HOUSE BILL 32

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

INTRODUCED BY

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AN ACT

RELATING TO THE ENVIRONMENT; ALPHABETIZING THE DEFINITIONS OF AND ADDING DEFINITIONS FOR "CHILDREN'S HEALTH PROTECTION ZONE", "OPERATOR" AND "SCHOOL" TO THE OIL AND GAS ACT; RESTRICTING OIL AND GAS OPERATIONS IN CHILDREN'S HEALTH PROTECTION ZONES; REQUIRING THE CESSATION OF OIL AND GAS OPERATIONS IN CHILDREN'S HEALTH PROTECTION ZONES AFTER JANUARY 1, 2028; REQUIRING OIL AND GAS OPERATORS TO CREATE A PROTECTION ZONE INVENTORY AND MAP; REQUIRING OIL AND GAS OPERATORS LOCATED IN A CHILDREN'S HEALTH PROTECTION ZONE TO DEVELOP AND IMPLEMENT A LEAK RESPONSE AND DETECTION PLAN AND ALARM RESPONSE PROTOCOL AND CONDUCT WATER QUALITY SAMPLING AND TESTING; PROVIDING PENALTIES.

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 recompiled as Section .226541.3
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 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 practically 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 a gas or vapor
or both, indigenous to an oil stratum and produced from such
stratum with oil, including any a 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]

B. "children's health protection zone" means an
area extending five thousand two hundred eighty feet from the
property line of a school;

C. "commission" means the oil conservation
commission;

D. "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;

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

F. "field" means the general area that is underlaid
or appears to be underlaid by at least one pool and 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;

G. "gas transportation facility" means a pipeline,
in operation, serving a gas well for the transportation of
natural gas, including an associated device or equipment used
for the transportation or consumption of natural gas;

H. "operator" means a person with the legal right
to conduct oil and gas operations and includes the agents,
employees and contractors of that person;

I. "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;
J. "production facility" means facilities or equipment attendant to oil and gas production or injection operations and includes tanks, flowlines, headers, gathering lines, wellheads, heater treaters, pumps, valves, compressors, injection equipment, production safety systems, separators, manifolds and pipelines, but does not include fire suppression equipment;

K. "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 an agency or instrumentality thereof or the state or a political subdivision thereof;

L. "pool" or "common source of supply" means an underground reservoir containing a common accumulation of crude petroleum oil or natural gas or both, including each zone of a general structure that is completely separate from any other zone in the structure;

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

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

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

P. "product" means a 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 a derivative thereof; and

Q. "school" means an elementary, secondary, middle, junior high or high school or any combination of those, including a public school, state-chartered or locally chartered charter school or private school that students attend in person, including a daycare center, and a park, playground or sports or recreation facility associated with a school."

SECTION 2. Section 70-2-12 NMSA 1978 (being Laws 1978, 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 make rules and orders for the purposes 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 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;
(16) to determine the limits of any area containing commercial potash deposits and from time to time
redetermine the limits;

(17) 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;

(18) 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) 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, 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 division by the state treasurer and may be expended as authorized by the legislature;
(20) 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) 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) 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, in consultation with the
environmental improvement board, adopt:

(1) rules to implement and set performance
standards for an operator's emissions detection system; and

(2) other rules necessary to carry out the
provisions of the Oil and Gas Act that concern an oil and gas
operation located in a children's health protection zone."

SECTION 3. Section 70-2-31 NMSA 1978 (being Laws 1981,
Chapter 362, Section 1, as amended) is amended to read:

"70-2-31. VIOLATIONS OF THE OIL AND GAS ACT--PENALTIES. --
A. Whenever the division determines that a person violated or is violating the Oil and Gas Act or any provision of any rule, order, permit or authorization issued pursuant to that act, the division may seek compliance and civil penalties by:

   (1) issuing a notice of violation;
   (2) commencing a civil action in district court for appropriate relief, including injunctive relief; or
   (3) issuing a temporary cessation order if the division determines that the violation is causing or will cause an imminent danger to public health or safety or a significant imminent environmental harm. The cessation order will remain in effect until the earlier of when the violation is abated or thirty days unless a hearing is held before the division and a new order is issued.

B. A notice of violation issued pursuant to Paragraph (1) of Subsection A of this section shall state with reasonable specificity the nature of the violation, shall require compliance immediately or within a specified time period, shall provide notice of the availability of an informal review and the date of a hearing before the division and shall provide notice of potential sanctions, including assessing a penalty, suspending, canceling or terminating a permit or authorization, shutting in a well and plugging and abandonment of a well and forfeiting financial assurance pursuant to .226541.3
Section 70-2-14 NMSA 1978.

