SENATE BILL 104

54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

INTRODUCED BY

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AN ACT

RELATING TO NATURAL RESOURCES; PROHIBITING THE ISSUANCE OF NEW HYDRAULIC FRACTURING PERMITS; CREATING REPORTING REQUIREMENTS.

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

SECTION 1. Section 70-2-33 NMSA 1978 (being Laws 1935, Chapter 72, Section 24, as amended) is amended to read:

"70-2-33. DEFINITIONS.—As used in the Oil and Gas Act:

A. "hydraulic fracturing" means the process of injecting fluid into an oil- or natural-gas-bearing rock formation adjacent to the borehole of an oil or natural gas well for the purpose of either creating new fractures or expanding existing fractures to stimulate the flow into the well of oil or natural gas that would otherwise remain in the rock formation;

B. "person" means:

.216454.1
(1) any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate or other entity; or

(2) the United States or any agency or instrumentality thereof or the state or any political subdivision thereof;

[C] "pool" means an underground reservoir containing a common accumulation of crude petroleum oil or natural gas or both. Each zone of a general structure, which zone is completely separate from any other zone in the structure, is covered by the word "pool" as used in the Oil and Gas Act. "Pool" is synonymous with "common source of supply" and with "common reservoir";

[D] "field" means the general area that is underlaid or appears to be underlaid by at least one pool and also includes the underground reservoir or reservoirs containing the crude petroleum oil or natural gas or both. The words "field" and "pool" mean the same thing when only one underground reservoir is involved; however, "field", unlike "pool", may relate to two or more pools;

[E] "product" means any commodity or thing made or manufactured from crude petroleum oil or natural gas and all derivatives of crude petroleum oil or natural gas, including refined crude oil, crude tops, topped crude, processed crude petroleum, residue from crude petroleum, cracking stock,
uncracked fuel oil, treated crude oil, fuel oil, residuum, gas oil, naphtha, distillate, gasoline, kerosene, benzine, wash oil, waste oil, lubricating oil and blends or mixtures of crude petroleum oil or natural gas or any derivative thereof;

[F.] "owner" means the person who has the right to drill into and to produce from any pool and to appropriate the production either for the person or for the person and another;

[G.] "producer" means the owner of a well capable of producing oil or natural gas or both in paying quantities;

[H.] "gas transportation facility" means a pipeline in operation serving gas wells for the transportation of natural gas or some other device or equipment in like operation whereby natural gas produced from gas wells connected therewith can be transported or used for consumption;

[I.] "correlative rights" means the opportunity afforded, so far as it is practicable to do so, to the owner of each property in a pool to produce without waste the owner's just and equitable share of the oil or gas or both in the pool, being an amount, so far as can be practicably determined and so far as can be practicably obtained without waste, substantially in the proportion that the quantity of recoverable oil or gas or both under the property bears to the total recoverable oil or gas or both in the pool and, for such purpose, to use the
owner's just and equitable share of the reservoir energy;

[1-] J. "potash" means the naturally occurring bedded deposits of the salts of the element potassium;

[2-] K. "casinghead gas" means any gas or vapor or both indigenous to an oil stratum and produced from such stratum with oil, including any residue gas remaining after the processing of casinghead gas to remove its liquid components;

[3-] L. "produced water" means a fluid that is an incidental byproduct from drilling for or the production of oil and gas;

[4-] M. "commission" means the oil conservation commission; and

[5-] N. "division" means the oil conservation division of the energy, minerals and natural resources department."

SECTION 2. A new section of the Oil and Gas Act is enacted to read:

"[NEW MATERIAL] HYDRAULIC FRACTURING PROHIBITED.--In accordance with Article 20, Section 21 of the constitution of New Mexico, the energy, minerals and natural resources department shall halt the issuance of new permits allowing hydraulic fracturing for the purpose of extracting oil or natural gas."

SECTION 3. A new section of the Oil and Gas Act is enacted to read:

.216454.1
"[NEW MATERIAL] HYDRAULIC FRACTURING REPORTING.--Annually, prior to November 1, the following agencies shall make the following reports to the governor and the appropriate legislative interim committees, including the committee that studies economic and rural development issues, the committee that studies Indian affairs, the legislative health and human services committee and the committee that studies water and natural resources:

A. the energy, minerals and natural resources department shall report on:

(1) the number of active permits and applications received related to oil and gas development that involves hydraulic fracturing;

(2) trends regarding methane and greenhouse gas emissions globally, nationally and statewide; and

(3) recommendations for:

(a) legislation and regulations regarding hydraulic fracturing; and

(b) a funding request to complete research necessary for the reporting requirement listed in this subsection;

B. the New Mexico department of agriculture shall report on:

(1) the actual and potential agricultural impact of oil and gas development that involves hydraulic
fracturing; and

(2) recommendations for:

(a) legislation and regulations regarding hydraulic fracturing; and

(b) a funding request to complete research necessary for the reporting requirement listed in this subsection;

C. the department of environment shall report on:

(1) the actual and potential environmental impact of oil and gas development that involves hydraulic fracturing; and

(2) recommendations for:

(a) legislation and regulations regarding hydraulic fracturing; and

(b) a funding request to complete research necessary for the reporting requirement listed in this subsection;

D. the department of health shall report on:

(1) the actual and potential impact of oil and gas development that involves hydraulic fracturing on public health; and

(2) recommendations for:

(a) legislation and regulations regarding hydraulic fracturing; and

(b) a funding request to complete
research necessary for the reporting requirement listed in this subsection;

E. the department of transportation shall report on:

(1) the actual and potential impact of oil and gas development that involves hydraulic fracturing on public transportation infrastructure; and

(2) recommendations for:

   (a) legislation and regulations regarding hydraulic fracturing; and

   (b) a funding request to complete research necessary for the reporting requirement listed in this subsection;

F. the office of the state engineer shall report on:

(1) the actual and potential impact of oil and gas development that involves hydraulic fracturing on the surface and ground waters of the state; and

(2) recommendations for:

   (a) legislation and regulations regarding hydraulic fracturing; and

   (b) a funding request to complete research necessary for the reporting requirement listed in this subsection;

G. the Indian affairs department shall report on:
(1) the actual and potential impact of oil and gas development that involves hydraulic fracturing on tribal governments, tribal trust lands and allotted landowners; and

(2) recommendations for:

(a) legislation and regulations regarding hydraulic fracturing; and

(b) a funding request to complete research necessary for the reporting requirement listed in this subsection;

H. the workers' compensation administration shall report on claims filed under the Workers' Compensation Act for injuries arising out of and in the course of employment related to hydraulic fracturing; and

I. the workforce solutions department shall report on the number of workers within the state performing duties related to hydraulic fracturing."

SECTION 4. DELAYED REPEAL.--Section 2 of this act is repealed effective June 1, 2024.