

1 SENATE BILL 409

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

3 INTRODUCED BY

4 Steven P. Neville and Peter Wirth

5
6
7
8
9
10 AN ACT

11 RELATING TO INDUSTRIAL REGULATION; TRANSFERRING AUTHORITY OVER
12 PIPELINES, PIPELINE SAFETY AND EXCAVATION OF UNDERGROUND
13 FACILITIES FROM THE PUBLIC REGULATION COMMISSION TO THE OIL
14 CONSERVATION DIVISION OF THE ENERGY, MINERALS AND NATURAL
15 RESOURCES DEPARTMENT; AMENDING THE PIPELINE SAFETY ACT AND
16 CHAPTER 62, ARTICLE 14 NMSA 1978; TRANSFERRING FUNCTIONS,
17 PERSONNEL, APPROPRIATIONS, PROPERTY, RECORDS AND CONTRACTS;
18 MAKING CONFORMING AND TECHNICAL CHANGES; AMENDING AND REPEALING
19 SECTIONS OF THE NMSA 1978; RECOMPILING SECTION 8-8-11 NMSA 1978
20 (BEING LAWS 1998, CHAPTER 108, SECTION 11); AMENDING LAWS 2020,
21 CHAPTER 9, SECTION 59; PROVIDING A JANUARY 1, 2023 EFFECTIVE
22 DATE.

23
24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

25 SECTION 1. Section 60-13-38 NMSA 1978 (being Laws 1967,

.219033.1

underscoring material = new
[bracketed material] = delete

underscoring material = new
~~[bracketed material]~~ = delete

1 Chapter 199, Section 41, as amended) is amended to read:

2 "60-13-38. CERTIFICATES OF COMPETENCE--EXAMINATION--
3 JOURNEYMEN.--

4 A. A person shall not engage in the occupation or
5 trade of journeyman unless ~~[he]~~ the person holds a certificate
6 of competence issued by the division for the occupation or
7 trade in which ~~[he]~~ the person desires to engage.

8 B. The categories for certificates of competence
9 are: journeyman electrician, journeyman plumber, journeyman
10 gas fitter, journeyman pipe fitter, journeyman sheet metal
11 worker, journeyman boiler operator, residential wireman and
12 journeyman welder working on pipelines, collection lines or
13 compressor stations.

14 C. An applicant for a certificate of competence
15 shall be required to take an examination approved and adopted
16 by the division as to ~~[his]~~ knowledge of the orders and rules
17 governing the occupation or trade for which a certificate is
18 sought, and as to ~~[his]~~ technical knowledge and ability
19 pertaining to ~~[his]~~ the particular trade. The examination may
20 be oral, written or demonstrative or any combination thereof,
21 as required by rules of the commission.

22 D. The division shall issue a certificate of
23 competence to ~~[any]~~ a journeyman welder working on pipelines,
24 collection lines or compressor stations who shows evidence of
25 having satisfactorily completed an examination administered by

.219033.1

underscoring material = new
~~[bracketed material] = delete~~

1 an independent testing organization or public utility employing
2 engineers registered with the state, such examination meeting
3 the minimum pipeline safety standards set by the ~~[public~~
4 ~~regulation commission]~~ oil conservation division of the energy,
5 minerals and natural resources department.

6 E. Applications for certificates of competence
7 shall be in the form and shall contain ~~[such]~~ the information
8 and attachments as the division prescribes.

9 F. The division shall establish a reasonable fee
10 for ~~[any]~~ an examination or issuance of certificate of
11 competence.

12 G. A person is not eligible to take an examination
13 for a certificate of competence unless ~~[he]~~ the person has had
14 two years' experience in the occupation or trade for which a
15 certificate of competence is sought, or the equivalent thereof
16 as determined by the commission, or has successfully completed
17 a course in the trade approved by the instructional support and
18 vocational education division of the ~~[state department of]~~
19 public education department.

20 H. Employment of an apprentice working under the
21 direct supervision of a certified journeyman is not prohibited
22 by the Construction Industries Licensing Act.

23 I. A person is eligible to take an examination for
24 a journeyman electrician certificate of competence after at
25 least:

.219033.1

underscoring material = new
~~[bracketed material] = delete~~

1 (1) four years of accredited training in the
2 electrical trade;

3 (2) four years of apprenticeship in the
4 electrical trade;

5 (3) four years of practical experience in the
6 electrical trade, of which two years are in the commercial
7 trade, industrial trade or the equivalent as determined by the
8 commission; or

9 (4) successfully completing an electrical
10 trade program approved by the instructional support and
11 vocational education division of the [~~state department of~~]
12 public education department and two years of practical
13 experience in the commercial electrical trade.

14 J. Continuing education requirements for a
15 journeyman electrician shall include at least sixteen hours of
16 continuing education in every three-year period between
17 national electrical code updates, of which eight hours are code
18 change instructions and eight hours are other industry-related
19 instruction. All continuing education curricula and
20 instructors shall be approved by the commission based on
21 recommendations by the electrical bureau.

22 K. A certificate of competence shall not be renewed
23 until a complete application for renewal has been received by
24 the division. Proof of completion of the continuing education
25 requirements shall be submitted to the division with the

.219033.1

underscored material = new
[bracketed material] = delete

1 application for renewal of certificate of competence. An
2 application for renewal that is not accompanied by proof of
3 completion of the continuing education requirements is
4 incomplete and shall not be processed. The continuing
5 education requirements in this subsection shall only apply to a
6 journeyman electrician with the designation "EE-98J" or "JE98".
7 This does not apply to EE98.

8 L. A person is eligible to take an examination for
9 a residential wireman's certificate of competence after at
10 least:

11 (1) two years of accredited training or
12 apprenticeship in the electrical trade;

13 (2) two years of practical experience in
14 wiring residential dwellings; or

15 (3) successfully completing a course in the
16 trade approved by the instructional support and vocational
17 education division of the [~~state department of~~] public
18 education department and one year of practical experience in
19 wiring residential dwellings.

20 M. The provisions of Subsections I and L of this
21 section do not apply to a person who was enrolled as a full-
22 time student before June 20, 2003 in an electrical trade
23 program approved by the instructional support and vocational
24 education division of the [~~state department of~~] public
25 education department."

.219033.1

underscoring material = new
~~[bracketed material] = delete~~

1 SECTION 2. Section 62-14-2 NMSA 1978 (being Laws 1973,
2 Chapter 252, Section 2, as amended) is amended to read:

3 "62-14-2. DEFINITIONS.--As used in Chapter 62, Article 14
4 NMSA 1978:

5 A. "advance notice" means two working days;

6 B. "blasting" means the use of an explosive to
7 excavate;

8 C. "cable television lines and related facilities"
9 means the facilities of any cable television system or closed-
10 circuit coaxial cable communications system or other similar
11 transmission service used in connection with any cable
12 television system or other similar closed-circuit coaxial cable
13 communications system;

14 D. [~~"commission" means the public regulation~~
15 ~~commission]~~ "division" means the oil conservation division of
16 the energy, minerals and natural resources department;

17 E. "emergency excavation" means an excavation that
18 must be performed due to circumstances beyond the excavator's
19 control and that affects public safety, health or welfare;

20 F. "excavate" means the movement or removal of
21 earth using mechanical excavating equipment or blasting and
22 includes augering, backfilling, digging, ditching, drilling,
23 grading, plowing in, pulling in, ripping, scraping, trenching,
24 tunneling and directional boring;