C. If the notice of violation is not resolved informally within thirty days after service of the notice, the division shall hold a hearing and determine whether the violation should be upheld and whether any sanctions, including civil penalties, shall be assessed. In assessing a penalty authorized by this section, the division shall take into account the seriousness of the violation, any good faith efforts to comply with the applicable requirements, any history of noncompliance under the Oil and Gas Act and other relevant factors.

D. When a decision is rendered by the division after a hearing, any party of record adversely affected shall have the right to have the matter heard de novo before the commission pursuant to Section 70-2-13 NMSA 1978.

[D. Any] E. Except as provided by Subsection F of this section, a civil penalty assessed by a court or by the division or commission pursuant to this section may not exceed two thousand five hundred dollars ($2,500) per day of noncompliance for each violation unless the violation presents a risk either to the health or safety of the public or of causing significant environmental harm, or unless the noncompliance continues beyond a time specified in the notice of violation or order issued by the division, commission or court, whereupon the civil penalty may not exceed ten thousand
dollars ($10,000) per day of noncompliance for each violation.  
A penalty assessed by the division or commission after a hearing shall not exceed two hundred thousand dollars ($200,000); provided that such limitation does not apply to penalties assessed by a court.

F. A civil penalty assessed by a court, the division or the commission for a violation by an operator located in a children's health protection zone may not exceed thirty thousand dollars ($30,000) per day of noncompliance for each violation. A penalty assessed by the division or commission after a hearing pursuant to this section shall not exceed two hundred thousand dollars ($200,000); provided that such limitation does not apply to penalties assessed by a court.

G. The commission shall make rules, pursuant to Section 70-2-12.2 NMSA 1978, providing procedures for the issuance of notices of violations, the assessment of penalties and the conduct of informal proceedings and hearings pursuant to this section.

H. It is unlawful, subject to a criminal penalty of a fine of not more than five thousand dollars ($5,000) or imprisonment for a term not exceeding three years or both such fine and imprisonment, for any person to knowingly and willfully:

(1) violate any provision of the Oil and Gas
Act or any rule, regulation or order of the commission or the
division issued pursuant to that act; or

(2) do any of the following for the purpose of
evading or violating the Oil and Gas Act or any rule,
regulation or order of the commission or the division issued
pursuant to that act:

(a) make any false entry or statement in
a report required by the Oil and Gas Act or by any rule,
regulation or order of the commission or division issued
pursuant to that act;

(b) make or cause to be made any false
entry in any record, account or memorandum required by the Oil
and Gas Act or by any rule, regulation or order of the
commission or division issued pursuant to that act;

(c) omit or cause to be omitted from any
such record, account or memorandum full, true and correct
entries; or

(d) remove from this state or destroy,
mutilate, alter or falsify any such record, account or
memorandum.

For the purposes of Subsection [F] H of
this section, each day of violation shall constitute a separate
offense.

Any person who knowingly and willfully
procures, counsels, aids or abets the commission of any act
described in Subsection A or [F] H of this section shall be subject to the same penalties as are prescribed in Subsection D or [F] H of this section."

SECTION 4. A new section of the Oil and Gas Act is enacted to read:

"[NEW MATERIAL] OIL AND GAS DRILLING SETBACKS FROM SCHOOLS--CESSATION OF OIL AND GAS OPERATIONS IN A CHILDREN'S HEALTH PROTECTION ZONE--VARIANCES--ADMINISTRATIVE PROCEEDING.--

A. The purpose of this section is to exercise the powers provided by Article II, Section 14 of the constitution of New Mexico to protect public health from the effects of pollution from oil and gas operations in children's health protection zones. This section is not intended, and shall not be construed as authorizing, the state or an agency of the state to exercise its power to grant or deny a permit in a manner that will take private property for public use without the payment of just compensation.

B. An oil and gas operation located in a children's health protection zone shall cease operations in a children's health protection zone no later than January 1, 2028, except as provided in Subsection D of this section.

C. Beginning July 1, 2024, the division shall not approve a permit to drill an oil and gas well in a children's health protection zone, except as provided in Subsection D of this section.
D. An operator or owner may apply with the division for a variance from the provisions of Subsection B or C of this section. Except as provided by Subsection E of this section, the division shall grant a variance from the provisions of Subsection B or C of this section if:

   (1) the variance is necessary to plug and abandon or reabandon a well, including an intercept well necessary to plug and abandon or reabandon a well; or

   (2) the commission determines at an administrative proceeding that, based on a preponderance of the evidence, the cessation of operations after January 1, 2028 or the denial of a permit to drill after July 1, 2024 would:

       (a) result in a loss of all economic value of the applicant's property; or

       (b) result in a severe adverse economic impact and deprive the applicant of objectively reasonable investment-backed expectations.

