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HOUSE BILL 1004

**47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005**

INTRODUCED BY

Peter Wirth

AN ACT

RELATING TO THE ENVIRONMENT; AMENDING AIR QUALITY CONTROL ACT  
REQUIREMENTS PERTAINING TO STATE REGULATION OF AIR QUALITY.

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  
to attain and maintain national ambient air quality standards

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

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

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

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

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

24 (b) shall be applicable only to sources  
25 subject to such regulation pursuant to the federal act;

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

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

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

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

13 (4) require notice to the department or the  
14 local agency of the intent to introduce or permit the  
15 introduction of an air contaminant into the air within the  
16 geographical area of the environmental improvement board's  
17 jurisdiction or the local board's jurisdiction; and

18 (5) require any person emitting any air  
19 contaminant to:

20 (a) install, use and maintain emission  
21 monitoring devices;

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

25 (c) establish and maintain records of

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1 the nature and amount of emissions;

2 (d) submit reports regarding the nature  
3 and amounts of emissions and the performance of emission  
4 control devices; and

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

7 D. Any regulation adopted [~~under~~] pursuant to this  
8 section shall be consistent with federal law, if any, relating  
9 to control of motor vehicle emission.

10 E. In making its regulations, the environmental  
11 improvement board or the local board shall give weight it deems  
12 appropriate to all facts and circumstances, including but not  
13 limited to:

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

16 (2) the public interest, including the social  
17 and economic value of the sources and subjects of air  
18 contaminants; and

19 (3) technical practicability and economic  
20 reasonableness of reducing or eliminating air contaminants from  
21 the sources involved and previous experience with equipment and  
22 methods available to control the air contaminants involved."

23 Section 2. EFFECTIVE DATE.--The effective date of the  
24 provisions of this act is July 1, 2005.