

1 SENATE BILL 104

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020**

3 INTRODUCED BY

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10 AN ACT

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

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

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

17 "70-2-33. DEFINITIONS.--As used in the Oil and Gas Act:

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

25 [~~A.~~] B. "person" means:

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

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

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

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

21 ~~[D-]~~ E. "product" means any commodity or thing made
22 or manufactured from crude petroleum oil or natural gas and all
23 derivatives of crude petroleum oil or natural gas, including
24 refined crude oil, crude tops, topped crude, processed crude
25 petroleum, residue from crude petroleum, cracking stock,

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1 uncracked fuel oil, treated crude oil, fuel oil, residuum, gas
2 oil, naphtha, distillate, gasoline, kerosene, benzine, wash
3 oil, waste oil, lubricating oil and blends or mixtures of crude
4 petroleum oil or natural gas or any derivative thereof;

5 ~~[E-]~~ F. "owner" means the person who has the right
6 to drill into and to produce from any pool and to appropriate
7 the production either for the person or for the person and
8 another;

9 ~~[F-]~~ G. "producer" means the owner of a well
10 capable of producing oil or natural gas or both in paying
11 quantities;

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

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

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1 owner's just and equitable share of the reservoir energy;

2 [~~F.~~] J. "potash" means the naturally occurring
3 bedded deposits of the salts of the element potassium;

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

8 [~~K.~~] L. "produced water" means a fluid that is an
9 incidental byproduct from drilling for or the production of oil
10 and gas;

11 [~~L.~~] M. "commission" means the oil conservation
12 commission; and

13 [~~M.~~] N. "division" means the oil conservation
14 division of the energy, minerals and natural resources
15 department."

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

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

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

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

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

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

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

16 (3) recommendations for:

17 (a) legislation and regulations
18 regarding hydraulic fracturing; and

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

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

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

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1 fracturing; and

2 (2) recommendations for:

3 (a) legislation and regulations

4 regarding hydraulic fracturing; and

5 (b) a funding request to complete

6 research necessary for the reporting requirement listed in this

7 subsection;

8 C. the department of environment shall report on:

9 (1) the actual and potential environmental

10 impact of oil and gas development that involves hydraulic

11 fracturing; and

12 (2) recommendations for:

13 (a) legislation and regulations

14 regarding hydraulic fracturing; and

15 (b) a funding request to complete

16 research necessary for the reporting requirement listed in this

17 subsection;

18 D. the department of health shall report on:

19 (1) the actual and potential impact of oil and

20 gas development that involves hydraulic fracturing on public

21 health; and

22 (2) recommendations for:

23 (a) legislation and regulations

24 regarding hydraulic fracturing; and

25 (b) a funding request to complete

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1 research necessary for the reporting requirement listed in this
2 subsection;

3 E. the department of transportation shall report
4 on:

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

8 (2) recommendations for:

9 (a) legislation and regulations
10 regarding hydraulic fracturing; and

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

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

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

19 (2) recommendations for:

20 (a) legislation and regulations
21 regarding hydraulic fracturing; and

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

25 G. the Indian affairs department shall report on:

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1 (1) the actual and potential impact of oil and
2 gas development that involves hydraulic fracturing on tribal
3 governments, tribal trust lands and allotted landowners; and

4 (2) recommendations for:

5 (a) legislation and regulations
6 regarding hydraulic fracturing; and

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

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

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

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