E. The division shall not grant a variance pursuant to Paragraph (2) of Subsection D of this section if the commission determines that, based on the preponderance of the evidence, granting the variance would harm public health.

F. The division shall grant a variance pursuant to this section only to the extent necessary to avoid the effects on the applicant proven pursuant to Paragraph (2) of Subsection D of this section.
G. The division shall not be deemed to have reached a final decision regarding the application of this section until the applicant requests a variance and administrative proceedings are complete and final. A decision of the division or a decision of the commission at an administrative proceeding regarding an application for a variance pursuant to this section shall not constitute an adjudication of any claim or cause of action or otherwise have a preclusive effect in a judicial proceeding.

H. The commission shall adopt rules and guidelines to govern the conduct of an administrative proceeding pursuant to this section that, at a minimum, shall provide for adequate notice to interested stakeholders and a transparent process in which the public can participate.

SECTION 5. A new section of the Oil and Gas Act is enacted to read:

"[NEW MATERIAL] PROTECTION ZONE INVENTORY AND MAP.--

A. In addition to other requirements prescribed by rule or law, an operator applying to the division for a permit to drill shall submit a protection zone inventory and map to the division.

B. On or before January 1, 2025, an operator of an oil and gas well as of the effective date of this 2024 act shall submit to the division a protection zone inventory and map.
C. A protection zone inventory and map shall include:

   (1) a statement as to whether an operator's wellhead or production facility is in a children's health protection zone;

   (2) a list of the operator's production facilities and wellheads, including a unique, permanent identifier number assigned to a wellhead and the longitude and latitude coordinates for each wellhead and production facility; and

   (3) if an operator's wellhead or production facility is in a children's health protection zone:

      (a) a list of schools within five thousand two hundred eighty feet of an operator's wellhead and production facility, including the type of school and the distance from the operator's wellheads and production facilities to the school; and

      (b) a map that shows the location of each school in relation to the operator's wellheads and production facilities.

D. Beginning January 1, 2026 and on or before each January 1 thereafter, an operator shall submit to the division an updated version of the protection zone inventory and map previously submitted; provided that if there are no changes to the information, the operator may submit to the division a...
statement that there are no changes to the protection zone inventory and map.

E. The division shall review a protection zone inventory and map for completeness and accuracy and notify the operator of any deficiencies. Within thirty days of an operator's receipt of the division's notification that a protection zone inventory and map is deficient, the operator shall submit to the division any additional information required by the division.

F. The division shall post an operator's protection zone inventory and map on the agency's website."

SECTION 6. A new section of the Oil and Gas Act is enacted to read:

"[NEW MATERIAL] OPERATION IN A CHILDREN'S HEALTH PROTECTION ZONE--RESTRICTIONS.--

A. On or before January 1, 2025, an operator that has a wellhead or production facility in a children's health protection zone shall post contact information for addressing complaints about noise, odor or other concerns on the perimeter of the operator's property, including the responsible persons employed by the operator and enforcement officials in the city and county where the property is located.

B. An operator with a wellhead or production facility in a children's health protection zone shall:

   (1) unless more stringent local requirements
apply:

(a) ensure that noise, as measured at the operator's property line, does not exceed ambient noise levels between the hours of 8:00 p.m. and 7:00 a.m.;

(b) minimize light generated on the operator's property by using only lighting that is necessary to provide minimum intensity and coverage for safety and security between the hours of 8:00 p.m. and 7:00 a.m. and place hoods on lighting so that the light shines predominantly on the operator's property and not onto a neighboring property or the sky; and

(c) employ operational measures to prevent dust and particulates from migrating beyond the operator's property boundaries by limiting vehicle speeds on unpaved roads to fifteen miles per hour and containing or covering stored sands, drilling muds and excavated soil; and

(2) provide the division with a representative chemical analysis for produced water transported away from the operator's property. An operator shall file the representative chemical analysis with the division within three months of the produced water being transported away from the operator's property and whenever the source of the produced water changes. For the purposes of this paragraph, the source of produced water changes if the treatment process or additives are changed, if a contributing source is added or removed or if

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there is a significant change to the relative contribution of individual sources such that the last representative chemical analysis is not representative of the produced water."

