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HOUSE BILL 127

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Lorenzo A. Larranaga

FOR THE WATER AND NATURAL RESOURCES COMMITTEE

AN ACT

**RELATING TO THE ENVIRONMENT; AMENDING THE WATER QUALITY ACT;
PROVIDING FOR WATER QUALITY STANDARDS TO BE BASED ON CREDIBLE
SCIENTIFIC EVIDENCE.**

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

**Section 1. Section 74-6-4 NMSA 1978 (being Laws 1967,
Chapter 190, Section 4, as amended) is amended to read:**

**"74-6-4. DUTIES AND POWERS OF COMMISSION. -- The
commission:**

**A. may accept and supervise the administration of
loans and grants from the federal government and from other
sources, public or private, which loans and grants shall not
be expended for other than the purposes for which provided;**

**B. shall adopt a comprehensive water quality
management program and develop a continuing planning process;**

underscored material = new
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1 C. shall adopt water quality standards for surface
2 and ground waters of the state based on credible scientific
3 evidence and subject to the Water Quality Act. The standards
4 shall include narrative standards and, as appropriate, the
5 designated uses of the waters and the water quality criteria
6 necessary to protect such uses. The standards shall at a
7 minimum protect the public health or welfare, enhance the
8 quality of water and serve the purposes of the Water Quality
9 Act. In making standards, the commission shall give weight it
10 deems appropriate to all facts and circumstances, including
11 the use and value of the water for water supplies, propagation
12 of fish and wildlife, recreational purposes and agricultural,
13 industrial and other purposes;

14 D. shall adopt, promulgate and publish regulations
15 to prevent or abate water pollution in the state or in any
16 specific geographic area, aquifer or watershed of the state or
17 in any part thereof, or for any class of waters, and to govern
18 the disposal of septage and sludge and the use of sludge for
19 various beneficial purposes. The regulations governing the
20 disposal of septage and sludge may include the use of tracking
21 and permitting systems or other reasonable means necessary to
22 assure that septage and sludge are designated for disposal in,
23 and arrive at, disposal facilities, other than facilities on
24 the premises where the septage and sludge is generated, for
25 which a permit or other authorization has been issued pursuant

. 134179. 1

underscored material = new
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1 to the federal act or the Water Quality Act. Regulations
2 shall not specify the method to be used to prevent or abate
3 water pollution but may specify a standard of performance for
4 new sources that reflects the greatest reduction in the
5 concentration of water contaminants that the commission
6 determines to be achievable through application of the best
7 available demonstrated control technology, processes,
8 operating methods or other alternatives, including where
9 practicable a standard permitting no discharge of pollutants.
10 In making regulations, the commission shall give weight it
11 deems appropriate to all relevant facts and circumstances,
12 including:

13 (1) character and degree of injury to or
14 interference with health, welfare, environment and property;

15 (2) the public interest, including the social
16 and economic value of the sources of water contaminants;

17 (3) technical practicability and economic
18 reasonableness of reducing or eliminating water contaminants
19 from the sources involved and previous experience with
20 equipment and methods available to control the water
21 contaminants involved;

22 (4) successive uses, including but not
23 limited to domestic, commercial, industrial, pastoral,
24 agricultural, wildlife and recreational uses;

25 (5) feasibility of a user or a subsequent

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[bracketed material] = delete

1 user treating the water before a subsequent use;

2 (6) property rights and accustomed uses; and

3 (7) federal water quality requirements;

4 E. shall assign responsibility for administering
5 its regulations to constituent agencies so as to assure
6 adequate coverage and prevent duplication of effort. To this
7 end, the commission may make such classification of waters and
8 sources of water contaminants as will facilitate the
9 assignment of administrative responsibilities to constituent
10 agencies. The commission shall also hear and decide disputes
11 between constituent agencies as to jurisdiction concerning any
12 matters within the purpose of the Water Quality Act. In
13 assigning responsibilities to constituent agencies, the
14 commission shall give priority to the primary interests of the
15 constituent agencies. The department of environment shall
16 provide technical services, including certification of permits
17 pursuant to the federal act;

18 F. may enter into or authorize constituent
19 agencies to enter into agreements with the federal government
20 or other state governments for purposes consistent with the
21 Water Quality Act and receive and allocate to constituent
22 agencies funds made available to the commission;

23 G. may grant an individual variance from any
24 regulation of the commission whenever it is found that
25 compliance with the regulation will impose an unreasonable

1 burden upon any lawful business, occupation or activity. The
2 commission may only grant a variance conditioned upon a person
3 effecting a particular abatement of water pollution within a
4 reasonable period of time. Any variance shall be granted for
5 the period of time specified by the commission. The
6 commission shall adopt regulations specifying the procedure
7 under which variances may be sought, which regulations shall
8 provide for the holding of a public hearing before any
9 variance may be granted;

10 H. may adopt regulations to require the filing
11 with it or a constituent agency of proposed plans and
12 specifications for the construction and operation of new sewer
13 systems, treatment works or sewerage systems or extensions,
14 modifications of or additions to new or existing sewer
15 systems, treatment works or sewerage systems. Filing with and
16 approval by the federal housing administration of plans for an
17 extension to an existing or construction of a new sewerage
18 system intended to serve a subdivision solely residential in
19 nature shall be deemed compliance with all provisions of this
20 subsection;

21 I. may adopt regulations requiring notice to it or
22 a constituent agency of intent to introduce or allow the
23 introduction of water contaminants into waters of the state;

24 J. may adopt regulations establishing pretreatment
25 standards that prohibit or control the introduction into

underscored material = new
[bracketed material] = delete

1 publicly owned sewerage systems of water contaminants that are
2 not susceptible to treatment by the treatment works or that
3 would interfere with the operation of the treatment works;

4 K. shall not require a permit respecting the use
5 of water in irrigated agriculture, except in the case of the
6 employment of a specific practice in connection with such
7 irrigation that documentation or actual case history has shown
8 to be hazardous to public health or the environment; and

9 L. shall coordinate application procedures and
10 funding cycles for loans and grants from the federal
11 government and from other sources, public or private, with the
12 local government division of the department of finance and
13 administration pursuant to the New Mexico Community Assistance
14 Act. "