25 G. "excavator" means a person that excavates;

.219033.1

1 H. "master meter system and operators" means a
2 pipeline system that distributes natural gas or liquid propane
3 gas within a public place, such as a mobile home park, housing
4 project, apartment complex, school, university or hospital
5 where the operator of the master meter system purchases gas
6 from a distributor through a single large meter and resells the
7 gas through a gas distribution pipeline system. The resale may
8 occur as a payment included in a rental payment or association
9 dues or as a separately metered system;

10 I. "means of location" means a mark such as a
11 stake, a flag, whiskers or paint that is conspicuous in nature
12 and that is designed to last at least ten working days if not
13 disturbed;

14 J. "mechanical excavating equipment" means all
15 equipment powered by any motor, engine or hydraulic or
16 pneumatic device used for excavating and includes trenchers,
17 bulldozers, backhoes, power shovels, scrapers, draglines, clam
18 shells, augers, drills, cable and pipe plows or other plowing-
19 in or pulling-in equipment;

20 K. "one-call notification system" means a
21 communication system in which an operation center provides
22 telephone services or other reliable means of communication for
23 the purpose of receiving excavation notice and damage reporting
24 information and distributing that information to owners and
25 operators of pipelines and other underground facilities;

.219033.1

underscoring material = new
~~[bracketed material] = delete~~

1 L. "person" means the legal representative of or an
2 individual, partnership, corporation, joint venture, state,
3 subdivision or instrumentality of the state or an association;

4 M. "pipeline" means a pipeline or system of
5 pipelines and appurtenances for the transportation or movement
6 of any oil or gas, or oil or gas products and their byproducts
7 subject to the jurisdiction of federal law or regulation, with
8 the exception of master meter systems and operators;

9 N. "positive response" means a response, within the
10 advance notice period, initiated by owners or operators of
11 pipelines and underground facilities by reliable means of
12 communication, to the one-call notification system's positive
13 response registry system. A positive response allows the
14 excavator to verify whether all affected pipeline and
15 underground facility owners or operators have marked their
16 underground facilities pursuant to Section 62-14-5 NMSA 1978
17 prior to commuting to the excavation site and commencing
18 excavation;

19 O. "reasonable efforts" means notifying the
20 appropriate one-call notification center or underground
21 facility owner or operator of planned excavation;

22 P. "underground facility" means any tangible
23 property described in Subsections C, M and Q of this section
24 that is underground, but does not include residential
25 sprinklers or low-voltage lighting; and

.219033.1

underscoring material = new
~~[bracketed material]~~ = delete

1 Q. "underground utility line" means an underground
2 conduit or cable, including fiber optics, and related
3 facilities for transportation and delivery of electricity,
4 telephonic or telegraphic communications or water, sewer and
5 fire protection lines, with the exception of master meter
6 systems and operators."

7 **SECTION 3.** Section 62-14-3 NMSA 1978 (being Laws 1973,
8 Chapter 252, Section 3, as amended) is amended to read:

9 "62-14-3. EXCAVATION.--A person who prepares engineering
10 plans for excavation or who engages in excavation shall:

11 A. determine the location of any underground
12 facility in or near the area where the excavation is to be
13 conducted, including a request to the owner or operator of the
14 underground facility to locate the underground facility
15 pursuant to Section 62-14-5 NMSA 1978;

16 B. plan the excavation to avoid or minimize
17 interference or damage to underground facilities in or near the
18 excavation area;

19 C. provide telephonic advance notice of the
20 commencement, extent and duration of the excavation work to the
21 one-call notification system operating in the intended
22 excavation area, and to the owners or operators of any existing
23 underground facility in and near the excavation area that are
24 not members of the local one-call notification center, in order
25 to allow the owners to locate and mark the location of the

.219033.1

underscoring material = new
~~[bracketed material]~~ = delete

1 underground facility as described in Section 62-14-5 NMSA 1978
2 prior to the commencement of work in the excavation area, and
3 shall request reaffirmation of line location every ten working
4 days after the initial request to locate;

5 D. prior to initial exposure of the underground
6 facility, maintain at least an estimated clearance of eighteen
7 inches between existing underground facilities for which the
8 owners or operators have previously identified the location and
9 the cutting edge or point of any mechanical excavating
10 equipment utilized in the excavation and continue excavation in
11 a manner necessary to prevent damage;

12 E. provide such support for existing underground
13 facilities in or near the excavation area necessary to prevent
14 damage to them;

15 F. backfill all excavations in a manner and with
16 materials as may be necessary to prevent damage to and provide
17 reliable support during and following backfilling activities
18 for preexisting underground facilities in or near the
19 excavation area;

20 G. immediately notify the one-call notification
21 system operating in the area in the form and format required by
22 the ~~[commission]~~ division and by telephone the owner of any
23 underground facilities that may have been damaged or dislocated
24 during the excavation work; and

25 H. not move or obliterate markings made pursuant to

.219033.1

underscored material = new
[bracketed material] = delete

1 Chapter 62, Article 14 NMSA 1978 or fabricate markings in an
2 unmarked location for the purpose of concealing or avoiding
3 liability for a violation of or noncompliance with the
4 provisions of Chapter 62, Article 14 NMSA 1978."

5 SECTION 4. Section 62-14-4 NMSA 1978 (being Laws 1973,
6 Chapter 252, Section 4, as amended) is amended to read:

7 "62-14-4. EMERGENCY EXCAVATION.--Every person who engages
8 in emergency excavation shall take all necessary and reasonable
9 precaution to avoid or minimize interference with or damage to
10 existing underground facilities in and near the excavation area
11 and shall notify as promptly as possible the owners of
12 underground facilities located in and near the emergency
13 excavation area and the one-call notification system operating
14 in the area in the form and format required by the [~~commission~~]
15 division. In the event of any damage to or dislocation of any
16 underground facility caused by the emergency excavation work,
17 the person responsible for the excavation shall immediately
18 notify the owner of the underground facility and the one-call
19 notification system operating in the area in the form and
20 format required by the [~~commission~~] division."

21 SECTION 5. Section 62-14-7.1 NMSA 1978 (being Laws 1997,
22 Chapter 30, Section 1, as amended) is amended to read:

23 "62-14-7.1. ONE-CALL NOTIFICATION SYSTEM.--

24 A. An owner or operator of an underground facility
25 subject to Chapter 62, Article 14 NMSA 1978 shall be a member

.219033.1

underscoring material = new
~~[bracketed material]~~ = delete

1 of a one-call notification system operating in the region with
2 the exception of private underground facilities owned by a
3 homeowner and operated and located on residential property. A
4 one-call notification system may be for a region of the state
5 or statewide in scope, unless federal law provides otherwise.

6 B. Each one-call notification system shall be
7 operated by:

8 (1) an owner or operator of pipeline
9 facilities;

10 (2) a private contractor;

11 (3) a state or local government agency; or

12 (4) a person who is otherwise eligible under
13 state law to operate a one-call notification system.

14 C. If the one-call notification system is operated
15 by owners or operators of pipeline facilities, it shall be
16 established as a nonprofit entity governed by a board of
17 directors that shall establish the operating processes,
18 procedures and technology needed for a one-call notification
19 system. The board shall further establish a procedure or
20 formula to determine the equitable share of each member for the
21 costs of the one-call notification system. The board may
22 include representatives of excavators or other persons deemed
23 eligible to participate in the system who are not owners or
24 operators.

