

SENATE FINANCE COMMITTEE SUBSTITUTE FOR
SENATE BILL 4

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

AN ACT

RELATING TO THE ENVIRONMENT; ESTABLISHING STATEWIDE GREENHOUSE
GAS EMISSIONS LIMITS; REQUIRING GREENHOUSE GAS EMISSIONS
REPORTING; PROVIDING THAT STATE AGENCIES APPLY CLIMATE EQUITY
PRINCIPLES TO POLICY AND RULE DEVELOPMENT; EXPANDING DUTIES AND
POWERS OF THE ENVIRONMENTAL IMPROVEMENT BOARD.

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
Improvement Act:

A. "annual greenhouse gas emissions limit" means
the maximum allowable annual quantity of greenhouse gas
emissions to meet the greenhouse gas emissions limits
established in Subsection A of Section 74-1-19 NMSA 1978;

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1 ~~[A.]~~ B. "board" means the environmental improvement
2 board;

3 ~~[B.]~~ C. "carbon intensity" means the quantity of
4 fuel lifecycle greenhouse gas emissions per unit of fuel
5 energy, expressed in grams of carbon dioxide equivalent per
6 megajoule;

7 ~~[C.]~~ D. "department" [~~or "environmental improvement~~
8 ~~department"~~] means the department of environment;

9 ~~[D.]~~ E. "fuel lifecycle" means an assessment of the
10 aggregate greenhouse gas emissions based on science-based
11 models or protocols, including direct emissions and significant
12 indirect emissions from indirect land use change, all stages of
13 fuel and feedstock production and distribution, feedstock
14 generation or extraction through the distribution, delivery and
15 use of the finished fuel by the consumer, including
16 consideration of storage, transportation and combustion;

17 F. "greenhouse gas" means gaseous compounds that
18 absorb infrared radiation emitted from the earth's surface and
19 trap heat in the earth's atmosphere, including carbon dioxide,
20 methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons,
21 nitrogen trifluoride and sulfur hexafluoride, but not including
22 water vapor;

23 G. "greenhouse gas decade assessment" means a
24 greenhouse gas inventory and progress report prepared in the
25 year 2032 and every tenth year thereafter using greenhouse gas

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1 emissions data from two years earlier;

2 H. "greenhouse gas inventory and progress report"
 3 means the report prepared and published by the department that
 4 includes an inventory of all statewide greenhouse gas emissions
 5 and the progress toward meeting statewide greenhouse gas
 6 reductions;

7 I. "greenhouse gas sector report" means the report
 8 prepared and published by the department containing a proposed
 9 allocation of the greenhouse gas emissions reductions, by
 10 sector;

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

19 K. "overburdened community" means populations or
 20 communities that potentially experience disproportionate
 21 environmental harms and risks as a result of greater
 22 vulnerability to environmental hazards and includes a
 23 consideration of income and exposure to pollution;

24 [~~F.~~] L. "person" means the state or [any] an
 25 agency, institution or political subdivision thereof, [any] a

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1 public or private corporation, individual, partnership,
2 association or other entity and includes [~~any~~] an officer or
3 governing or managing body of [~~any~~] a political subdivision or
4 public or private corporation;

5 [~~G.~~] M. "residential on-site liquid waste system"
6 means an on-site liquid waste system serving up to four
7 dwelling units;

8 [~~H.~~] N. "secretary" means the secretary of
9 environment; [~~and~~]

10 O. "sector" means a category of greenhouse gas
11 emissions within the state economy as identified by the
12 department after consideration of categories used in state and
13 federal greenhouse gas emissions inventories;