SECTION 7. A new section of the Oil and Gas Act is enacted to read:

"[NEW MATERIAL] LEAK DETECTION AND RESPONSE PLAN--ALARM
RESPONSE PROTOCOL--CHEMICAL ANALYSIS OF PRODUCED WATER--
RECORDS--PUBLIC TECHNICAL WORKSHOPS.--

A. An operator with a wellhead or production facility in a children's health protection zone shall develop a leak detection and response plan, submit that plan to the division by January 1, 2025 and fully implement the plan by July 1, 2025. The division shall, in consultation with and with the concurrence of the environmental improvement board, review an operator's leak detection and response plan and either approve the plan or provide notice to the operator of the plan's deficiencies within ninety days of the division's receipt of the operator's plan.

B. A leak detection and response plan shall:

(1) identify the chemical constituents and toxic substances of highest concern in the region as identified by the environmental improvement board or the city or county where the operator is located; provided that methane may serve as a surrogate for chemical constituents identified in the plan that cannot be continuously monitored;
(2) include a continuously operating emissions
detection system designed to provide for rapid detection of
chemical constituents and identify leaks;

(3) provide the locations where emissions will
be sampled that are consistent with local meteorology and best
practices;

(4) include an alarm system that effectively,
immediately and reliably alerts the operator of a leak of a
chemical constituent;

(5) identify a meteorological system
appropriately sited on the operator's property with the ability
to continuously record weather data; and

(6) include an alarm response protocol that:

(a) provides for immediate action to
rapidly identify, fix and provide notification of a leak that
is continuous for more than forty-eight hours;

(b) includes a communication plan to
notify local emergency responders, public health officials, the
division and people in the community where the operator is
located in languages that are easily understood by the people
in the community where the operator is located;

(c) complies with local, state and
federal requirements for reporting leaks of hazardous
materials;

(d) is created in consultation with

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local emergency response officials; and

   (e) provides for the collection and
determination of the chemical composition of a representative
sample for a leak that could reasonably have an adverse effect
on the health of people in the community where the operator is
located and provides for a subsequent collection and
determination of the chemical composition of the leak when
there is reason to believe that the chemical composition of the
leak may be changing.

   C. The division shall review an operator's leak
detection and response plan and request updates to the plan at
least once every five years from the date of the plan's initial
approval by the division.

   D. An operator shall record and maintain records of
emissions and meteorological data, including the composition of
any samples collected during leak events, for ten years.

   E. The division shall hold one public technical
workshop at least once every two years to provide information
and guidance to operators on best practices for the
development, review and update of a leak detection and response
plan.

   F. The division shall post an operator's leak
detection and response plan on the agency's website."

   SECTION 8. A new section of the Oil and Gas Act is
enacted to read:

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"[NEW MATERIAL] SUSPENSION OF OIL AND GAS OPERATIONS.--An operator shall immediately suspend the operation of:

A. a well or production facility in a children's health protection zone if a leak of a chemical constituent is detected and continuous for more than forty-eight hours. Operations shall be suspended until the leak has been corrected and the division has approved the resumption of operations. If an operator can demonstrate to the division that the source of the leak is not the operator's oil and gas operation, the division may waive any additional actions required under the alarm response protocol;

B. a well or production facility, if an operator with a wellhead or production facility in a children's health protection zone has not implemented a leak detection and response plan by July 1, 2025, until the operator implements a leak detection and response plan approved by the division; and

C. a production facility if the production facility or any permanent or temporary equipment in a children's health protection zone is not in compliance with the Air Quality Control Act or a city or county ordinance adopted pursuant to that act. Operations shall be suspended until the production facility attains compliance with the Air Quality Control Act or a city or county ordinance adopted pursuant to that act and the division has approved the resumption of operations."

SECTION 9. A new section of the Oil and Gas Act is
enacted to read:

"[NEW MATERIAL] WATER QUALITY SAMPLING AND TESTING--
EXCEPTIONS.--

A. Beginning July 1, 2024, an operator with a
wellhead or production facility in a children's health
protection zone that receives a permit to drill from the
division under an exception in the Oil and Gas Act shall
provide notice of the operator's intent to drill to the
property owners and tenants located within five thousand two
hundred eighty feet of the property line of the operator's
wellhead or production facility and offer to sample and test
water wells and surface water on the property owners' and
tenants' properties at least thirty days before commencing a
drilling operation. If the property owner or tenant requests
water sampling and testing within ten days of receipt of the
operator's notice and makes the necessary accommodations to
enable the collection of a water sample within fifteen days of
receipt of the operator's notice, the operator may not commence
drilling until a baseline water sample of the property owner's
or tenant's well water or surface water has been collected. If
the operator collects a baseline water sample, the operator
shall collect another water sample of the well water or surface
water on the property owner's or tenant's property no sooner
than thirty days and no later than sixty days after drilling is
complete. Before commencing a drilling operation in a
children's health protection zone, an operator shall provide
documentation to the division of the operator's notification of
property owners and tenants as required by this subsection.

