

AN ACT

RELATING TO THE ENVIRONMENT; PROVIDING FOR RADIATION
LICENSE, REGISTRATION AND OTHER RELATED FEES; CREATING THE
RADIATION PROTECTION FUND; AMENDING AND ENACTING SECTIONS OF
THE NMSA 1978; MAKING AN APPROPRIATION.

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

Section 1. Section 74-1-7 NMSA 1978 (being Laws 1971,
Chapter 277, Section 10, as amended) 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 and establishing
administrative penalties for enforcement;

(3) liquid waste, including exclusive
authority to implement and administer an inspection and
permitting program for on-site liquid waste systems;

(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 Radiation 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.

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 2. 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 and rules authorizing imposition of administrative penalties for enforcement;
- (3) liquid waste, including exclusive authority to implement and administer an inspection and permitting program for on-site liquid waste systems;
- (4) air quality management as provided in the Air Quality Control Act;
- (5) radiation control and establishment of license, 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 Radiation 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.

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.

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

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

Section 3. Section 74-3-5 NMSA 1978 (being Laws 1971, Chapter 284, Section 5, as amended) is amended to read:

"74-3-5. RADIATION PROTECTION CONSULTANT--RADIATION REGULATIONS--INSPECTION.--

A. The board shall be the radiation protection consultant for all agencies and institutions of the state and shall, with the advice and consent of the council, have the authority, after considering the facts and circumstances and following the procedures set forth in Section 74-1-9

NMSA 1978, to promulgate rules:

(1) concerning the health and environmental aspects of the use, management, storage and disposal of radioactive material and the operation of ionizing and non-ionizing radiation emitting equipment;

(2) prescribing license, registration and other related fees, all of which shall be deposited in the radiation protection fund;

(3) requiring the posting of a bond running only to the state for licensed activities, which bond shall be adequate to insure, in the event of abandonment, default or other performance incapacities of the licensee, compliance with the requirements of the rules or license conditions, including actions of the licensee required during or after the cessation of operations, which bond shall be released upon demonstration by the licensee that the conditions of the license have been satisfied; and

(4) establishing continued care fund deposit requirements and other continued care requirements as provided in Section 74-3-6 NMSA 1978.

B. Upon adoption, rules shall be furnished to interested parties upon request.

C. In order to carry out the purposes of the Radiation Protection Act, the director or his authorized representatives may, as a condition of license or registration, enter at all reasonable times in or upon any private or public property where the director has reasonable cause to believe there is radioactive material or radiation

equipment."

Section 4. Section 74-3-9 NMSA 1978 (being Laws 1971, Chapter 284, Section 7, as amended) is amended to read:

"74-3-9. LICENSING OF RADIOACTIVE MATERIAL--APPEAL.--

A. It is unlawful for a person to possess, use, store, dispose of, manufacture, process, repair or alter any radioactive material unless he holds:

(1) a license issued by the nuclear regulatory commission and notification by the licensee to the agency of license identification;

(2) a license issued by an agreement state and notification by the licensee to the agency of license identification; or

(3) a license issued by the agency.

B. The agency shall issue licenses, collect license, registration and other related fees and deposit those fees in the radiation protection fund and shall approve requests for reciprocity in accordance with procedures prescribed by rule of the board. License applications shall be made on forms provided by the agency. The agency shall not issue a license unless the applicant has demonstrated the capability of complying with all applicable rules of the board.

C. The board may, by rule, establish radiation license, registration and other related fees and exempt from the requirements of licensure specific quantities of any radioactive material determined by the board not to constitute a health or environmental hazard.

D. The holding of a license issued by the agency, the nuclear regulatory commission or an agreement state does not relieve the licensee from the responsibility of complying with all applicable rules of the board.

E. A person who is or may be affected by licensing action of the agency may appeal to the district court pursuant to the provisions of Section 39-3-1.1 NMSA 1978."

Section 5. A new section of the Radiation Protection Act is enacted to read:

"FEE EXEMPTION.--All medical, dental and veterinary x-ray equipment is exempt from fees imposed pursuant to the Radiation Protection Act."

Section 6. A new section of the Radiation Protection Act is enacted to read:

"RADIATION PROTECTION FUND CREATED.--The "radiation protection fund" is created in the state treasury. Radiation license, registration and other related fees shall be deposited in the fund. All earnings from investment of the fund shall be credited to the fund. Money in the fund is appropriated to the department of environment to carry out provisions of the Radiation Protection Act. Disbursements from the fund shall be by warrant drawn by the secretary of finance and administration pursuant to vouchers signed by the secretary of environment or his designee. Any unexpended or unencumbered balance in the radiation protection fund at the end of any fiscal year shall not revert to the general fund."=

