HOUSE BILL 31

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

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AN ACT

RELATING TO NATURAL RESOURCES; PROVIDING PENALTIES FOR THE
SPILL OR RELEASE OF OIL, PRODUCED WATER OR OTHER NONDOMESTIC
LIQUID WASTES; DIRECTING THE OIL CONSERVATION DIVISION OF THE
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT TO ADOPT
RULES RELATING TO FRESH WATER, PRODUCED WATER AND NONDOMESTIC
LIQUID WASTES THAT ARE PROTECTIVE OF PUBLIC HEALTH, WORKER
SAFETY AND NATURAL RESOURCES; REQUIRING TRACKING OF PRODUCED
WATER; ALPHABETIZING DEFINITIONS AND ADDING DEFINITIONS FOR
"FRESH WATER", "RECYCLED PRODUCED WATER", "TREATED PRODUCED
WATER" AND "WATER POLLUTION" TO THE OIL AND GAS ACT; MAKING AN
APPROPRIATION.

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

SECTION 1. A new section of the Oil and Gas Act is
enacted to read:

.226714.2
"[NEW MATERIAL] SPILLS, LEAKS AND OTHER RELEASES--

PENALTY.--

A. A person shall not cause or contribute to a spill, leak or other release into the environment of oil, produced water or other nondomestic liquid wastes resulting from the exploration, drilling, production, treatment or refinement of oil or gas.

B. Notwithstanding the civil penalty limitations of Subsection D of Section 70-2-31 NMSA 1978, a person found in violation of this section in accordance with the procedures of Section 70-2-31 NMSA 1978 shall be liable for a civil penalty in the following amounts:

(1) two thousand dollars ($2,000) for a release of less than five barrels;

(2) ten thousand dollars ($10,000) for a release of five to twenty-five barrels; and

(3) twenty-five thousand dollars ($25,000) for a release of more than twenty-five barrels plus two thousand dollars ($2,000) per barrel for each additional barrel released over twenty-five barrels."

SECTION 2. Section 70-2-33 NMSA 1978 (being Laws 1935, Chapter 72, Section 24, as amended) is recompiled as Section 70-2-1.1 NMSA 1978 and is amended to read:

"70-2-1.1. DEFINITIONS.--As used in the Oil and Gas Act:

[A."person" means]
(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;

B. "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";

C. "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;

D. "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;

E. "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;

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

G. "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;

H. "correlative rights" means the opportunity afforded, so far as it is practicably 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;

I. "potash" means the naturally occurring bedded
deposits of the salts of the element potassium;

J. "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;

K. "produced water" means a fluid that is an incidental byproduct from drilling for or the production of oil and gas;

L. "commission" means the oil conservation commission; and

M. "division" means the oil conservation division of the energy, minerals and natural resources department;

A. "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;

B. "commission" means the oil conservation commission;

C. "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;

D. "division" means the oil conservation division of the energy, minerals and natural resources department;

E. "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;

F. "fresh water" means:

(1) water and underground water containing less than ten thousand milligrams per liter of total dissolved solids;

(2) water in lakes and playas, regardless of quality, unless the water exceeds ten thousand milligrams per liter of total dissolved solids and it can be shown that degradation of the particular water body will not adversely affect hydrologically connected fresh ground water; and

(3) the surface water of streams regardless of the water quality within a given reach;

G. "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;

H. "owner" means the person who has the right to drill into and to produce from a pool and to appropriate the production either for the person or for the person and another;

I. "person" means:

1. an 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;

J. "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";

K. "potash" means the naturally occurring bedded deposits of the salts of the element potassium;

L. "produced water" means a fluid that is an incidental byproduct from drilling for or the production of oil and gas;
M. "producer" means the owner of a well capable of producing oil or natural gas or both in paying quantities;

N. "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;

O. "recycled produced water" means produced water that is reconditioned by a recycling facility permitted by the division;

P. "treated produced water" means produced water that is reconditioned by mechanical or chemical processes into a reusable form; and

Q. "water pollution" means the introduction into water, either directly or indirectly, of any substance that could alter the physical, chemical, biological or radiological qualities of the water in such quantity and of such duration as may with reasonable probability injure human health, animal or plant life or property, or unreasonably interfere with the public welfare or the use of property."

