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HOUSE BILL 475

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

JAMES ROGER MADALENA

AN ACT

RELATING TO FEDERAL LANDS; AMENDING A SECTION OF THE NMSA 1978;
DECLARING AN EMERGENCY.

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

Section 1. Section 74-6B-7 NMSA 1978 (being Laws 1990,
Chapter 124, Section 7, as amended) is amended to read:

"74-6B-7. CORRECTIVE ACTION FUND CREATED--AUTHORIZATION
FOR EXPENDITURES. --

A. There is created the "corrective action fund".
This fund is intended to provide for financial assurance
coverage required by federal law and shall be used by the
department to the extent that revenues are available to take
corrective action in response to a release, to pay for the
costs of a minimum site assessment in excess of ten thousand
dollars (\$10,000), to pay the state's share of federal leaking

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1 underground storage tank trust fund cleanup costs as required by
2 the federal Resource Conservation and Recovery Act and to make
3 payments to or on behalf of owners and operators in accordance
4 with Section 74-6B-13 NMSA 1978. The owner or operator of a
5 site shall not use the corrective action fund as evidence of
6 financial assurance to satisfy claims of third parties.

7 B. The board, after recommendations from the
8 underground storage tank committee, shall adopt regulations for
9 establishing priorities for corrective action at sites
10 contaminated by underground storage tanks. The priorities for
11 corrective action shall be based on public health, safety and
12 welfare and environmental concerns. In adopting regulations
13 pursuant to this subsection, the board shall follow the
14 procedures of Section 74-4-5 NMSA 1978. The provisions of that
15 section relating to all other matters in connection with the
16 adoption of regulations shall apply. The department shall
17 establish priority lists of sites in accordance with the
18 regulations adopted by the board.

19 C. The department shall make expenditures from the
20 corrective action fund in accordance with regulations adopted by
21 the board or the secretary for corrective action at sites
22 contaminated by underground storage tanks; provided that the
23 secretary shall adopt regulations by October 1, 1995 that
24 require payments made pursuant to the Ground Water Protection
25 Act to be based on a competitive bid procedure based on

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1 technical merit and cost-effectiveness. Payments may be made
2 only for corrective action conducted by firms qualified by the
3 department to perform such work pursuant to regulations adopted
4 by the board. No expenditures from the corrective action fund
5 shall be paid to or on behalf of tank owners or operators for
6 corrective action, other than a minimum site assessment or
7 sampling, where the corrective action was conducted by firms or
8 entities that are subsidiaries, parents or otherwise affiliate
9 firms or entities of the owner or operators. These expenditures
10 shall be made by the department to perform corrective action, to
11 pay for the costs of a minimum site assessment in excess of ten
12 thousand dollars (\$10,000) and to make payments to or on behalf
13 of owners and operators in accordance with Section 74-6B-13 NMSA
14 1978. The department shall take corrective action at sites in
15 the order of priority appearing on the priority lists, except
16 when an emergency threat to public health, safety and welfare or
17 to the environment exists. When available revenues are limited
18 and the fund can no longer be approved as a financial
19 responsibility mechanism, priorities for expenditures from the
20 corrective action fund shall also be based on financial need as
21 determined by regulations adopted by the department no later
22 than October 1, 1995.

23 D. No expenditure from the corrective action fund
24 shall be authorized for corrective action at sites owned or
25 operated by the United States or any agency or instrumentality

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1 thereof, but an expenditure may be made from the fund to benefit
2 an Indian nation, tribe or pueblo in New Mexico.

3 E. Nothing in this section authorizes payments for
4 the repair or replacement of any underground storage tank or
5 equipment.

6 F. Nothing in this section authorizes payments or
7 commitments for payments in excess of the funds available.

8 G. Within sixty days after receipt of notification
9 that the corrective action fund has become incapable of paying
10 for assured corrective actions, the owner or operator shall
11 obtain alternative financial assurance acceptable to the
12 department. "

13 Section 2. EMERGENCY. --It is necessary for the public
14 peace, health and safety that this act take effect immediately.

State of New Mexico
House of Representatives

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

February 7, 1997

Mr. Speaker:

Your ENERGY AND NATURAL RESOURCES COMMITTEE, to
whom has been referred

HOUSE BILL 475

has had it under consideration and reports same with
recommendation that it DO PASS, and thence referred to the
APPROPRIATIONS AND FINANCE COMMITTEE.

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

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Respectfully submitted,

James Roger Madalena, Chairman

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 8 For 0 Against

Yes: 8

No: 0

Excused: Garcia, Getty, Ryan, Stewart

Absent: None

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