

NM Regulators Repeal Carbon Cap & Trade Rules

SUSAN MONTOYA BRYAN, Associated Press

ALBUQUERQUE, N.M. (AP) — New Mexico's participation in a regional cap and trade program aimed at curbing greenhouse gas emissions became more unlikely Monday with a unanimous vote by state regulators.

The decision by the Environmental Improvement Board to repeal the cap and trade rules came in response to petitions filed by New Mexico's largest electric utilities, oil and gas developers and others who feared the rules would push businesses and jobs to neighboring states.

Gov. Susana Martinez, a critic of regulating carbon emissions at the state level, was pleased with the board's decision, spokesman Scott Darnell said.

"This is a regulation that failed to pass the Legislature and was instead rushed through without sufficient science, with even some proponents admitting that it wouldn't have a tangible positive impact on the environment," Darnell said. "It was a regulation that threatened jobs and would have burdened our families with higher energy costs."

Members of the New Mexico Oil and Gas Association agreed, saying it was bad public policy for New Mexico to unilaterally take on an issue that is global in scope.

Environmentalists said they weren't surprised by the board's decision given that Martinez had appointed all new members to the panel when she took office last year.

"They succumbed to political expediency rather than commence doing what one must for New Mexican businesses and families," said Mariel Nanasi, executive director of the Santa Fe-based environmental group New Energy Economy.

The cap and trade rules along with provisions for reporting and verifying carbon emissions were first proposed in 2010 by the Environment Department under former Democratic Gov. Bill Richardson. The state had argued it needed a cap and trade program that would best suit the needs of New Mexico.

At the same time, New Energy Economy was petitioning the board to adopt rules for capping greenhouse gas emissions from large polluters.

A year of public meetings, courtroom battles and hearings before the board eventually gave way to approval of the pollution regulations. Then more legal wrangling ensued.

Opponents filed court appeals as well as petitions to get the board to reconsider. More public hearings were held late last year.

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Board member Elizabeth Ryan said she voted to repeal the cap and trade rules because she felt "New Mexico was in front of a firing squad of regulation" due to projections for job losses, businesses moving elsewhere and the lack of technology and trading partners.

She said in the 15 months since the rules were first adopted, there have also been shifts in attitudes at federal and international levels about the best way to regulate greenhouse gases.

The board has yet to decide whether to repeal the cap supported by New Energy Economy. A vote is scheduled for March.

Ryan said the two emissions programs are entirely different, but environmental groups were predicting a similar outcome.

"It's obvious that anything that industry wants, they're going to get from this board, whether it's good for public health or the environment or not," said Bruce Frederick, a staff attorney with the New Mexico Environmental Law Center.

Supporters of the pollution regulations expect to take their case to the appellate court and the New Mexico Supreme Court.

Frederick said the courts will have to put an end to what has become an endless cycle of petitions and appeals that stem from the state's rulemaking process.

"That's the question for New Mexico: Is this really what the Legislature intended?" Frederick said. "If we had the money that PNM and oil and gas have, we could tie things in knots too and go through these endless procedures. We don't."

Public Service Company of New Mexico, the state's largest electric provider, said it agrees with the policy goal of reducing carbon emissions but not with New Mexico's regulation.

"It would have imposed an enormous cost on New Mexico's fragile economy with no measurable reduction in the atmospheric concentration of greenhouse gases," said Pat Themig, PNM's vice president of generation.

PNM has installed a handful of utility-scale solar farms around New Mexico over the past year, but about 60 percent of the electricity it provides to customers comes from the coal-fired San Juan Generating Station in northwestern New Mexico.

Had the board not repealed the provisions, San Juan would have been among the dozens of power plants, refineries and other large polluters required to verify their carbon emissions and start trimming them this year by 2 percent annually.

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