

LFC Requestor: Self Assigned

**2025 LEGISLATIVE SESSION
AGENCY BILL ANALYSIS**

Section I: General

Chamber: House **Category:** Bill
Number: 35 **Type:** Introduced

Date (of THIS analysis): 1/22/2025
Sponsor(s): Debra M. Sariñana and Joanne J. Ferrary
Short Title: Oil and Gas Children’s Health Protection Zones

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Section II: Fiscal Impact

APPROPRIATION (dollars in thousands)

Appropriation Contained		Recurring or Nonrecurring	Fund Affected
FY 25	FY 26		
\$0	\$0	NA	NA

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY 25	FY 26	FY 27		
Total	\$0	\$0	\$0	\$0

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY 25	FY 26	FY 27	3 Year Total Cost	Recurring or Non-recurring	Fund Affected
Total	\$	\$	\$	\$		

Section III: Relationship to other legislation

Duplicates: None

Conflicts with: None

Companion to: None

Relates to: HB33, HB34

Duplicates/Relates to an Appropriation in the General Appropriation Act: None

Section IV: Narrative

1. BILL SUMMARY

a) Synopsis

House Bill 35 (HB35) proposes to amend the Oil and Gas Act to include restrictions on oil and gas operations in “children’s health protection zones” (an area extending five thousand two hundred eight feet from the property line of a school). Beginning August 1, 2025, no permits to drill an oil or gas well within a children’s health protection zone will be approved unless a variance is granted, as defined. In addition, the amendment proposes that, on or before January 1, 2026, oil and gas operators create a protection zone inventory and map, as defined; follow restrictions to operate in a children’s health protection zone, as defined; and implement a leak response and detection plan and alarm response protocol, as defined. Beginning August 1, 2025, an operator with a wellhead or production facility in a children’s health protection zone, that receives a permit to drill, shall notify property owners and tenants of the operator’s wellhead or production facility and offer to sample and test water wells and surface water, as defined. Before December 31, 2026, and in the month of December of each year thereafter, an operator in a children’s health protection zone shall provide to the oil conservation division of the Energy, Minerals and Natural Resources Department (EMNRD) a report as outlined in HB35. In addition, HB35 calls for the suspension of oil and gas operations in children’s health protection zones that are in violation of the air quality control act.

Is this an amendment or substitution? Yes No

Is there an emergency clause? Yes No

b) Significant Issues

There is a growing body of evidence that oil and gas operations in proximity to communities can impact human health within those communities, compared to those without oil and gas extraction (see discussion under “Health Impacts.”) The impact of HB35 on stakeholders and customers would be most significant in regions where oil and gas extraction take place and may result in reduced exposure to pollutants associated with oil and gas extraction. The bill would also provide protection to the environment within the children’s health protection zones.

HB35 creates requirements for oil and gas operators, and those operators applying for a permit to drill, to provide a protection zone inventory and map (wellhead locations, schools, playgrounds, etc. as defined in the bill). This would be needed to conduct enforcement of the proposed legislation. This bill defines the “children’s health protection zone” as an area extending five thousand two hundred and eighty feet from the property line of a school.

Several states have oil and gas drilling distance legislation. Drilling in California requires a minimum of 3,200 feet between oil fields and communities. Their legislation represents distance from communities and are not school specific (<https://www.gov.ca.gov/2024/09/25/governor-newsom-signs-legislation-to-restrict-polluting-oil-gas-operations-near-schools-daycares-and-across-communities>).

Texas laws put the determination in each city’s jurisdiction. Currently 29 cities restrict drilling which assures distance from retirement homes, day cares, schools, and community centers. Texas Administrative Code (state.tx.us)

Colorado has changed the 300 ft requirement to 1,000 feet but had determined that 2,000 ft is a better distance to avoid contamination (<https://earthjustice.org/press/2022/colorado-oil-and-gas-commission-stands-by-2000-foot-setback-rule-in-kerr-mcgee-decision>).

HB35 primarily places the burden of enforcement and administration on the energy, minerals and natural resources department. Violations by operators in children’s protection zone are set not to exceed \$30,000 per day to a maximum of \$200,000. The penalties may not be sufficient for reclamation and remediation.

HB35 will require a leak detection and response plan and an alarm response protocol to be developed by the operator and be submitted for approval by the division. The leak reporting notification is required only if the leak is continuous for more than forty-eight hours which is a considerable time that can result in a large contamination.

2. PERFORMANCE IMPLICATIONS

- Does this bill impact the current delivery of NMDOH services or operations?
 Yes No

The proposed bill could impact the Environmental Health Capacity Program, the Asthma Control Program, and other programs within the Environmental Health Epidemiology Bureau. Expert opinion on potential health impacts within the children’s health protection zones and the associated collection, analysis, and interpretation of health impact data could be required.