14 P. "statewide greenhouse gas emissions" means the
15 total net anthropogenic emissions of greenhouse gases,
16 expressed in carbon dioxide equivalent using a methodology
17 determined to be appropriate by the department, including
18 emissions from electricity generation for consumption in New
19 Mexico, both imported and produced in New Mexico;
20 transportation fuels and heating fuels combusted in New Mexico;
21 buildings and structures; residential, commercial,
22 institutional and industrial waste management; manufacturing
23 processes; the extraction and processing of raw materials;
24 production of agricultural and forest products; and oil and gas
25 exploration, production, storage, distribution and

1 transportation in the state; and

2 ~~[F.]~~ Q. "transportation fuel" means electricity or
3 a liquid, gaseous or blended fuel, including gasoline, diesel,
4 liquefied petroleum gas, natural gas and hydrogen, sold,
5 supplied, used or offered for sale to power vehicles or
6 equipment for the purposes of transportation."

7 **SECTION 2.** A new section of the Environmental Improvement
8 Act, Section 74-1-19 NMSA 1978, is enacted to read:

9 "74-1-19. [NEW MATERIAL] GREENHOUSE GAS EMISSIONS
10 LIMITS--REPORTING REQUIREMENTS.--

11 A. Statewide greenhouse gas emissions shall be
12 limited as follows:

13 (1) by 2030, at least forty-five percent less
14 than 2005 levels;

15 (2) by 2040, at least seventy-five percent
16 less than 2005 levels; and

17 (3) by 2050 and in every subsequent year, one
18 hundred percent less than 2005 levels.

19 B. The limits set for 2030 and 2040 shall be
20 achieved solely through direct greenhouse gas emissions
21 reductions.

22 C. The limit set for 2050 may be achieved through
23 net reductions of greenhouse gas emissions within the state.

24 The environmental improvement board and local board may
25 consider all quantifiable and verifiable mechanisms and

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1 technologies to achieve a net-zero limit.

2 D. The department shall publish:

3 (1) by December 31, 2026, in consultation with
4 the energy, minerals and natural resources department, the
5 department of transportation, the public regulation commission
6 and other appropriate federal, state, local and tribal
7 entities, a first greenhouse gas inventory and progress report
8 that includes:

9 (a) an inventory of all statewide
10 greenhouse gas emissions broken down by sector and that reports
11 on changes from baseline data; and

12 (b) a progress report that shall, at a
13 minimum, contain: 1) a projection of whether the state will
14 meet the statewide greenhouse gas emissions limits in
15 Subsection A of this section; 2) a list of actions that the
16 state is taking, or is planning to take, to meet the statewide
17 greenhouse gas emissions limits in Subsection A of this
18 section; 3) an identification of the actual or expected
19 implementation date of each action; 4) a quantification and
20 analysis of the projected greenhouse gas emissions reductions
21 that each action will achieve; 5) a quantification and
22 analysis, by sector, of all gaps between the projected
23 greenhouse gas emissions reductions and the statewide
24 greenhouse gas emissions limits in Subsection A of this
25 section; 6) a description of the ability and options for each

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1 sector to address any sector gaps and the estimated cost
2 associated with those options; 7) recommendations for
3 legislation that would help achieve additional greenhouse gas
4 emissions reductions sufficient to address all such gaps by
5 sector or by combination of sectors, including an estimate of
6 the emissions reductions; and 8) a description of the adverse
7 effects on overburdened communities of state programs to reduce
8 greenhouse gas emissions and a description of the actions each
9 state agency has taken to prevent or minimize those adverse
10 effects; and

11 (2) by December 31, 2026, in consultation with
12 the energy, minerals and natural resources department, a
13 greenhouse gas sector report containing an allocation by sector
14 of the greenhouse gas emissions reductions that the department
15 determines are necessary to achieve the statewide greenhouse
16 gas emissions limits referred to in Subsection A of this
17 section.

18 E. The first greenhouse gas inventory and progress
19 report shall additionally propose each annual greenhouse gas
20 emissions limit for years 2027 through 2050 using existing data
21 and reporting requirements.