SECTION 3. Section 70-2-12 NMSA 1978 (being Laws 1978, .226714.2
Chapter 71, Section 1, as amended) is amended to read:

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

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

(1) collect data;
(2) make investigations and inspections;
(3) examine properties, leases, papers, books and records;
(4) examine, check, test and gauge oil and gas wells, tanks, plants, refineries and all means and modes of transportation and equipment;
(5) hold hearings;
(6) provide for the keeping of records and the making of reports and for the checking of the accuracy of the records and reports;
(7) limit and prorate production of crude petroleum oil or natural gas or both as provided in the Oil and Gas Act; and
(8) require either generally or in particular areas certificates of clearance or tenders in connection with the transportation of crude petroleum oil or natural gas or any products of either or both oil and products or both natural gas and products.

B. The [oil conservation] division [may] shall make rules and orders for the purposes of and with respect to the
subject matter stated in this subsection:

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

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

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

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

(5) to prevent fires;

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

(7) to require wells to be drilled, operated
and produced in such manner as to prevent injury to neighboring leases or properties;

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

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

(10) to fix the spacing of wells;

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

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

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

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

[(15) to regulate the disposition, handling, transport, storage, recycling, treatment and disposal of

.226714.2

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produced water during, or for reuse in, the exploration, drilling, production, treatment or refinement of oil or gas, including disposal by injection pursuant to authority delegated under the federal Safe Drinking Water Act, in a manner that protects public health, the environment and fresh water resources;

(15) to determine the limits of any area containing commercial potash deposits and from time to time redetermine the limits;

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

(17) to spend the oil and gas reclamation fund and do all acts necessary and proper to plug dry and abandoned oil and gas wells and to restore and remediate abandoned well sites and associated production facilities in accordance with the provisions of the Oil and Gas Act, the rules adopted under that act and the Procurement Code, including disposing of salvageable equipment and material removed from oil and gas wells being plugged by the state;
[19] (18) to make well price category
determinations pursuant to the provisions of the federal
Natural Gas Policy Act of 1978 or any successor act and, by
[regulation] rule, to adopt fees for such determinations, which
fees shall not exceed twenty-five dollars ($25.00) per filing.
Such fees shall be credited to the account of the [oil
conservation] division by the state treasurer and may be
expended as authorized by the legislature;

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

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

[22] (21) to regulate the disposition of
nondomestic wastes resulting from the oil field service
industry, the transportation of crude oil or natural gas, the

treatment of natural gas or the refinement of crude oil to
protect public health and the environment, including
administering the Water Quality Act as provided in Subsection E
of Section 74-6-4 NMSA 1978.

C. The division shall make rules and orders that
protect public health, worker safety and the environment,
including fresh water resources, using the best available science and technology, for the purposes of and with respect to the subject matter stated in this subsection to:

(1) require the identification of the chemical and radionuclide composition of produced water, recycled produced water or treated produced water that is spilled, leaked or released into the environment and to make such information publicly available;

(2) regulate the management, disposition, handling, transport, storage, recycling, treatment and disposal of produced water during, or for reuse in, the exploration, drilling, production, treatment or refinement of oil or gas, including disposal by injection pursuant to authority delegated in the federal Safe Drinking Water Act; provided that it is prohibited to dispose, recycle or reuse produced water, recycled produced water or treated produced water in a manner that may result in water pollution;

(3) require tracking and reporting of the movement, transportation and location of produced water, recycled produced water and treated produced water throughout their production, treatment, reuse and disposition in oil and gas operations and to compile the reported tracking information and make it publicly available; and

(4) require a person who causes or contributes to a spill, leak or other release into the environment of oil,
produced water or other nondomestic liquid wastes resulting from the exploration, drilling, production, treatment or refinement of oil or gas to immediately provide emergency notification of the release to:

(a) all persons occupying a structure located within two miles of the point of release; and

(b) Indian nations, tribes and pueblos with borders located within ten miles of the point of release."

SECTION 4. APPROPRIATION.--Seven hundred fifty thousand dollars ($750,000) is appropriated from the general fund to the energy, minerals and natural resources department for expenditure in fiscal year 2025 for the oil conservation division to hire five full-time-equivalent employees to carry out the provisions of the Oil and Gas Act. Any unexpended or unencumbered balance remaining at the end of fiscal year 2025 shall revert to the general fund."