25 D. Excavators shall give advance notice to the one-

.219033.1

underscoring material = new
[bracketed material] = delete

1 call notification system operating in the intended excavation
2 area and provide information established by rule of the
3 [~~commission~~] division, except when excavations are by or for a
4 person that:

5 (1) owns or leases or owns a mineral leasehold
6 interest in the real property on which the excavation occurs;
7 and

8 (2) operates all underground facilities
9 located in the intended excavation area.

10 E. The one-call notification system shall promptly
11 transmit excavation notice information to owners or operators
12 of pipeline facilities and other underground facilities in the
13 intended excavation area.

14 F. After receiving advance notice, owners and
15 operators of pipeline facilities and other underground
16 facilities shall locate and mark their facilities in the
17 intended excavation area and shall provide a positive response.
18 The one-call notification center shall make available to the
19 [~~commission~~] division appropriate positive response records for
20 investigations of alleged violations of Chapter 62, Article 14
21 NMSA 1978.

22 G. The one-call notification system shall provide a
23 toll-free telephone number or another comparable and reliable
24 means of communication to receive advance notice of excavation.
25 Means of communication to distribute excavation notice to

.219033.1

underscoring material = new
[bracketed material] = delete

1 owners or operators of pipeline facilities and other
2 underground facilities shall be reliable and capable of
3 coordination with one-call notification systems operating in
4 other regions of the state.

5 H. Operators of one-call notification systems shall
6 notify the [~~commission~~] division of its members and the name
7 and telephone number of the contact person for each member and
8 make available to the [~~commission~~] division appropriate records
9 in investigations of alleged violations of Chapter 62, Article
10 14 NMSA 1978.

11 I. One-call notification systems and owners and
12 operators of pipeline facilities shall promote public awareness
13 of the availability and operation of one-call notification
14 systems and work with state and local governmental agencies
15 charged with issuing excavation permits to provide information
16 concerning and promoting awareness by excavators of one-call
17 notification systems.

18 J. The [~~commission~~] division may prescribe
19 reasonable maximum rates for the provision of one-call services
20 in New Mexico, provided that if the reasonableness of such
21 rates is contested in the manner provided by [~~commission~~]
22 division rule, the burden of proof to show the unreasonableness
23 of such rates shall be upon the person contesting their
24 reasonableness."

25 SECTION 6. Section 62-14-8 NMSA 1978 (being Laws 1973,

.219033.1

underscored material = new
[bracketed material] = delete

1 Chapter 252, Section 8, as amended) is amended to read:

2 "62-14-8. PENALTIES.--In addition to any other liability
3 imposed by law, an excavator, after a formal hearing and upon a
4 finding, who has failed to comply with Subsection C of Section
5 62-14-3 NMSA 1978 is subject to an administrative penalty of up
6 to five thousand dollars (\$5,000) for a first offense as
7 assessed by the [~~commission~~] division. Thereafter, the
8 [~~commission~~] division may assess an administrative penalty of
9 up to a maximum of twenty-five thousand dollars (\$25,000) for
10 subsequent violations of Subsection C of Section 62-14-3 NMSA
11 1978. In addition to any other penalty imposed by law, an
12 operator of underground pipeline facilities or underground
13 utilities, excavator or operator of a one-call notification
14 system, after formal hearing and upon a finding, who has
15 willfully failed to comply with Chapter 62, Article 14 NMSA
16 1978 shall be subject to an administrative penalty of up to
17 five thousand dollars (\$5,000) for a first offense as assessed
18 by the [~~commission~~] division. Thereafter, upon finding that a
19 violation of Chapter 62, Article 14 NMSA 1978 has occurred, the
20 [~~commission~~] division may, upon consideration of the nature,
21 circumstances, gravity of the violation, history of prior
22 violations, effect on public health, safety or welfare and good
23 faith on the part of the person in attempting to remedy the
24 cause of the violation, assess an administrative penalty up to
25 a maximum of twenty-five thousand dollars (\$25,000) per

.219033.1

underscoring material = new
~~[bracketed material]~~ = delete

1 violation consistent with federal law. No offense occurring
2 more than five years prior to the current offense charged shall
3 be considered for any purpose. All actions to recover the
4 penalties provided for in this section shall be brought by the
5 ~~[commission]~~ division. All penalties recovered in any such
6 action shall be paid into the state general fund."

7 SECTION 7. Section 62-14-9 NMSA 1978 (being Laws 1997,
8 Chapter 30, Section 2) is amended to read:

9 "62-14-9. ENFORCEMENT.--If any person excavates or
10 intends to excavate in violation of Chapter 62, Article 14 NMSA
11 1978, the ~~[commission]~~ division or any interested or affected
12 owner or operator of an underground facility may file, in the
13 district court of the county in which the excavation is
14 occurring or intended, an action seeking to enjoin the
15 excavation."

16 SECTION 8. Section 62-14-9.1 NMSA 1978 (being Laws 2001,
17 Chapter 150, Section 8) is amended to read:

18 "62-14-9.1. ALTERNATIVE DISPUTE RESOLUTION.--The
19 ~~[commission]~~ division shall promulgate rules for voluntary
20 alternative dispute resolution procedures available to owners
21 or operators, excavators and other interested parties regarding
22 disputes that cannot be resolved through consultation and
23 negotiation arising from damage to underground facilities,
24 including any cost or damage incurred by the owner or operator
25 or the excavator as a result of any delay in an excavation

.219033.1

underscored material = new
[bracketed material] = delete

1 project while an underground facility is restored, repaired or
2 replaced. The alternative dispute resolution procedure shall
3 not affect civil penalties levied pursuant to Section 62-14-8
4 NMSA 1978 or change the basis for civil liability for damages."

5 SECTION 9. Section 62-14-10 NMSA 1978 (being Laws 1997,
6 Chapter 30, Section 3) is amended to read:

7 "62-14-10. RULEMAKING.--The [~~commission~~] division shall
8 promulgate rules and regulations to implement the provisions of
9 Chapter 62, Article 14 NMSA 1978."

10 SECTION 10. Section 8-8-11 NMSA 1978 (being Laws 1998,
11 Chapter 108, Section 11) is recompiled as Section 62-19-16 NMSA
12 1978 and is amended to read:

13 "62-19-16. TRANSPORTATION DIVISION.--The transportation
14 division shall serve as staff to the commission for the
15 following functions, as provided by law:

16 A. motor carrier regulation and enforcement;

17 B. railroad safety enforcement; and

18 [~~C. pipeline safety; and~~

19 ~~D.~~] C. ambulance standards."

20 SECTION 11. Section 70-2-12 NMSA 1978 (being Laws 1978,
21 Chapter 71, Section 1, as amended) is amended to read:

22 "70-2-12. ENUMERATION OF POWERS.--

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

25 (1) collect data;

.219033.1

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

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

- 22 (1) to require dry or abandoned wells to be
23 plugged in a way so as to confine the crude petroleum oil,
24 natural gas or water in the strata in which it is found and to
25 prevent it from escaping into other strata; pursuant to Section
.219033.1

underscoring material = new
~~[bracketed material] = delete~~

1 70-2-14 NMSA 1978, the division shall require financial
2 assurance conditioned for the performance of the rules;

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

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

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

16 (5) to prevent fires;

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

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

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

.219033.1

underscoring material = new
~~[bracketed material]~~ = delete

1 and facilities;

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

4 (10) to fix the spacing of wells;

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

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

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

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

19 (15) to regulate the disposition, handling,
20 transport, storage, recycling, treatment and disposal of
21 produced water during, or for reuse in, the exploration,
22 drilling, production, treatment or refinement of oil or gas,
23 including disposal by injection pursuant to authority delegated
24 under the federal Safe Drinking Water Act, in a manner that
25 protects public health, the environment and fresh water

