

1 SENATE BILL 592

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO NATURAL RESOURCES; PROVIDING FOR THE REGULATION OF  
12 PRODUCED WATER; REQUIRING REPORTING; REPEALING SECTION  
13 70-2-12.1 NMSA 1978 (BEING LAWS 2004, CHAPTER 87, SECTION 1);  
14 MAKING AN APPROPRIATION.

15  
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. [NEW MATERIAL] DISPOSITION OF PRODUCED  
18 WATER--REPORTING.--

19 A. In accordance with Article 20, Section 21 of the  
20 constitution of New Mexico, the collection, transportation,  
21 transfer, storage, treatment or disposition of produced water  
22 shall be performed in accordance with rules promulgated by the  
23 department of environment; provided that such rules shall  
24 require:

25 (1) maintaining records concerning the origin

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1 and final delivery points of produced water;

2 (2) testing of the produced water and  
3 disclosure of the composition of the produced water, including  
4 levels of radioactivity and pollutants;

5 (3) proper disposal of produced water to  
6 protect the public health, water and environment; and

7 (4) other rules as deemed necessary by the  
8 department to protect the public health, water and environment.

9 B. Annually, prior to November 1, the department of  
10 environment shall provide a report to the governor and the  
11 appropriate legislative interim committees that includes:

12 (1) the actual and potential environmental  
13 impact of produced water, including the current usage and  
14 composition of the produced water; and

15 (2) recommendations for:

16 (a) legislation and regulations  
17 regarding produced water; and

18 (b) funding to complete research  
19 necessary for the reporting requirement listed in this  
20 subsection.

21 C. As used in this section, "produced water" means  
22 water that is an incidental byproduct from drilling for or the  
23 production of oil and gas."

24 SECTION 2. Section 70-2-12 NMSA 1978 (being Laws 1978,  
25 Chapter 71, Section 1, as amended) is amended to read:

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1 "70-2-12. ENUMERATION OF POWERS.--

2 A. The oil conservation division of the energy,  
3 minerals and natural resources department may:

4 (1) collect data;

5 (2) make investigations and inspections;

6 (3) examine properties, leases, papers, books  
7 and records;

8 (4) examine, check, test and gauge oil and gas  
9 wells, tanks, plants, refineries and all means and modes of  
10 transportation and equipment;

11 (5) hold hearings;

12 (6) provide for the keeping of records and the  
13 making of reports and for the checking of the accuracy of the  
14 records and reports;

15 (7) limit and prorate production of crude  
16 petroleum oil or natural gas or both as provided in the  
17 Oil and Gas Act; and

18 (8) require either generally or in particular  
19 areas certificates of clearance or tenders in connection with  
20 the transportation of crude petroleum oil or natural gas or any  
21 products of either or both oil and products or both natural gas  
22 and products.

23 B. The oil conservation division may make rules and  
24 orders for the purposes and with respect to the subject matter  
25 stated in this subsection:

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1 (1) to require dry or abandoned wells to be  
2 plugged in a way to confine the crude petroleum oil, natural  
3 gas or water in the strata in which it is found and to prevent  
4 it from escaping into other strata; pursuant to Section 70-2-14  
5 NMSA 1978, the division shall require financial assurance  
6 conditioned for the performance of the rules;

7 (2) to prevent crude petroleum oil, natural  
8 gas or water from escaping from strata in which it is found  
9 into other strata;

10 (3) to require reports showing locations of  
11 all oil or gas wells and for the filing of logs and drilling  
12 records or reports;

13 (4) to prevent the drowning by water of any  
14 stratum or part thereof capable of producing oil or gas or both  
15 oil and gas in paying quantities and to prevent the premature  
16 and irregular encroachment of water or any other kind of water  
17 encroachment that reduces or tends to reduce the total ultimate  
18 recovery of crude petroleum oil or gas or both oil and gas from  
19 any pool;

20 (5) to prevent fires;

21 (6) to prevent "blow-ups" and "caving" in the  
22 sense that the conditions indicated by such terms are generally  
23 understood in the oil and gas business;

24 (7) to require wells to be drilled, operated  
25 and produced in such manner as to prevent injury to neighboring

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1 leases or properties;

2 (8) to identify the ownership of oil or gas  
3 producing leases, properties, wells, tanks, refineries,  
4 pipelines, plants, structures and all transportation equipment  
5 and facilities;