- Is this proposal related to the NMDOH Strategic Plan? Yes No
 - Goal 1:** We expand equitable access to services for all New Mexicans
 - Goal 2:** We ensure safety in New Mexico healthcare environments
 - Goal 3:** We improve health status for all New Mexicans
 - Goal 4:** We support each other by promoting an environment of mutual respect, trust, open communication, and needed resources for staff to serve New Mexicans and to grow and reach their professional goals

3. FISCAL IMPLICATIONS

- If there is an appropriation, is it included in the Executive Budget Request?

Yes No N/A

- If there is an appropriation, is it included in the LFC Budget Request?
 Yes No N/A
- Does this bill have a fiscal impact on NMDOH? Yes No

4. ADMINISTRATIVE IMPLICATIONS

Will this bill have an administrative impact on NMDOH? Yes No

The administrative impact on NMDOH would depend on both the number of hours required for consultation and how frequently it would need to occur.

5. DUPLICATION, CONFLICT, COMPANIONSHIP OR RELATIONSHIP

HB35 is related to HB33 and HB34, which also pertain to the oil and gas industry.

6. TECHNICAL ISSUES

Are there technical issues with the bill? Yes No

7. LEGAL/REGULATORY ISSUES (OTHER SUBSTANTIVE ISSUES)

- Will administrative rules need to be updated or new rules written? Yes No
- Have there been changes in federal/state/local laws and regulations that make this legislation necessary (or unnecessary)? Yes No
- Does this bill conflict with federal grant requirements or associated regulations?
 Yes No
- Are there any legal problems or conflicts with existing laws, regulations, policies, or programs? Yes No

8. DISPARITIES ISSUES

To understand the impact of oil and natural gas (O&G) production on the health of New Mexicans it is important to identify those counties in which O&G production occur. O&G production in New Mexico is concentrated primarily in the Permian Basin located in the southeast regional counties of Lea, Eddy, Chavez, and Roosevelt and in the San Juan Basin located in the northwest region that includes San Juan, Rio Arriba, Sandoval, and McKinley counties (<https://www.shalex.com/new-mexico>). Among these, Lea and Eddy counties are the highest producers of both oil and natural gas. These counties also have the highest number of active O&G wells in the state. The northwest region also produces natural gas in Harding and Union counties, but in much lesser amounts than the other two regions.

Analysis by the NM Environmental Public Health Tracking Program using the CDC Social Vulnerability Index identified the small areas in the northwest (McKinley and San Juan Counties) and southern NM (Doña Ana County) as having poor health care access, high poverty levels, and crowded or mobile housing. Furthermore, two counties which encompass much of the Navajo reservation in NM, are majority American Indian Alaska Native (AIAN) population - San Juan (39%) and McKinley (75%) (internal documentation). San Juan County is a major producer of oil and gas.

One health impact on oil and gas facility proximity is air quality. Poor air quality is associated with asthma and the burden of childhood asthma is disproportionately distributed among NM counties. The overall rate for asthma-related emergency department (ED) visits of NM children ages 0-17 from 2018 to 2022 is 36.1 visits per 10,000. For the same years, the southeast region had the highest rate of childhood asthma-related ED visits at 53.8 per 10,000 followed by the

northwest (41.1 per 10,000), southwest (37.7 per 10,000), northeast (34.9 per 10,000), and metro (27.3 per 10,000). The regions with the highest asthma-related ED visits are also the highest O&G-producing regions. The four counties with the highest asthma-related ED visits for children are San Miguel (76.9 per 10,000), Union (67.2 per 10,000), Eddy (64.5 per 10,000), and Sierra (64.3 per 10,000). However, five O&G producing counties have rates ranging between 19 - 62% above the overall state rate:

- Chaves 58.4 per 10,000 (62% above the overall state rate)
- San Juan 53.6 per 10,000 (48% above the overall state rate)
- Roosevelt 51.2 per 10,000 (42% above the overall state rate)
- Lea 44.6 per 10,000 (24% above the overall state rate)
- Rio Arriba 43.0 per 10,000 (19% above the overall state rate)

The overall rate for asthma-related hospitalization for NM children ages 0-17 from 2018 to 2022 is 8.9 visits per 10,000. The metro region had the highest rate of asthma-related hospitalizations from 2018 to 2022 at 10.7 visits per 10,000, followed by the southeast (9.6 per 10,000), northeast (7.6 per 10,000), northwest (7.2 per 10,000), and southwest (5.9 per 10,000). By county, the three counties with the highest rates of asthma-related hospitalizations for the same years are Chavez (20.0 per 10,000), San Miguel (11.2 per 10,000), and Valencia (11.1 per 10,000). The remaining O&G producing counties all had rates at or below the overall rate for New Mexico except for Rio Arriba (10.6 per 10,000) and Sandoval (9.2 per 10,000).

Asthma-related rates for ED visits and hospitalizations should be interpreted with caution. We know that health disparities exist that impact the treatment and management of asthma (<https://aaafa.org/advocacy/key-issues/health-disparities>). For residents in rural communities, lack of access to primary care providers and asthma specialists can result in the over reliance on emergency departments for asthma management. In addition, that lack of rigorous health studies does not allow a causal inference to be made between increased asthma-related ED visits and hospitalizations and O&G production.