.219033.1

underscoring material = new
~~[bracketed material]~~ = delete

1 resources;

2 (16) to determine the limits of any area
3 containing commercial potash deposits and from time to time
4 redetermine the limits;

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

13 (18) to spend the oil and gas reclamation fund
14 and do all acts necessary and proper to plug dry and abandoned
15 oil and gas wells and to restore and remediate abandoned well
16 sites and associated production facilities in accordance with
17 the provisions of the Oil and Gas Act, the rules adopted under
18 that act and the Procurement Code, including disposing of
19 salvageable equipment and material removed from oil and gas
20 wells being plugged by the state;

21 (19) to make well price category
22 determinations pursuant to the provisions of the federal
23 Natural Gas Policy Act of 1978 or any successor act and, by
24 regulation, to adopt fees for such determinations, which fees
25 shall not exceed twenty-five dollars (\$25.00) per filing. Such

.219033.1

underscored material = new
[bracketed material] = delete

1 fees shall be credited to the account of the oil conservation
2 division by the state treasurer and may be expended as
3 authorized by the legislature;

4 (20) to regulate the construction and
5 operation of oil treating plants and to require the posting of
6 bonds for the reclamation of treating plant sites after
7 cessation of operations;

8 (21) to regulate the disposition of
9 nondomestic wastes resulting from the exploration, development,
10 production or storage of crude oil or natural gas to protect
11 public health and the environment; ~~and~~

12 (22) to regulate the disposition of
13 nondomestic wastes resulting from the oil field service
14 industry, the transportation of crude oil or natural gas, the
15 treatment of natural gas or the refinement of crude oil to
16 protect public health and the environment, including
17 administering the Water Quality Act as provided in Subsection E
18 of Section 74-6-4 NMSA 1978; and

19 (23) to regulate pipelines, enforce pipeline
20 safety and regulate the transportation of crude oil, natural
21 gas and other products by pipeline and excavations."

22 SECTION 12. Section 70-3-1 NMSA 1978 (being Laws 1953,
23 Chapter 42, Section 2) is amended to read:

24 "70-3-1. PIPELINE COMMON CARRIERS--INTRASTATE RATES.--The
25 [corporation commission] oil conservation division of the

.219033.1

underscored material = new
[bracketed material] = delete

1 energy, minerals and natural resources department may prescribe
2 reasonable maximum rates for the transportation of oil and the
3 products derived [~~therefrom~~] from oil, where such products are
4 transported by a pipeline common carrier from any point in New
5 Mexico to an ultimate destination in New Mexico; provided, in
6 the event the reasonableness of [~~such~~] the rates [~~are~~] is
7 contested in the manner provided by law, the burden of proof to
8 show the unreasonableness of [~~such~~] the rates shall be upon the
9 person, firm, association or corporation contesting the [~~same~~]
10 rates."

11 SECTION 13. Section 70-3-2 NMSA 1978 (being Laws 1953,
12 Chapter 42, Section 3, as amended) is amended to read:

13 "70-3-2. LICENSE--FEES--DISPOSITION.--[~~Each~~] An operator
14 of a pipeline [~~or pipelines~~] operated in the state [~~of New~~
15 ~~Mexico~~] for the transportation of crude oil, natural gas or the
16 products derived [~~therefrom~~] from either shall, during the
17 month of July, obtain a license for the operation of [~~such~~] the
18 pipeline. Application for [~~such~~] license shall be made upon a
19 form to be provided by the [~~corporation commission~~] oil
20 conservation division of the energy, minerals and natural
21 resources department and shall be accompanied by the license
22 fee determined as [~~hereinafter~~] provided in this section. On
23 receipt of [~~such~~] the application and license fee, the
24 [~~corporation commission~~] oil conservation division shall issue
25 a license to the applicant for the current fiscal year. All

.219033.1

underscored material = new
[bracketed material] = delete

1 license fees [~~so~~] collected shall be paid to the state
2 treasurer and [~~by him~~] credited to the general fund.

3 SCHEDULE OF ANNUAL LICENSE FEES

4 A. [~~Each~~] A person, firm, association or
5 corporation transporting natural gas or [~~the~~] its products
6 [~~derived therefrom~~] by pipeline [~~or pipelines~~] in New Mexico
7 and operating a pipeline [~~or pipelines~~] and appurtenant
8 facilities within New Mexico shall pay an annual license fee of
9 five hundred dollars (\$500) at the time of making the
10 application required by this section. An additional fee shall
11 be paid, measured by the aggregate installed rated horsepower
12 of compression facilities located within New Mexico and
13 operated by the licensee, in accordance with the following
14 schedule:

15 (1) not exceeding [~~10,000~~] ten thousand
16 horsepower, the minimum fee with no additional fee;

17 (2) more than [~~10,000~~] ten thousand horsepower
18 and not more than [~~30,000~~] thirty thousand horsepower, the
19 minimum fee plus [~~\$2,275.00~~] two thousand two hundred seventy-
20 five dollars (\$2,275);

21 (3) more than [~~30,000~~] thirty thousand
22 horsepower and not more than [~~50,000~~] fifty thousand
23 horsepower, the minimum fee plus [~~\$4,000.00~~] four thousand
24 dollars (\$4,000);

25 (4) more than [~~50,000~~] fifty thousand

underscored material = new
[bracketed material] = delete

1 horsepower and not more than ~~[75,000]~~ seventy-five thousand
2 horsepower, the minimum fee plus ~~[\$5,000.00]~~ five thousand
3 dollars (\$5,000);

4 (5) more than ~~[75,000]~~ seventy-five thousand
5 horsepower and not more than ~~[100,000]~~ one hundred thousand
6 horsepower, the minimum fee plus ~~[\$5,500.00]~~ five thousand five
7 hundred dollars (\$5,500); and

8 (6) more than ~~[100,000]~~ one hundred thousand
9 horsepower, the minimum fee plus ~~[\$5,925.00]~~ five thousand nine
10 hundred twenty-five dollars (\$5,925) and plus seventy-five
11 dollars (\$75.00) additional for each ~~[10,000]~~ ten thousand
12 horsepower or fraction thereof in excess of ~~[100,000]~~ one
13 hundred thousand horsepower.

14 B. ~~[Each]~~ An operator of a pipeline ~~[or pipelines]~~
15 for the transportation of oil or ~~[the]~~ its products ~~[derived~~
16 ~~therefrom]~~ shall pay ~~[the following fees, based on the number~~
17 ~~of miles of such line operated in New Mexico]~~ a basic fee of
18 five hundred dollars (\$500) ~~[and in addition]~~ plus fees based
19 on the number of miles of pipeline operated in New Mexico,
20 computed in accordance with the following schedule:

21 (1) for all lines up to and including eight
22 inches in diameter:

23 \$13.00 per mile for the first 50 miles;

24 \$ 7.00 per mile for the next 25 miles;

25 \$ 4.00 per mile for the next 25 miles; and

underscored material = new
[bracketed material] = delete

1 \$ 1.00 per mile for each mile in excess of 100 miles; and
2 (2) for all lines more than eight inches in
3 diameter:
4 \$18.00 per mile for the first 25 miles;
5 \$13.00 per mile for the next 25 miles;
6 \$ 9.00 per mile for the next 25 miles;
7 \$ 6.00 per mile for the next 25 miles; and
8 \$ 2.00 per mile for each mile in excess of 100 miles.

