

HOUSE BILL 259

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

Matthew McQueen and Kristina Ortez

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO NATURAL RESOURCES; INCREASING CIVIL PENALTIES ASSESSED FOR VIOLATIONS OF THE OIL AND GAS ACT; INCREASING CERTAIN APPLICATION FEES IN THE OIL AND GAS ACT AND ADJUSTING THEM FOR INFLATION.

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

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

.230059.1AIC February 18, 2025 (3:15pm)

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"70-2-31. VIOLATIONS OF THE OIL AND GAS ACT--PENALTIES.--

A. Whenever the division determines that a person violated or is violating the Oil and Gas Act or any provision of any rule, order, permit or authorization issued pursuant to that act, the division may seek compliance and civil penalties by:

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

B. A notice of violation issued pursuant to Paragraph (1) of Subsection A of this section shall:

- (1) state with reasonable specificity the nature of the violation; [~~shall~~]
- (2) require compliance immediately or within a specified time period; [~~shall~~]
- (3) provide notice of the availability of an informal review and the date of a hearing before the division; and [~~shall~~]

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(4) provide notice of potential sanctions, including assessing a penalty, suspending, canceling or terminating a permit or authorization, shutting in a well and plugging and abandonment of a well and forfeiting financial assurance pursuant to Section 70-2-14 NMSA 1978.

C. If the notice of violation is not resolved informally within thirty days after service of the notice, the division shall hold a hearing and determine whether the violation should be upheld and whether any sanctions, including civil penalties, shall be assessed. In assessing a penalty authorized by this section, the division shall take into account the seriousness of the violation, any good faith efforts to comply with the applicable requirements, any history of noncompliance under the Oil and Gas Act and other relevant factors. When a decision is rendered by the division after a hearing, any party of record adversely affected shall have the right to have the matter heard de novo before the commission pursuant to Section 70-2-13 NMSA 1978.

D. Any civil penalty assessed by a court or by the division or commission pursuant to this section may not exceed [~~two thousand five hundred dollars (\$2,500)~~] ten thousand dollars (\$10,000) per day of noncompliance for each violation unless the violation presents a risk either to the health or safety of the public or of causing significant environmental harm, or unless the noncompliance continues beyond a time

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specified in the notice of violation or order issued by the division, commission or court, whereupon the civil penalty may not exceed [~~ten thousand dollars (\$10,000)~~] twenty-five thousand dollars (\$25,000) per day of noncompliance for each violation. No penalty assessed by the division or commission after a hearing may exceed [~~two hundred thousand dollars (\$200,000)~~] HENRC→~~three million six hundred fifty thousand dollars (\$3,650,000)~~←HENRC HENRC→two million six hundred fifty thousand dollars (\$2,650,000)←HENRC ; provided that such limitation does not apply to penalties assessed by a court.

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

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

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

(2) do any of the following for the purpose of evading or violating the Oil and Gas Act or any rule,

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regulation or order of the commission or the division issued pursuant to that act:

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

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

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

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

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

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

SECTION 2. Section 70-2-39 NMSA 1978 (being Laws 2019, .230059.1AIC February 18, 2025 (3:15pm)

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Chapter 260, Section 1) is amended to read:

"70-2-39. FEES--~~[APPROPRIATION]~~ FEE ADJUSTMENTS--OIL CONSERVATION DIVISION SYSTEMS AND HEARINGS FUND.--

A. The following fees, as adjusted for inflation pursuant to Subsection B of this section, are required to be paid to the ~~[oil conservation]~~ division ~~[of the energy, minerals and natural resources department]~~ with each application for:

(1) ~~[with each application for]~~ a non-federal and non-Indian permit to drill, deepen, plug back or reenter a well, the applicant shall submit to the division a nonrefundable fee of ~~[five hundred dollars (\$500)]~~ one thousand five hundred dollars (\$1,500);

(2) ~~[with each individual application for]~~ administrative approval of a non-standard location, downhole commingle, surface commingle, off-lease measurement, release notification and corrective action, change of operator, application for modification to surface waste management facility, request for the creation of a new pool, proposed alternative method permit or closure plan application or authorization to move produced water, the applicant shall submit to the division a nonrefundable fee of ~~[one hundred fifty dollars (\$150)]~~ four hundred fifty dollars (\$450);

(3) ~~[with each application for]~~ a fluid injection well permit, the applicant shall submit to the

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division a nonrefundable fee of [~~five hundred dollars (\$500)~~]
one thousand five hundred dollars (\$1,500) per well;

(4) [~~with each application for~~] a permit for a commercial surface waste management facility, landfill or landfarm, the applicant shall submit to the division a nonrefundable fee of ten thousand dollars (\$10,000) per facility;

(5) [~~with each application for~~] an administrative hearing, re-hearing or de novo hearing before the division or commission, the applicant shall submit to the division a nonrefundable fee of [~~five hundred dollars (\$500)~~]
one thousand five hundred dollars (\$1,500) per application; and

(6) [~~with each application for~~] a continuance of an administrative hearing, re-hearing or de novo hearing before the division or commission, the applicant shall submit to the division a nonrefundable fee of [~~one hundred fifty dollars (\$150)~~]
four hundred fifty dollars (\$450) per application.

B. On January 1, 2027 and on January 1 of each successive year, the division may adjust for inflation the fees required in Subsection A of this section by multiplying the fee as of January 1, 2026 by a fraction, the numerator of which is the consumer price index ending in September of the prior year and the denominator of which is the consumer price index ending in September 2025; provided that the fees shall not be adjusted

below the minimum amounts provided in Subsection A of this section as a result of a decrease in the consumer price index. By November 1, 2026 and by November 1 of each successive year, the division shall post on its website the fees required in Subsection A of this section for the subsequent year.

[B-] C. An application for an administrative hearing, re-hearing or de novo hearing before the [~~oil conservation~~] division or commission will be considered to be materially amended if the amendment is made for a purpose other than to correct:

- (1) typographical errors; or
- (2) clerical errors.

[G-] D. The "oil conservation division systems and hearings fund" is created in the state treasury as a nonreverting fund. All funds received by the [~~oil conservation~~] division from fees imposed pursuant to Subsection A of this section shall be delivered to the state treasurer and deposited in the fund. Disbursements from the fund shall be made upon warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the secretary of energy, minerals and natural resources or the secretary's authorized representative. Money in the fund is subject to appropriation by the legislature to the division to develop and modernize the division's online application processing system, online case management system, online data reporting and

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visualization systems and online case file system and for other technological and equipment upgrades necessary to support the efficient and transparent implementation and enforcement of the Oil and Gas Act, including hiring necessary information technology personnel, and for hearing administration costs. Any unexpended or unencumbered balance remaining in the fund at the end of a fiscal year shall not revert to the general fund. [~~Money in the fund in fiscal year 2020 may be expended by the division for the purposes of the fund.~~]

E. As used in this section, "consumer price index" means the average of the monthly consumer price indexes or its successor indexes, not seasonally adjusted, for urban consumers of the entire United States, as published by the United States department of labor for the month ending September 30."

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2025.