The impact of HB35 could positively impact private wells owners, a potentially underserved population in NM, by providing water quality data that may not be readily available otherwise. Limited support exists to help well owners understand and protect essential drinking water supplies. As of 2021, using NMDOH best estimates, about 20% of private wells in the state had water quality tested. Well users with no information on their drinking water quality are at higher risk of potential harmful exposures; this would include well contamination by oil and gas extraction. Between 2015 and 2021 about 13% of calls to the environmental health epidemiology bureau were drinking water-related with 9% about private well drinking water and 4% about other drinking water (NMDOH Environmental Health Capacity Program internal documentation).

9. HEALTH IMPACT(S)

Living or working near oil and gas (O&G) production sites has been increasingly linked to a range of negative health outcomes. Research has identified water and air pollution as primary exposure pathways, with emissions of volatile organic compounds, particulate matter, and other hazardous substances contributing to respiratory issues, cardiovascular diseases, and adverse birth outcomes (<https://doi.org/10.1515/reveh-2014-0002>; <https://doi.org/10.1088/2752-5309/acc886>; <https://doi.org/10.1001/jamapediatrics.2022.0306>; <https://doi.org/10.1016/j.envres.2023.115937>; <https://doi.org/10.1016/j.scitotenv.2018.11.483>; <https://doi.org/10.1016/j.jacc.2020.10.023>).

The widespread use of hydraulic fracturing, commonly known as fracking, has raised environmental and health concerns (<https://doi.org/10.1016/j.envres.2020.109124>, <https://doi.org/10.1001/jamainternmed.2016.2436>, <https://doi.org/10.1007/s00204-020-02758-7>). Approximately 95% of the New Mexico's 60,000 O&G wells have undergone fracking to enhance production (<http://nmpoliticalreport.com/2021/07/16/report-documents-pfas-use-in-fracking-in-new-mexico>, <https://www.kunm.org/local-news/2012-07-11/new-mexicos-fracking-legacy>). The process involves injecting high-pressure fluid mixtures to fracture underground rock formations, facilitating the flow of hydrocarbons to the surface. Notably, reports have documented the use of per- and polyfluoroalkyl substances (PFAS), also known as "forever chemicals," in New Mexico's fracking operations. These chemicals are persistent in the environment and have been linked to adverse health effects (<https://psr.org/wp-content/uploads/2023/04/fracking-with-forever-chemicals-in-new-mexico.pdf>, <https://doi.org/10.1021/acs.est.3c05192>).

Several reputable studies have examined the relationship between hydraulic fracturing (fracking) and respiratory health. A study by the Johns Hopkins Bloomberg School of Public Health found that individuals with asthma living near larger or a higher number of active unconventional natural gas wells in Pennsylvania were 1.5 to 4 times more likely to experience asthma attacks compared to those living farther away. The research suggests that air pollution and increased stress levels associated with fracking operations could contribute to this elevated risk (<https://doi.org/10.1001/jamainternmed.2016.2436>).

Multiple studies conducted in Los Angeles have demonstrated the negative health impacts of urban O&G drilling. Researchers found that for every 100 meter increase in distance from an O&G drilling site, diastolic blood pressure was reduced by a statistically significant degree (<https://doi.org/10.1038/s41370-023-00589-z>). Another study reported on findings from community surveys and low-cost air monitors that living nearer an O&G drilling site is associated with an increased burden of asthma (<https://doi.org/10.3390/ijerph15010138>). Finally, O&G drilling sites introduce measurable concentrations of methane, benzene, toluene, ethylbenzene, xylenes, styrene, ethane, and propane among other known-toxic airborne VOCs (<https://doi.org/10.1039/D1EM00048A>). Furthermore, researchers reported that idling an O&G drilling site can lead to immediate and significant improvements in atmospheric VOC concentrations. Numerous other studies have drawn similar conclusions of the negative impact of O&G production activities such as drilling and flaring, on air quality and health (<https://doi.org/10.1016/j.jpubeco.2022.104601>, <https://doi.org/10.1525/elementa.398>, <https://doi.org/10.1029/2023GH000938>, <https://econ.unm.edu/what-we-do/community-service/nm-research-2023.html>) which is a particular concern for children (<https://doi.org/10.1016/j.envres.2018.06.022>, <https://doi.org/10.3389/fped.2023.1191852>).

10. ALTERNATIVES

None

11. WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

If HB35 is not enacted, then oil and gas operations would not be restricted within an area extending five thousand two hundred eight feet from the property line of a school. Permits would not be restricted; oil and gas operators would not be required to create a protection zone inventory and map, as defined; leak response and detection plan and alarm response protocol would not be required; nor to conduct water and air quality sampling and testing.

12. AMENDMENTS

None