9 C. For the purposes of determining the license fees
10 payable under the provisions of [~~this~~] Subsection B of this
11 section, any pipeline owned by two or more persons, firms or
12 corporations shall be considered to be a separate pipeline
13 operation to be licensed as such in the name of the operator or
14 owners thereof. The basic fee to be paid in the licensing of
15 such lines under the [~~foregoing~~] fee schedule provided in
16 Subsection B of this section shall be:

17 (1) five hundred dollars (\$500) on lines less
18 than twenty inches in diameter; and
19 (2) eight hundred fifty dollars (\$850) on
20 lines twenty inches or more in diameter."

21 SECTION 14. Section 70-3-3 NMSA 1978 (being Laws 1953,
22 Chapter 42, Section 4, as amended) is amended to read:

23 "70-3-3. EXCEPTIONS.--The [~~foregoing~~] provisions of
24 Section [~~65-4-3 NMSA 1953~~] 70-3-2 NMSA 1978 shall not apply to
25 gathering lines or systems operated exclusively for the

underscored material = new
[bracketed material] = delete

1 gathering of oil or gas in any field or area; to any gas
2 distribution system; or to pipelines constituting a part of any
3 tank farm, plant facilities of any processing plant, gasoline
4 plant, refinery, carbon-black plant, pressure maintenance,
5 underground storage projects, recycling system or other similar
6 operations and such lines and systems shall not be included in
7 computing the fees payable under the licensing provision of
8 Section ~~[65-4-3 NMSA 1953]~~ 70-3-2 NMSA 1978."

9 SECTION 15. Section 70-3-4 NMSA 1978 (being Laws 1953,
10 Chapter 42, Section 6, as amended) is amended to read:

11 "70-3-4. PIPELINES--CROSSING OF RAILROADS AND HIGHWAYS.--
12 The crossing of any pipeline operated for the conveyance of
13 oil, natural gas, carbon dioxide gas or the products derived
14 therefrom under any railroad or public road or highway in this
15 state, outside of the confines of any municipal corporation,
16 shall be constructed and maintained according to reasonable
17 rules ~~[and regulations]~~ adopted by the ~~[corporation commission~~
18 ~~of New Mexico]~~ oil conservation division of the energy,
19 minerals and natural resources department, not inconsistent,
20 however, with the applicable requirements of the ~~[state~~
21 ~~highway]~~ department of transportation."

22 SECTION 16. Section 70-3-5 NMSA 1978 (being Laws 1953,
23 Chapter 42, Section 8, as amended) is amended to read:

24 "70-3-5. EMINENT DOMAIN POWER.--

25 A. Any person, firm, association or corporation may

.219033.1

underscoring material = new
~~[bracketed material]~~ = delete

1 exercise the right of eminent domain to take and acquire the
2 necessary ~~[right-of-way]~~ right of way for the construction,
3 maintenance and operation of pipelines, including microwave
4 systems and structures and other necessary facilities for the
5 purpose of conveyance of petroleum, natural gas and carbon
6 dioxide gas and the products derived therefrom, but any such
7 ~~[right-of-way]~~ right of way shall in all cases be so located as
8 to do the least damage to private or public property consistent
9 with proper use and economical construction. Such land and
10 ~~[right-of-way]~~ right of way shall be acquired in the manner
11 provided by the Eminent Domain Code. Pursuant to the
12 requirements of Sections 42A-1-8 through 42A-1-12 NMSA 1978,
13 the engineers, surveyors and other employees of such person,
14 firm, association or corporation shall have the right to enter
15 upon the lands and property of the state and of private persons
16 and of private and public corporations for the purpose of
17 making necessary surveys and examinations for selecting and
18 locating suitable routes for ~~[such]~~ pipelines, microwave
19 systems, structures and other necessary facilities, subject to
20 responsibility for any damage done to ~~[such]~~ the property in
21 making surveys and examinations.

22 B. The authorization provided for pursuant to
23 Subsection A of this section for pipelines conveying petroleum,
24 natural gas and carbon dioxide gas and products derived
25 therefrom shall apply to trunk lines, including lines owned or

.219033.1

underscoring material = new
[bracketed material] = delete

1 operated by public utilities or interstate pipelines connecting
2 a well [~~or wells~~] under a purchase or conveying contract, and
3 shall not apply to gathering lines other than pipelines owned
4 or operated by public utilities or their affiliates or
5 interstate pipelines or to operators of pipelines whose rates
6 are prescribed or whose operations are licensed by the [~~state~~
7 ~~corporation commission~~] oil conservation division of the
8 energy, minerals and natural resources department pursuant to
9 Section 70-3-1 or 70-3-2 NMSA 1978. For the purposes of this
10 subsection, the term "trunk line" is defined as the main
11 transmission line [~~which~~] that transports petroleum, natural
12 gas and carbon dioxide gas and the products derived therefrom
13 from a producing area to the area where the petroleum, natural
14 gas and carbon dioxide gas and the products derived therefrom
15 are to be used. All other pipelines used in connection with
16 [~~such~~] transportation of petroleum, natural gas and carbon
17 dioxide gas and the products derived therefrom are defined as
18 "gathering lines".

19 SECTION 17. Section 70-3-11 NMSA 1978 (being Laws 1969,
20 Chapter 71, Section 1) is amended to read:

21 "70-3-11. SHORT TITLE.--~~[This act]~~ Sections 70-3-11
22 through 70-3-20 NMSA 1978 may be cited as the "Pipeline Safety
23 Act".

24 SECTION 18. Section 70-3-12 NMSA 1978 (being Laws 1969,
25 Chapter 71, Section 2, as amended) is amended to read:

.219033.1

underscored material = new
[bracketed material] = delete

1 "70-3-12. DEFINITIONS.--As used in the Pipeline Safety
2 Act:

3 A. "person" means an individual, firm, joint
4 venture, partnership, corporation, association, state,
5 municipality, political subdivision, cooperative association,
6 joint stock association or any combination thereof and includes
7 any receiver, trustee, assignee or personal representative
8 thereof;

9 B. [~~"commission" means the public regulation~~
10 ~~commission~~] "division" means the oil conservation division of
11 the energy, minerals and natural resources department;

12 C. "gas" means natural gas, flammable gas or gas
13 that is toxic or corrosive;

14 D. "oil" means crude oil and liquid hydrocarbons
15 and manufactured products derived from either;

16 E. "transportation of gas" means the gathering,
17 transmission or distribution of gas by pipeline or its storage,
18 except that it shall not include the gathering of gas in those
19 rural locations that lie outside the limits of any municipality
20 or unincorporated city, town or village or any residential or
21 commercial area such as a subdivision, a business or shopping
22 center, a community development or any similar populated area
23 that the [~~commission~~] division may define by order as a
24 nonrural area;

25 F. "transportation of oil" means the transmission

.219033.1

underscoring material = new
~~[bracketed material] = delete~~

1 of oil by pipeline, except pipelines operated exclusively for
2 the gathering of oil in any field or area or pipelines
3 constituting a part of any tank farm, plant facilities of any
4 processing plant, gasoline plant, refinery, carbon-black plant,
5 recycling system or similar operations;

6 G. "gas pipeline facilities" means new and existing
7 pipeline rights of way and any equipment, facility or structure
8 used in the transportation of gas or the treatment of gas
9 during the course of transportation;

10 H. "oil pipeline facilities" means new and existing
11 pipeline rights of way and any equipment, facility or structure
12 used in the transportation of oil;