22 F. The second greenhouse gas inventory and progress
23 report published by July 31, 2028, and every two years
24 thereafter, shall use data collected pursuant to Section
25 74-2-5.4 NMSA 1978 and shall rely on reporting for all sectors

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1 that is monitored, measured and verified.

2 G. When publishing a greenhouse gas inventory and
3 progress report or greenhouse gas sector report under
4 Subsection D of this section, the department shall submit the
5 report to the legislature, post the report on the department's
6 website and mail the report to tribal governments.

7 H. If the department determines in the greenhouse
8 gas decade assessment that the applicable greenhouse gas
9 emissions limit in this section was not achieved, the
10 department shall identify in the report the additional actions,
11 including additional rules, needed to meet the statewide
12 greenhouse gas emissions limits in Subsection A of this section
13 by the next greenhouse gas decade assessment."

14 SECTION 3. A new section of the Environmental Improvement
15 Act is enacted to read:

16 "[NEW MATERIAL] STATE AGENCIES SHALL APPLY CLIMATE EQUITY
17 PRINCIPLES.--Except when expressly prohibited by law, a state
18 agency shall, to the extent practicable, apply climate equity
19 principles to rule development that:

20 A. prioritize greenhouse gas reductions in
21 overburdened communities;

22 B. incorporate tribal consultation and outreach to
23 tribal communities in the rulemaking;

24 C. incorporate outreach to overburdened
25 communities; and

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1 D. consider how to address adverse health and
2 environmental impacts from greenhouse gases and other
3 pollutants."

4 SECTION 4. Section 74-2-2 NMSA 1978 (being Laws 1967,
5 Chapter 277, Section 2, as amended) is amended to read:

6 "74-2-2. DEFINITIONS.--As used in the Air Quality Control
7 Act:

8 A. "air contaminant" means a substance, including
9 any particulate matter, fly ash, dust, fumes, gas, mist, smoke,
10 vapor, micro-organisms, radioactive material, any combination
11 thereof or any decay or reaction product thereof;

12 B. "air pollution" means the emission, except
13 emission that occurs in nature, into the outdoor atmosphere of
14 one or more air contaminants in quantities and of a duration
15 that may with reasonable probability injure human health or
16 animal or plant life or as may unreasonably interfere with the
17 public welfare, visibility or the reasonable use of property;

18 C. "annual greenhouse gas emissions limit" means
19 the maximum allowable annual quantity of greenhouse gas
20 emissions to meet the greenhouse gas emissions limits
21 established in Subsection A of Section 74-1-19 NMSA 1978;

22 ~~[G.]~~ D. "department" means the department of
23 environment;

24 ~~[D.]~~ E. "director" means the administrative head of
25 a local agency;

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1 ~~[E-]~~ F. "[emission] emissions limitation" or
2 ~~"[emission] emissions standard"~~ means a requirement established
3 by the environmental improvement board or the local board, the
4 department, the local authority or the local agency or pursuant
5 to the federal act that limits the quantity, rate or
6 concentration, or combination thereof, of emissions of air
7 contaminants on a continuous basis, including any requirements
8 relating to the operation or maintenance of a source to assure
9 continuous reduction;

10 ~~[F-]~~ G. "federal act" means the federal Clean Air
11 Act, its subsequent amendments and successor provisions;

12 ~~[G-]~~ H. "federal standard of performance" means a
13 standard of performance, emission limitation or emission
14 standard adopted pursuant to 42 U.S.C. Section 7411 or 7412;

15 I. "greenhouse gas" means gaseous compounds that
16 absorb infrared radiation emitted from the earth's surface and
17 trap heat in the earth's atmosphere, including carbon dioxide,
18 methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons,
19 nitrogen trifluoride and sulfur hexafluoride, but not including
20 water vapor;

21 J. "greenhouse gas direct measurement" means
22 regional, local, stationary source or air pollution source
23 monitoring of greenhouse gas emissions used to quantify the
24 amount of greenhouse gases emitted;

