;

(5) radiation control and establishment of license and registration and other related fees not to exceed fees charged by the United States nuclear regulatory commission for similar licenses as provided in the Radiation Protection Act;

(6) noise control;

(7) nuisance abatement;

(8) vector control;

(9) occupational health and safety as provided in the Occupational Health and Safety Act;

(10) sanitation of public swimming pools and public baths;

(11) plumbing, drainage, ventilation and sanitation of public buildings in the interest of public health;

(12) medical radiation, health and safety certification and standards for radiologic technologists as provided in the Medical Imaging and Radiation Therapy Health and Safety Act;

(13) hazardous wastes and underground storage tanks as provided in the Hazardous Waste Act; ~~and~~

(14) solid waste as provided in the Solid Waste Act; and

(15) carbon intensity of transportation fuels;

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provided that, prior to the board issuing a draft rule, the secretary shall convene an advisory committee composed of stakeholders from disproportionately impacted communities, industry sectors, government, Indian nations, tribes and pueblos, environmental groups and other individuals with relevant expertise to provide input to the secretary and department on program design; and provided further that the rules:

(a) establish a statewide technology-neutral clean transportation fuel standard;

(b) apply the clean transportation fuel standard to account for the fuel lifecycle and reduce the carbon intensity of transportation fuels used in the state by at least twenty percent below 2018 levels by 2030 and at least thirty percent below 2018 levels by 2040;

(c) allow for the trading of credits among regulated entities and producers, suppliers and other entities that enable the use of low-carbon-intensity transportation fuels and may include mechanisms to monitor and stabilize the credit market, enforce compliance and limit costs to consumers;

(d) take into consideration equivalent rules and standards adopted by other jurisdictions and, as appropriate, coordinate with other jurisdictions to promote regional reductions in greenhouse gas emissions;

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(e) require investor-owned electric utilities and other participating electric utilities to invest all net credit revenue in transportation electrification infrastructure and projects, with at least fifty percent of that revenue to be invested in transportation electrification that primarily benefits disproportionately impacted communities;

(f) consider adoption of one or more additional mechanisms that will reduce air pollution from high-carbon fuels in disproportionately impacted communities, including providing for third-party, nonprofit credit aggregators that use proceeds of otherwise unclaimed credits for reduction of air contaminant emissions and increases in vehicle electrification in disproportionately impacted communities;

(g) not discriminate against fuels solely on the basis of having originated in another state or jurisdiction; and

(h) establish permits and fees for regulated entities or credit generators, including fees assessed on credit transactions, to cover and pay for the costs of the department's administration and enforcement of the program; provided that any fees for the permits are deposited in the state air quality permit fund.

B. Nothing in Subsection A of this section imposes

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requirements for the approval of subdivision plats in addition to those required elsewhere by law. Nothing in Subsection A of this section preempts the authority of any political subdivision to approve subdivision plats.

C. Administrative penalties collected pursuant to Paragraph (2) of Subsection A of this section shall be deposited in the water conservation fund.

D. On-site liquid waste system fees shall be deposited in the environmental health fund.

E. Radiation license and registration and other related fees shall be deposited in the radiation protection fund."