13 I. "intrastate pipeline facilities" means oil
14 pipeline facilities or gas pipeline facilities within the state
15 that are not gas pipeline facilities subject to the
16 jurisdiction of the federal energy regulatory commission
17 pursuant to the federal Natural Gas Act or oil pipeline
18 facilities used in the transportation of oil in interstate or
19 foreign commerce, except that it shall include pipeline
20 facilities within the state that transport gas from an
21 interstate gas pipeline to a direct sales customer within the
22 state purchasing gas for its own consumption;

23 J. "distribution main" means a pipeline other than
24 a gathering or transmission line that serves as a common source
25 of supply for more than one service line;

.219033.1

underscored material = new
[bracketed material] = delete

1 K. "master meter" means a pipeline system for
2 distributing gas within, but not limited to, a definable area,
3 such as a mobile home park, housing project or apartment
4 complex, where the operator purchases metered gas from an
5 outside source for resale through a gas distribution pipeline
6 system. The master meter system supplies the ultimate consumer
7 who either purchases the gas directly through a meter or by
8 other means such as by rents, as more fully set forth in
9 federal laws and regulations; and

10 L. "service line" means a pipeline that transports
11 gas from a common source of supply, such as a distribution
12 main, to:

13 (1) a customer meter or the connection to a
14 customer's piping, whichever is further downstream; or

15 (2) the connection to a customer's piping if
16 there is no customer meter. A "customer meter" is the meter
17 that measures the transfer of gas from an operator to a
18 [~~consumer~~] customer."

19 SECTION 19. Section 70-3-13 NMSA 1978 (being Laws 1969,
20 Chapter 71, Section 3, as amended) is amended to read:

21 "70-3-13. POWERS AND DUTIES OF [~~COMMISSION~~] DIVISION.--
22 The [~~commission~~] division:

23 A. shall promulgate, amend, enforce and repeal
24 reasonable [~~regulations~~] rules establishing minimum safety
25 standards for the transportation of oil, hazardous liquids as

.219033.1

underscored material = new
~~[bracketed material]~~ = delete

1 defined in 49 CFR 195.2 and gas and for the design,
2 installation, inspection, testing, construction, extension,
3 operation, replacement and maintenance, including internal and
4 external surveillance for pipe integrity and installation of
5 emergency flow restricting devices, of oil, hazardous liquid
6 and gas pipeline facilities as may be required by federal law.
7 Safety standards shall not be applicable to oil, hazardous
8 liquid or gas pipeline facilities in existence on the date the
9 safety standards are adopted; provided, however, that whenever
10 the ~~[commission]~~ division upon investigation and hearing
11 determines that an oil, hazardous liquid or gas pipeline
12 facility is hazardous to life or property, it may require the
13 person operating the oil, hazardous liquid or gas pipeline
14 facility to take the steps necessary to remove the hazards.
15 Safety ~~[regulations]~~ rules shall be practicable and designed to
16 meet the need for pipeline safety. Safety rules promulgated
17 for oil, hazardous liquid and gas pipeline facilities or the
18 transportation of oil, hazardous liquids and gas shall be
19 consistent with federal law and rules. Safety rules adopted
20 hereunder shall not apply to any transportation of oil or oil
21 pipeline facilities regulated by the federal department of
22 transportation. Rules adopted pursuant to the Pipeline Safety
23 Act shall substantially conform to federal pipeline safety
24 rules;

25 B. may advise, consult, contract and cooperate with

.219033.1

underscoring material = new
[bracketed material] = delete

1 any agency of the federal government or any other state in
2 projects of common interest in the regulation of safety of oil,
3 hazardous liquid and gas pipeline facilities and the
4 transportation of oil, hazardous liquids and gas and administer
5 the authority delegated to the [~~commission~~] division by any
6 contract with the federal government or any agency thereof;

7 C. may accept, receive, apply for or administer
8 grants or other funds or gifts from public or private agencies,
9 including the federal government, or from any other person;

10 D. may make investigations consistent with the
11 Pipeline Safety Act and, in connection therewith, enter private
12 or public property at all reasonable times. The results of
13 investigations shall be reduced to writing if any enforcement
14 action is contemplated and a copy thereof furnished to the
15 operator of the oil, hazardous liquid or gas pipeline
16 facilities investigated before any enforcement action is
17 initiated; and

18 E. may require persons subject to the Pipeline
19 Safety Act to maintain the records, file the reports and
20 develop the plans for inspection and maintenance of oil,
21 hazardous liquid or gas pipeline facilities as the [~~commission~~]
22 division may, by rule, require for proper administration of the
23 Pipeline Safety Act; provided, however, that the use of the
24 term "rights of way" does not authorize the [~~commission~~]
25 division to prescribe the location or routing of any oil,

.219033.1

underscored material = new
[bracketed material] = delete

1 hazardous liquid or gas pipeline facility."

2 SECTION 20. Section 70-3-13.1 NMSA 1978 (being Laws 2004,
3 Chapter 80, Section 2) is amended to read:

4 "70-3-13.1. MASTER METER OUTREACH AND EDUCATION.--On the
5 effective date of this legislation, the [~~commission~~] division
6 shall:

7 A. commence a continuing industry outreach to
8 coordinate and conduct education and certification programs
9 concerning pipeline safety laws and [~~regulations~~] rules with
10 respect to master meters;

11 B. develop agreements with the building and
12 construction oversight divisions of the state and of local
13 governments with the intent of minimizing dual jurisdiction of
14 master meters; and

15 C. apply the waiver provisions of Section 70-3-16
16 NMSA 1978 to violations of safety [~~regulations~~] rules
17 pertaining to master meters occurring prior to July 1, 2004."

18 SECTION 21. Section 70-3-15 NMSA 1978 (being Laws 1969,
19 Chapter 71, Section 5) is amended to read:

20 "70-3-15. VALIDITY OF [~~REGULATION~~] RULE--JUDICIAL
21 REVIEW.--

22 A. Any person who is a party to any proceeding
23 before the [~~commission~~] division and who is or may be adversely
24 affected by a [~~regulation~~] rule adopted by the [~~commission~~]
25 division or by any order of the [~~commission~~] division may

.219033.1

underscoring material = new
[bracketed material] = delete

1 appeal by petition to the court of appeals for such relief as
2 may be granted by the court, charging in the petition that the
3 [~~regulation~~] rule or order is unreasonable, unlawful,
4 capricious, arbitrary, inappropriate for the particular type of
5 pipeline transportation or fails to contribute to the public
6 safety. The petition shall name the [~~New Mexico corporation~~
7 ~~commission~~] division as the appellee [~~therein~~] and shall state
8 briefly the nature of the proceeding before the [~~commission~~]
9 division and shall set forth the [~~regulation~~] rule or order
10 complained of and the grounds upon which the petitioner will
11 rely. Appeals shall be upon the record made at the
12 [~~commission~~] division hearing on the [~~regulation~~] rule or order
13 and shall be taken:

14 (1) within thirty days after the [~~regulation~~]
15 rule is filed in accordance with the provisions of the State
16 Rules Act; or

17 (2) within thirty days after the effective
18 date of the [~~commission's~~] division's order, whichever is the
19 later date.

20 B. An appeal does not stay the operation of the
21 [~~commission's~~] division's order or [~~regulation~~] rule unless the
22 court of appeals orders a stay of the operation of the order or
23 [~~regulation~~] rule on such terms as it deems just and in
24 accordance with the practice of the courts exercising equity
25 jurisdiction."

