

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BILL

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO THE ENVIRONMENT; ENACTING A NEW SECTION OF THE AIR
QUALITY CONTROL ACT TO PROVIDE AUTHORITY TO THE ENVIRONMENTAL
IMPROVEMENT BOARD TO ADOPT RULES TO REDUCE GREENHOUSE
EMISSIONS.

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

Section 1. A new section of the Air Quality Control Act
is enacted to read:

"NEW MATERIAL GREENHOUSE GAS EMISSIONS--ENVIRONMENTAL
IMPROVEMENT BOARD--CAP AND TRADE RULES.--

A. The board shall adopt rules to reduce greenhouse
gas emissions in New Mexico. The rules shall require
greenhouse gas emission sources to reduce emissions by trading
emission reduction allowances in a greenhouse gas cap and trade
program that provides for:

.175110.2SA

underscored material = new
~~[bracketed material]~~ = delete

underscored material = new
~~[bracketed material] = delete~~

1 (1) affected sources to reduce greenhouse gas
2 emissions;

3 (2) a greenhouse gas emissions trading and
4 banking program;

5 (3) a method for allocating emission
6 allowances and other emission reduction units;

7 (4) emissions and allowance monitoring,
8 tracking, recordkeeping and terms and conditions for allowances
9 or other actions that may be necessary to verify compliance
10 with this section;

11 (5) mandatory emissions reporting requirements
12 for sources emitting annual emissions equal to or greater than
13 ten thousand metric tons of carbon dioxide equivalent for the
14 following sources:

15 (a) imported electricity;

16 (b) transportation fuels; and

17 (c) fuel combustion for residential,
18 commercial or industrial purposes;

19 (6) public disclosure of facility-level
20 aggregated carbon dioxide equivalent emissions; provided that
21 such disclosure may be delayed for market-related reasons;

22 (7) public disclosure of other data and
23 information, except upon a showing pursuant to Section 74-2-11
24 NMSA 1978;

25 (8) methods and requirements for auctioning

.175110.2SA

underscored material = new
[bracketed material] = delete

1 allowances, including coordinated regional auction processes
2 and minimum annual action percentages;

3 (9) early reduction allowances, including
4 criteria to quantify and grant such allowances; and

5 (10) offset allowances, including criteria to
6 quantify and grant such allowances, such as accreditation of
7 third-party verifiers; provided that the total offsets for New
8 Mexico shall not exceed forty-nine percent of the total
9 emission reductions required between 2012 and 2020.

10 B. In adopting rules pursuant to this section, the
11 board shall:

12 (1) design rules, including the distribution
13 of allowances, in a manner that is equitable, seek to minimize
14 costs and maximize total benefits to the state and encourage
15 and recognize early action to reduce greenhouse gas emissions;

16 (2) ensure that activities undertaken to
17 comply with the rules do not disproportionately affect
18 low-income communities;

19 (3) ensure that entities that have voluntarily
20 reduced their greenhouse gas emissions prior to implementation
21 of this section receive appropriate credit for early voluntary
22 reductions;

23 (4) consider cost-effectiveness of the rules;

24 (5) consider overall societal benefits,
25 including reductions in other air pollutants, diversification

.175110.2SA

underscored material = new
~~[bracketed material] = delete~~

1 of energy sources and other benefits to the economy,
2 environment and health;

3 (6) minimize the administrative burden of
4 implementing and complying with the rules;

5 (7) minimize leakage and competitive
6 disadvantages to New Mexico industries; and

7 (8) consider whether the allowance market is
8 of sufficient size to promote liquidity and reduce costs.

9 C. By January 1, 2010, the department shall
10 establish and adjust as appropriate the statewide greenhouse
11 gas emissions level in 2000 and the statewide greenhouse gas
12 emissions limit that is equivalent to ten percent below that
13 level by 2020. The department shall establish and adjust as
14 appropriate the post-2020 greenhouse gas emissions limit not
15 less than three years in advance of the effective date of the
16 limit.

17 D. The department shall coordinate and participate
18 with other states, regional organizations and the federal
19 government for implementation of this section.

20 E. Any violation of a rule, regulation, order,
21 emission limitation, emission reduction measure or other
22 measure adopted by the board pursuant to this section shall be
23 deemed a violation of a permit or regulation, as applicable,
24 and shall be subject to enforcement pursuant to the Air Quality
25 Control Act.

.175110.2SA

underscored material = new
~~[bracketed material] = delete~~

1 F. Any person who does not hold sufficient
2 allowances at the end of each compliance period may be assessed
3 a civil penalty equal to the cost of three allowances for every
4 metric ton of carbon dioxide equivalent not covered by an
5 allowance.

6 G. In the event of extraordinary circumstances,
7 catastrophic events or threat of significant economic harm, the
8 governor may adjust the applicable deadlines for individual
9 regulations or for the state in the aggregate to the earliest
10 feasible date after the deadline. The adjustment period shall
11 not exceed one year unless the governor makes an additional
12 adjustment pursuant to this subsection. The governor shall,
13 within ten days of invoking this subsection, provide written
14 notification to the legislature of the action undertaken.

15 H. The department shall report annually to the
16 appropriate interim legislative committee on the status of
17 implementation of this section.

18 I. As used in this section:

19 (1) "affected source" means any source that
20 annually emits twenty-five thousand metric tons or more of
21 carbon dioxide equivalents from electricity generation,
22 combustion at industrial and commercial facilities, industrial
23 processes, residential, combustion of commercial and industrial
24 fuels;

25 (2) "allowance" means an authorization to emit

underscored material = new
~~[bracketed material]~~ = delete

1 during a specified year up to one ton of carbon dioxide
2 equivalent, but an allowance shall not constitute a property
3 right for any purpose;

4 (3) "banking" means the carryover of unused
5 allowances or offsets from one compliance period to another;

6 (4) "board" means the environmental
7 improvement board;

8 (5) "carbon dioxide equivalent" means a metric
9 measure used to compare emissions from various greenhouse gases
10 based upon their global warming potential;

11 (6) "greenhouse gas" means any of the
12 following gases:

13 (a) carbon dioxide;

14 (b) methane;

15 (c) nitrous oxide;

16 (d) hydrofluorocarbons;

17 (e) perfluorocarbons; and

18 (f) sulfur hexafluoride;

19 (7) "greenhouse gas emissions limit" means an
20 authorization, during a specified year, to emit up to a level
21 of carbon dioxide equivalent specified by the department;

22 (8) "leakage" means a reduction in emissions
23 of greenhouse gases within the state that is offset by an
24 increase in emissions of greenhouse gases outside the state;
25 and

.175110.2SA