25 K. "greenhouse gas inventory and progress report"

1 means the report prepared and published every two years by the
 2 department pursuant to Subsection D of Section 74-1-19 NMSA
 3 1978;

4 L. "greenhouse gas monitoring requirements" means
 5 requirements that establish statewide greenhouse gas emissions
 6 monitoring and measurement protocols that report emissions in
 7 carbon dioxide equivalents, including requirements for
 8 greenhouse gas direct measurement, recordkeeping, reporting and
 9 verification;

10 M. "greenhouse gas sector report" means the report
 11 prepared and published by the department containing a proposed
 12 allocation of the greenhouse gas emissions reductions, by
 13 sector;

14 [~~H.~~] N. "hazardous air pollutant" means an air
 15 contaminant that has been listed as a hazardous air pollutant
 16 pursuant to the federal act;

17 [~~I.~~] O. "local agency" means the administrative
 18 agency established by a local authority pursuant to Paragraph
 19 (2) of Subsection A of Section 74-2-4 NMSA 1978;

20 [~~J.~~] P. "local authority" means any of the
 21 following political subdivisions of the state that have, by
 22 following the procedure set forth in Subsection A of Section
 23 74-2-4 NMSA 1978, assumed jurisdiction for local administration
 24 and enforcement of the Air Quality Control Act:

25 (1) a county that was a class A county as of

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1 January 1, 1980; or

2 (2) a municipality with a population greater
3 than one hundred thousand located within a county that was a
4 class A county as of January 1, 1980;

5 [~~K.~~] Q. "local board" means a municipal, county or
6 joint air quality control board created by a local authority;

7 [~~L.~~] R. "mandatory class I area" means any of the
8 following areas in this state that were in existence on August
9 7, 1977:

10 (1) national wilderness areas that exceed five
11 thousand acres in size; and

12 (2) national parks that exceed six thousand
13 acres in size;

14 S. "methane emissions intensity" means the volume
15 of methane emissions from oil and gas exploration and
16 production operations as a percentage of the volume of the
17 total gas produced, or for oil production sites reporting no
18 gas production, the intensity calculation shall use ten metric
19 tons of methane per million barrels of oil sent to sale;

20 [~~M.~~] T. "modification" means a physical change in,
21 or change in the method of operation of, a source that results
22 in an increase in the potential emission rate of a regulated
23 air contaminant emitted by the source or that results in the
24 emission of a regulated air contaminant not previously emitted,
25 but does not include:

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- 1 (1) a change in ownership of the source;
2 (2) routine maintenance, repair or
3 replacement;
- 4 (3) installation of air pollution control
5 equipment, and all related process equipment and materials
6 necessary for its operation, undertaken for the purpose of
7 complying with regulations adopted by the environmental
8 improvement board or the local board or pursuant to the federal
9 act; or

10 (4) unless previously limited by enforceable
11 permit conditions:

12 (a) an increase in the production rate,
13 if such increase does not exceed the operating design capacity
14 of the source;

15 (b) an increase in the hours of
16 operation; or

17 (c) use of an alternative fuel or raw
18 material if, prior to January 6, 1975, the source was capable
19 of accommodating such fuel or raw material or if use of an
20 alternate fuel or raw material is caused by a natural gas
21 curtailment or emergency allocation or [~~an other~~] another lack
22 of supply of natural gas;

23 [N.] U. "nonattainment area" means for an air
24 contaminant an area that is designated "nonattainment" with
25 respect to that contaminant within the meaning of Section

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1 107(d) of the federal act;

2 V. "overburdened community" means populations or
3 communities that potentially experience disproportionate
4 environmental harms and risks as a result of greater
5 vulnerability to environmental hazards and includes a
6 consideration of income and exposure to pollution;

7 [~~Q.~~] W. "person" includes an individual,
8 partnership, corporation, association, the state or political
9 subdivision of the state and any agency, department or
10 instrumentality of the United States and any of their officers,
11 agents or employees;