.219033.1

underscored material = new
[bracketed material] = delete

1 SECTION 22. Section 70-3-16 NMSA 1978 (being Laws 1969,
2 Chapter 71, Section 6) is amended to read:

3 "70-3-16. WAIVER OF ~~[REGULATIONS]~~ RULES.--Upon
4 application by any person engaged in the transportation of gas
5 or oil or owning or operating gas or oil pipeline facilities,
6 the ~~[commission]~~ division may, after notice and opportunity for
7 hearing and under such terms and conditions and to such extent
8 as the ~~[commission]~~ division deems appropriate, waive
9 compliance with any ~~[regulation]~~ rule established under the
10 Pipeline Safety Act if the ~~[commission]~~ division determines
11 that a waiver of compliance with the ~~[regulation]~~ rule is not
12 inconsistent with pipeline safety. Any waiver for the
13 transportation of gas or for gas pipeline facilities shall be
14 subject to approval by the federal agency having jurisdiction
15 as provided in Section 3(e) of the Natural Gas Pipeline Safety
16 Act of 1968 [~~being Public Law 90-481~~]."

17 SECTION 23. Section 70-3-17 NMSA 1978 (being Laws 1969,
18 Chapter 71, Section 7) is amended to read:

19 "70-3-17. CONTINUITY OF SERVICE.--When a proposed
20 ~~[regulation]~~ rule or ~~[commission]~~ division order will or may
21 affect continuity of any gas service, the ~~[commission]~~ division
22 shall consult with any other state or federal agency having
23 jurisdiction over the affected transportation of gas or gas
24 pipeline facility before adopting the ~~[regulation]~~ rule or
25 order and shall defer the effective date of the ~~[regulation]~~

.219033.1

underscoring material = new
[bracketed material] = delete

1 rule or order until the other state or federal agency has had
2 reasonable opportunity to take such action as it [~~shall deem~~
3 deems necessary."

4 SECTION 24. Section 70-3-18 NMSA 1978 (being Laws 1969,
5 Chapter 71, Section 8) is amended to read:

6 "70-3-18. COMPLIANCE.--

7 A. Each person who engages in the transportation of
8 oil or gas or who owns or operates oil or gas pipeline
9 facilities shall:

10 (1) at all times after the effective date of
11 any [~~regulation~~] rule, comply with the requirements of the
12 [~~regulation~~] rule;

13 (2) comply with any plan of inspection and
14 maintenance required to be filed with the [~~commission~~] division
15 by the person; and

16 (3) permit the [~~commission~~] division access to
17 or the copying of pertinent records and make reports or provide
18 information to the [~~commission~~] division as may be reasonably
19 required and permit entry to or inspection of its gas or oil
20 pipeline facilities by the [~~commission~~] division.

21 B. Nothing in the Pipeline Safety Act shall affect
22 the common law or statutory tort liability of any person."

23 SECTION 25. Section 70-3-19 NMSA 1978 (being Laws 1969,
24 Chapter 71, Section 9, as amended) is amended to read:

25 "70-3-19. ENFORCEMENT--PENALTIES.--

.219033.1

underscored material = new
[bracketed material] = delete

1 A. If as a result of investigation the [~~commission~~]
2 division has good cause to believe that any person is violating
3 any provision of Subsection A of Section 70-3-18 NMSA 1978 or
4 any [~~regulation~~] rule adopted by the [~~commission~~] division
5 under the Pipeline Safety Act, the [~~commission~~] division shall,
6 when practicable and except in the case of a knowing and
7 willful violation, give the person notice of the violation and
8 an opportunity to comply. If the [~~commission~~] division is
9 unable within a reasonable time to obtain voluntary cooperation
10 to prevent the continuing violation, the [~~commission~~] division
11 may apply for an injunction in the district court of the county
12 in which the violation occurs to secure compliance. The
13 failure to give notice and afford an opportunity to comply
14 shall not preclude the granting of injunctive relief.

15 B. The trial before the district court shall be
16 before the court without jury, and the court shall enter
17 judgment and orders enforcing the judgment as the public
18 interest and equities of the case may require.

19 C. Any person owning or operating gas pipeline
20 facilities or engaged in the transportation of gas or owning or
21 operating oil pipeline facilities or engaged in the
22 transportation of oil who has been determined by order of the
23 [~~commission~~] division after hearing to have violated any
24 provision of Subsection A of Section 70-3-18 NMSA 1978 or any
25 [~~regulation~~] rule promulgated under the Pipeline Safety Act

.219033.1

underscored material = new
[bracketed material] = delete

1 applicable to intrastate pipeline facilities shall be subject
2 to a civil penalty in an amount not to exceed one hundred
3 thousand dollars (\$100,000) for each violation for each day
4 that the violation persists, except that the maximum civil
5 penalty shall not exceed one million dollars (\$1,000,000) for
6 any related series of violations.

7 D. In determining the amount of the penalty, the
8 [~~commission~~] division shall consider the nature, circumstances
9 and gravity of the violation and, with respect to the person
10 found to have committed the violation, the degree of
11 culpability, any history of prior violations, the effect on
12 ability to continue to do business, any good faith in
13 attempting to achieve compliance, ability to pay the penalty
14 and other matters as justice may require.

15 E. Judicial review of any provision of this section
16 may be accomplished in the same manner as is found in Section
17 70-3-15 NMSA 1978.

18 F. Any person who willfully and knowingly injures
19 or destroys or attempts to injure or destroy an intrastate
20 pipeline facility shall upon conviction be subject for each
21 offense to a fine not to exceed twenty-five thousand dollars
22 (\$25,000) or imprisonment for a term not to exceed fifteen
23 years, or both.

24 G. Any person who willfully and knowingly damages,
25 removes or destroys any pipeline sign, right-of-way marker

.219033.1

underscored material = new
[bracketed material] = delete

1 required by the Pipeline Safety Act or any [~~regulation~~] rule or
2 order issued pursuant to that act shall upon conviction be
3 subject for each offense to a fine of not more than five
4 thousand dollars (\$5,000) or imprisonment for a term not to
5 exceed one year, or both."

6 SECTION 26. Section 70-3-20 NMSA 1978 (being Laws 1969,
7 Chapter 71, Section 10) is amended to read:

8 "70-3-20. PIPELINE SAFETY ENGINEER AND STAFF.--The
9 [~~commission~~] director of the division shall appoint a
10 professional engineer who shall have at least five years'
11 actual experience in the design, construction, maintenance and
12 operation of oil or gas pipeline facilities and who shall be
13 designated "pipeline safety engineer". The [~~commission~~]
14 division shall retain such other personnel as may be necessary
15 to carry out the provisions of the Pipeline Safety Act, and the
16 [~~commission~~] division shall, subject to state laws and
17 [~~regulations~~] rules covering classification and compensation of
18 state employees, be empowered and authorized to fix the
19 compensation to be paid the pipeline safety engineer [~~and~~].
20 The compensation of other personnel employed under the
21 authority of this section shall be subject to the state
22 Personnel Act."

23 SECTION 27. Section 70-3-21 NMSA 1978 (being Laws 2004,
24 Chapter 80, Section 1) is amended to read:

25 "70-3-21. PIPELINE SAFETY FUND--CREATED--ASSESSMENT AND
.219033.1

underscored material = new
[bracketed material] = delete

1 COLLECTION OF FEES.--

2 A. The "pipeline safety fund" is created in the
3 state treasury for the purpose of enhancing the staffing and
4 training [~~of the pipeline safety bureau~~] of the [~~commission~~]
5 oil conservation division of the energy, minerals and natural
6 resources department with the goal of assuming the function of
7 inspection of interstate as well as intrastate pipelines. The
8 fund shall consist of fees collected pursuant to Subsection D
9 of this section, appropriations, gifts, grants, donations and
10 earnings from investment of the fund. Balances in the fund
11 shall not be transferred to the general fund at the end of any
12 fiscal year.