B. An operator shall conduct water sampling and
testing in accordance with the following requirements:

(1) an appropriately qualified person shall
conduct the water quality sampling and testing in a manner
consistent with standard environmental industry practice and
chain of custody protocols;

(2) documentation of the water quality
sampling and testing process shall accurately describe the
location that the sample was taken from and the process for
collecting the sample;

(3) a laboratory accredited by the state to
perform the tests necessary to complete the required analysis
shall perform the water quality analytical testing, except for
field tests that may be conducted by a person who is qualified
to sample and interpret the results of the required test; and

(4) water quality testing shall include
testing for total dissolved solids, total petroleum hydrocarbon
as crude oil, major cations, major anions, a water contaminant
or combination of water contaminants identified as a toxic
pollutant by the water quality control commission, appropriate
indicator chemicals for drilling mud and fluids used for well
cleanout, total alkalinity and hydroxide, electrical
conductance, pH and temperature. The division may require
testing for additional constituents on a case-by-case basis.

C. Within one hundred twenty days of the completion
of drilling in a children's health protection zone, the
operator shall provide to the division, the property owner and
the tenant the results of any baseline and follow-up water
quality testing.

D. Water quality data collected pursuant to this
section shall be submitted to the division in electronic format
within one hundred twenty days after drilling is complete.

E. If a property owner or tenant is unable to
accommodate the necessary access to perform baseline or follow-
up testing pursuant to this section, failure to do the testing
is not a violation of this section.

F. The division may waive the requirements of this
section if the operator demonstrates that a delay in drilling
caused by complying with this section is likely to result in
significant damage to life, health or natural resources.

G. An operator is not required to sample or test
water pursuant to this section if a state agency or the United
States environmental protection agency has determined that the
water within five thousand two hundred eighty feet of the
property line of an operator's wellhead or production facility
is not an underground source of drinking water, as defined in
the federal Safe Drinking Water Act, and the water does not
have a beneficial use.

H. The costs of sampling and testing required by this section shall be the responsibility of the operator."

SECTION 10. A new section of the Oil and Gas Act is enacted to read:

"[NEW MATERIAL] REPORTING.--

A. Beginning January 1, 2026 and each January 1 thereafter, an operator located in a children's health protection zone shall provide to the division a report that includes:

(1) the number of times and lengths of time the emissions detection system was not operating;

(2) the number of validated alarms and the reasons for the alarms;

(3) the number of leaks that have occurred, the time needed to repair each leak and a brief description of each leak that includes the impact on air quality and exposure to the surrounding community;

(4) the number of times the surrounding community was notified of a leak that persisted for more than forty-eight hours;

(5) the number of times and lengths of time that production and injection operations and other use of the facility were suspended due to a leak; and

(6) the results of any baseline and post-
drilling ground water testing performed, by location.

B. The division shall report annually before October 1 to the appropriate legislative interim committee on oil and gas operations in children's health protection zones in the state, including information on the progress achieved on the implementation of operators' leak detection and response plans."

SECTION 11. A new section of the Air Quality Control Act is enacted to read:

"[NEW MATERIAL] OIL AND GAS PRODUCTION FACILITIES--SUSPENSION OF OPERATION.--

A. An operator of an oil and gas production facility shall immediately suspend the operation of a production facility if the production facility or any permanent or temporary equipment within five thousand two hundred eighty feet from the property line of a school is not in compliance with the Air Quality Control Act or a city or county ordinance adopted pursuant to that act. Operations shall be suspended until the production facility attains compliance with the Air Quality Control Act or a city or county ordinance adopted pursuant to that act and the oil conservation division of the energy, minerals and natural resources department has approved the resumption of operations.

B. As used in this section, "school" means an elementary, secondary, middle, junior high or high school or
any combination of those, including a public school, state- 
chartered or locally chartered charter school or private school 
that students attend in person, including a daycare center, and 
a park, playground or sports or recreation facility associated 
with a school."

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