12 [~~P.~~] X. "potential emission rate" means the
13 emission rate of a source at its maximum capacity to emit a
14 regulated air contaminant under its physical and operational
15 design, provided any physical or operational limitation on the
16 capacity of the source to emit a regulated air contaminant,
17 including air pollution control equipment and restrictions on
18 hours of operation or on the type or amount of material
19 combusted, stored or processed, shall be treated as part of its
20 physical and operational design only if the limitation or the
21 effect it would have on emissions is enforceable by the
22 department or the local agency pursuant to the Air Quality
23 Control Act or the federal act;

24 [~~Q.~~] Y. "regulated air contaminant" means an air
25 contaminant, the emission or ambient concentration of which is

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1 regulated pursuant to the Air Quality Control Act or the
2 federal act;

3 ~~[R.]~~ Z. "secretary" means the secretary of
4 environment;

5 AA. "sector" means a category of greenhouse gas
6 emissions within the state economy as identified by the
7 department after consideration of categories used in state and
8 federal greenhouse gas emissions inventories;

9 ~~[S.]~~ BB. "significant deterioration" means an
10 increase in the ambient concentrations of an air contaminant
11 above the levels allowed by the federal act or federal
12 regulations for that air contaminant in the area within which
13 the increase occurs;

14 ~~[T.]~~ CC. "source" means a structure, building,
15 equipment, facility, installation or operation that emits or
16 may emit an air contaminant;

17 ~~[U.]~~ DD. "standard of performance" means a
18 requirement of continuous emission reduction, including any
19 requirement relating to operation or maintenance of a source to
20 assure continuous emission reduction;

21 ~~[V.]~~ EE. "state implementation plan" means a plan
22 submitted by New Mexico to the federal environmental protection
23 agency pursuant to 42 U.S.C. Section 7410; ~~[and]~~

24 FF. "statewide greenhouse gas emissions" means the
25 total net anthropogenic emissions of greenhouse gases,

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1 expressed in carbon dioxide equivalent using a methodology
2 determined to be appropriate by the department, including
3 emissions from electricity generation for consumption in New
4 Mexico, both imported and produced in New Mexico;
5 transportation fuels and heating fuels combusted in New Mexico;
6 buildings and structures; residential, commercial,
7 institutional and industrial waste management; manufacturing
8 processes; extraction and processing of raw materials;
9 agricultural products and forest products; and oil and gas
10 exploration, production, storage, distribution and
11 transportation in the state; and

12 [W-] GG. "toxic air pollutant" means an air
13 contaminant, except a hazardous air pollutant, classified by
14 the environmental improvement board or the local board as a
15 toxic air pollutant."

16 SECTION 5. A new section of the Air Quality Control Act,
17 Section 74-2-5.4 NMSA 1978, is enacted to read:

18 "74-2-5.4. [NEW MATERIAL] ENVIRONMENTAL IMPROVEMENT BOARD
19 AND LOCAL BOARD--ADDITIONAL DUTIES AND POWERS.--

20 A. The environmental improvement board and local
21 board shall adopt or amend rules as necessary to meet the
22 greenhouse gas emissions limits established in Subsection A of
23 Section 74-1-19 NMSA 1978.

24 B. By September 30, 2026, the environmental
25 improvement board and local board shall adopt greenhouse gas

1 monitoring requirements that:

2 (1) consider data reporting and other
3 requirements already in place;

4 (2) include requirements to monitor, measure,
5 report and verify greenhouse gas emissions from all sectors;

6 (3) include requirements to monitor, measure,
7 report and verify oil and gas exploration and production
8 operation methane emissions as measured by empirical methods;

9 (4) shall be utilized by the department in
10 future greenhouse gas inventory and progress reports; and

11 (5) shall go into effect on January 1, 2027.