13 B. The pipeline safety fund shall be administered
14 by the [~~commission~~] energy, minerals and natural resources
15 department. Money in the fund is appropriated to the
16 [~~commission~~] energy, minerals and natural resources department
17 for the oil conservation division to carry out its duties
18 pursuant to the provisions of the Pipeline Safety Act and
19 Chapter 62, Article 14 NMSA 1978. Not more than five percent
20 of the fees collected pursuant to Subsection D of this section
21 shall be used [~~by the commission~~] for administrative purposes.

22 C. Payments from the pipeline safety fund shall be
23 made upon vouchers issued and signed by the [~~director~~]
24 secretary of [~~the administrative services division of the~~
25 ~~commission~~] energy, minerals and natural resources or the

.219033.1

underscored material = new
[bracketed material] = delete

1 ~~[director's]~~ secretary's authorized representative upon
2 warrants drawn by the secretary of finance and administration.

3 D. The ~~[commission]~~ oil conservation division shall
4 collect annual pipeline safety fees for the duties relating to
5 inspection of intrastate pipelines from persons subject to the
6 Pipeline Safety Act in accordance with and not to exceed the
7 following amounts:

8 (1) for the transportation of gas:

9 (a) two dollars (\$2.00) per domestic
10 service line;

11 (b) thirty-five dollars (\$35.00) per
12 commercial service line;

13 (c) thirty-five dollars (\$35.00) per
14 mile of line for the transportation of gas subject to
15 inspection by the ~~[pipeline safety bureau]~~ oil conservation
16 division, with a minimum assessment of four hundred dollars
17 (\$400); and

18 (d) one hundred dollars (\$100) per
19 master meter, direct sales lateral or liquified petroleum gas
20 system; and

21 (2) for the transportation of oil, thirty-five
22 dollars (\$35.00) per mile of transmission line subject to
23 inspection by the ~~[pipeline safety bureau]~~ oil conservation
24 division, with a minimum assessment of four hundred dollars
25 (\$400). A fee shall not be assessed on mileage under the

.219033.1

underscored material = new
[bracketed material] = delete

1 jurisdiction of or inspected by the federal department of
2 transportation.

3 E. The [~~commission~~] oil conservation division shall
4 annually conduct a public review of the fees collected and
5 payments made from the fund and provide a summary to the
6 legislative finance committee and the department of finance and
7 administration. Based upon its findings, the [~~commission~~] oil
8 conservation division shall adjust the annual fee rates
9 authorized by Subsection D of this section in order to collect
10 only that amount estimated to be necessary to carry out the
11 provisions of the Pipeline Safety Act and Chapter 62, Article
12 14 NMSA 1978; provided that the fees shall not be greater than
13 the amounts set forth in Subsection D of this section."

14 SECTION 28. Section 70-3-22 NMSA 1978 (being Laws 2004,
15 Chapter 80, Section 4) is amended to read:

16 "70-3-22. PIPELINE SAFETY FEE.--A public utility that is
17 assessed a pipeline safety fee shall be entitled to collect the
18 fee from its rate payers without the requirement of a request
19 for a change in rates. The utility shall notify the public
20 regulation commission in writing of the imposition and amount
21 of the fee and, if practicable, shall show the fee as a
22 separate line item on its bill statements to consumers."

23 SECTION 29. Section 70-5-9 NMSA 1978 (being Laws 1970,
24 Chapter 65, Section 2, as amended) is amended to read:

25 "70-5-9. ANNUAL LICENSE FEES--INSPECTION FEES.--

.219033.1

underscored material = new
[bracketed material] = delete

1 A. For the purpose of defraying the expenses of
2 administering the laws relating to the use of CNG in motor
3 vehicles or the LP gas industry, each person, firm or
4 corporation, at the time of application for a license and
5 annually thereafter on or before December 31 of each calendar
6 year, shall pay to the bureau reasonable license fees as set,
7 classified and defined by the bureau for each operating
8 location. Provided, the total annual fees charged any one
9 licensee for a combination of LP gas activities at one location
10 and subject to licensure under this section shall not exceed
11 three hundred fifty dollars (\$350), and the fee charged for any
12 single activity or operation as set, classified and defined by
13 the bureau shall not exceed one hundred fifty dollars (\$150).

14 B. Nothing in the LPG and CNG Act is intended to
15 alter the jurisdiction of the [~~state corporation commission~~
16 ~~pipeline safety department~~] oil conservation division of the
17 energy, minerals and natural resources department with regard
18 to pipeline safety.

19 C. In addition, there shall be paid a reasonable
20 fee for the safety inspection, made by a representative of the
21 bureau, of each LP gas bulk storage plant, LP gas liquid
22 transfer facility and of the LP gas equipment on each vehicular
23 unit used for transportation of LP gas in bulk quantities. The
24 fee shall be set by the bureau and shall not be assessed more
25 frequently than once in each twelve months. The bureau may

.219033.1

underscoring material = new
[bracketed material] = delete

1 also charge a reasonable fee for late payment of any fees.

2 D. No annual license fee fixed by the bureau as
3 provided in this section shall become effective until after
4 notice to each licensee has been made and hearing held on the
5 proposed annual license fees in the manner provided by Section
6 70-5-14 NMSA 1978. At the conclusion of any hearing, the
7 bureau shall enter its findings and decision in writing as a
8 regulation, and the regulation shall be filed as provided by
9 the State Rules Act."

10 SECTION 30. Laws 2020, Chapter 9, Section 59 is amended
11 to read:

12 "SECTION 59. TEMPORARY PROVISION--RECOMPILATION.--
13 Sections 8-8-4 through 8-8-8, 8-8-10, 8-8-12 through 8-8-17 and
14 8-8-20 NMSA 1978 (being Laws 1998, Chapter 108, Section 4; Laws
15 2009, Chapter 216, Section 1; Laws 1998, Chapter 108, Sections
16 5 through 8, [~~and~~] 10 [~~through~~] and 12; Laws 2000, Chapter 100,
17 Section 1 and Laws 2000, Chapter 102, Section 1; and Laws 1998,
18 Chapter 108, Sections 13 through 17 and 20, as amended) are
19 recompiled as part of the Public Regulation Commission Act."

20 SECTION 31. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS,
21 PERSONNEL, APPROPRIATIONS, PROPERTY, RECORDS AND CONTRACTS.--

22 A. On January 1, 2023, all staff positions,
23 functions, personnel, appropriations, money, records,
24 equipment, supplies, other property and contractual obligations
25 of the pipeline safety bureau of the transportation division of

.219033.1

underscoring material = new
~~[bracketed material] = delete~~

1 the public regulation commission are transferred to the energy,
2 minerals and natural resources department.

3 B. Beginning on January 1, 2023, all references in
4 law, rules, orders and other official acts to the pipeline
5 safety bureau of the transportation division of the public
6 regulation commission shall be deemed references to the energy,
7 minerals and natural resources department.

8 C. Beginning on January 1, 2023, all contractual
9 obligations of the pipeline safety bureau of the transportation
10 division of the public regulation commission are binding on the
11 energy, minerals and natural resources department.

12 SECTION 32. REPEAL.--Section 70-3-14 NMSA 1978 (being
13 Laws 1969, Chapter 71, Section 4) is repealed.

14 SECTION 33. EFFECTIVE DATE.--The effective date of the
15 provisions of this act is January 1, 2023.