6 (9) to require the operation of wells with  
7 efficient gas-oil ratios and to fix such ratios;

8 (10) to fix the spacing of wells;

9 (11) to determine whether a particular well or  
10 pool is a gas or oil well or a gas or oil pool, as the case may  
11 be, and from time to time to classify and reclassify wells and  
12 pools accordingly;

13 (12) to determine the limits of any pool  
14 producing crude petroleum oil or natural gas or both and from  
15 time to time redetermine the limits;

16 (13) to regulate the methods and devices  
17 employed for storage in this state of oil or natural gas or any  
18 product of either, including subsurface storage;

19 (14) to permit the injection of natural gas or  
20 of any other substance into any pool in this state for the  
21 purpose of repressuring, cycling, pressure maintenance,  
22 secondary or any other enhanced recovery operations;

23 ~~(15) to regulate the disposition of water~~  
24 ~~produced or used in connection with the drilling for or~~  
25 ~~producing of oil or gas or both and to direct surface or~~

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1 ~~subsurface disposal of the water, including disposition by use~~  
2 ~~in drilling for or production of oil or gas, in road~~  
3 ~~construction or maintenance or other construction, in the~~  
4 ~~generation of electricity or in other industrial processes, in~~  
5 ~~a manner that will afford reasonable protection against~~  
6 ~~contamination of fresh water supplies designated by the state~~  
7 ~~engineer;~~

8           ~~(16)~~] (15) to determine the limits of any area  
9 containing commercial potash deposits and from time to time  
10 redetermine the limits;

11           ~~[(17)]~~ (16) to regulate and, where necessary,  
12 prohibit drilling or producing operations for oil or gas within  
13 any area containing commercial deposits of potash where the  
14 operations would have the effect unduly to reduce the total  
15 quantity of the commercial deposits of potash that may  
16 reasonably be recovered in commercial quantities or where the  
17 operations would interfere unduly with the orderly commercial  
18 development of the potash deposits;

19           ~~[(18)]~~ (17) to spend the oil and gas  
20 reclamation fund and do all acts necessary and proper to plug  
21 dry and abandoned oil and gas wells and to restore and  
22 remediate abandoned well sites and associated production  
23 facilities in accordance with the provisions of the Oil and Gas  
24 Act, the rules adopted under that act and the Procurement Code,  
25 including disposing of salvageable equipment and material

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1 removed from oil and gas wells being plugged by the state;  
2 [~~(19)~~] (18) to make well price category  
3 determinations pursuant to the provisions of the federal  
4 Natural Gas Policy Act of 1978 or any successor act and, by  
5 regulation, to adopt fees for such determinations, which fees  
6 shall not exceed twenty-five dollars (\$25.00) per filing. Such  
7 fees shall be credited to the account of the oil conservation  
8 division by the state treasurer and may be expended as  
9 authorized by the legislature;

10 [~~(20)~~] (19) to regulate the construction and  
11 operation of oil treating plants and to require the posting of  
12 bonds for the reclamation of treating plant sites after  
13 cessation of operations;

14 [~~(21)~~] (20) to regulate the disposition of  
15 nondomestic wastes resulting from the exploration, development,  
16 production or storage of crude oil or natural gas to protect  
17 public health and the environment; and

18 [~~(22)~~] (21) to regulate the disposition of  
19 nondomestic wastes resulting from the oil field service  
20 industry, the transportation of crude oil or natural gas, the  
21 treatment of natural gas or the refinement of crude oil to  
22 protect public health and the environment, including  
23 administering the Water Quality Act as provided in Subsection E  
24 of Section 74-6-4 NMSA 1978."

25 SECTION 3. APPROPRIATION.--Three hundred thousand dollars

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1 (\$300,000) is appropriated from the general fund to the  
2 department of environment for expenditure in fiscal years 2020  
3 and 2021 to perform the requirements listed in Section 1 of  
4 this act. Any unexpended or unencumbered balance remaining at  
5 the end of fiscal year 2021 shall revert to the general fund.

6 SECTION 4. REPEAL.--Section 70-2-12.1 NMSA 1978 (being  
7 Laws 2004, Chapter 87, Section 1) is repealed.

8 SECTION 5. EFFECTIVE DATE.--The effective date of the  
9 provisions of this act is July 1, 2019.