12 C. By December 31, 2028, the environmental
13 improvement board and local board shall adopt rules for the
14 reduction of greenhouse gas emissions by sector sufficient to
15 meet the statewide greenhouse gas emissions limits in
16 Subsection A of Section 74-1-19 NMSA 1978 and adopt annual
17 greenhouse gas limits. The department and local agency shall
18 propose rules to the environmental improvement board and local
19 board based on the greenhouse gas sector report. If a rule
20 proposed under this subsection would establish an allocation of
21 emissions among sectors, interested parties shall have standing
22 to intervene in the rulemaking for the purpose of challenging
23 the allocation.

24 D. If the department or local agency determines
25 that it is more appropriate to conduct separate rulemaking for

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1 methane emissions from oil and gas exploration and production
2 operations, the department or local agency may propose separate
3 rulemaking. In those cases, regardless of the requirements of
4 Subsection C of this section, the environmental improvement
5 board and local board shall adopt rules for the reduction of
6 methane emissions from oil and gas exploration and production
7 operations by July 31, 2029.

8 E. The rule to achieve greenhouse gas emissions
9 reductions from methane from oil and gas exploration and
10 production operations shall ensure reductions that are at least
11 equivalent to:

12 (1) by 2030, a level of emissions of no more
13 than three-tenths percent methane emissions intensity;

14 (2) by 2040, a level of emissions of no more
15 than two-tenths percent methane emissions intensity; and

16 (3) by 2050, a level of emissions of no more
17 than one-tenth percent methane emissions intensity.

18 F. The environmental improvement board may amend or
19 adopt rules necessary or revise sector allocations to meet the
20 statewide greenhouse gas emissions limits established in
21 Section 74-1-19 NMSA 1978.

22 G. For a rule adopted pursuant to this section, the
23 environmental improvement board and local board:

24 (1) shall apply climate equity principles
25 pursuant to the provisions of the Environmental Improvement

1 Act;

2 (2) shall rely, as deemed appropriate, on the
3 greenhouse gas inventory and progress report developed by the
4 department pursuant to Subsection D of Section 74-1-19 NMSA
5 1978;

6 (3) may implement an emissions limitation or
7 control measure that results in an enforceable emissions
8 reduction, including those allowed by the federal Clean Air
9 Act, 74 U.S.C. 7410(a)(2);

10 (4) shall take into consideration other
11 relevant state and federal laws, rules and enforceable
12 requirements that contribute to reductions in greenhouse gas
13 emissions;

14 (5) may take into consideration federal, state
15 or philanthropic investments, grant programs and financial
16 incentives or voluntary actions taken by local governments and
17 private entities that contribute to reductions in greenhouse
18 gas emissions as the environmental improvement board or the
19 local board deems appropriate;

20 (6) may take into consideration differences in
21 industry exposure to interstate or international competition
22 and the relative cost of carbon reduction mechanisms;

23 (7) may take into consideration whether the
24 rule disparately impacts entities demonstrating emissions
25 reductions consistent with achieving statewide greenhouse gas

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1 emissions limits;

2 (8) shall give appropriate weight to all facts
3 and circumstances, including those factors listed in Subsection
4 F of Section 74-2-5 NMSA 1978 and, if a sector is not meeting
5 its target as identified in the greenhouse gas inventory and
6 progress report, shall seek, to the extent practicable, to make
7 up the gap within that sector;

8 (9) may differentiate regulatory requirements
9 based on operator size; and

10 (10) may address sectors separately or in
11 combination as long as the requirements are otherwise met.

12 H. The environmental improvement board and local
13 board shall, at least once every five years, based on
14 information provided by the department, reevaluate the
15 effectiveness of the rules adopted pursuant to this section in
16 achieving the statewide greenhouse gas emissions limits in
17 Subsection A of Section 74-1-19 NMSA 1978.

18 I. The environmental improvement board and local
19 board shall develop and may amend a schedule of fees to defray
20 department administrative costs."