

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 259

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

INTRODUCED BY

Matthew McQueen and Kristina Ortez

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:

"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;

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

underscored material = new
[bracketed material] = delete

1 (2) commencing a civil action in district
2 court for appropriate relief, including injunctive relief; or

3 (3) issuing a temporary cessation order if the
4 division determines that the violation is causing or will cause
5 an imminent danger to public health or safety or a significant
6 imminent environmental harm. The cessation order will remain
7 in effect until the earlier of when the violation is abated or
8 thirty days unless a hearing is held before the division and a
9 new order is issued.

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

12 (1) state with reasonable specificity the
13 nature of the violation; [~~shall~~]

14 (2) require compliance immediately or within a
15 specified time period; [~~shall~~]

16 (3) provide notice of the availability of an
17 informal review and the date of a hearing before the division;
18 and [~~shall~~]

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

24 C. If the notice of violation is not resolved
25 informally within thirty days after service of the notice, the

.230059.1

underscored material = new
[bracketed material] = delete

1 division shall hold a hearing and determine whether the
2 violation should be upheld and whether any sanctions, including
3 civil penalties, shall be assessed. In assessing a penalty
4 authorized by this section, the division shall take into
5 account the seriousness of the violation, any good faith
6 efforts to comply with the applicable requirements, any history
7 of noncompliance under the Oil and Gas Act and other relevant
8 factors. When a decision is rendered by the division after a
9 hearing, any party of record adversely affected shall have the
10 right to have the matter heard de novo before the commission
11 pursuant to Section 70-2-13 NMSA 1978.

12 D. Any civil penalty assessed by a court or by the
13 division or commission pursuant to this section may not exceed
14 [~~two thousand five hundred dollars (\$2,500)~~] ten thousand
15 dollars (\$10,000) per day of noncompliance for each violation
16 unless the violation presents a risk either to the health or
17 safety of the public or of causing significant environmental
18 harm, or unless the noncompliance continues beyond a time
19 specified in the notice of violation or order issued by the
20 division, commission or court, whereupon the civil penalty may
21 not exceed [~~ten thousand dollars (\$10,000)~~] twenty-five
22 thousand dollars (\$25,000) per day of noncompliance for each
23 violation. No penalty assessed by the division or commission
24 after a hearing may exceed [~~two hundred thousand dollars~~
25 ~~(\$200,000)~~] three million six hundred fifty thousand dollars

.230059.1

underscored material = new
[bracketed material] = delete

1 (\$3,650,000); provided that such limitation does not apply to
2 penalties assessed by a court.

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

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

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

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

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

24 (b) make or cause to be made any false
25 entry in any record, account or memorandum required by the Oil

.230059.1

underscored material = new
[bracketed material] = delete

1 and Gas Act or by any rule, regulation or order of the
2 commission or division issued pursuant to that act;

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

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

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

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

17 SECTION 2. Section 70-2-39 NMSA 1978 (being Laws 2019,
18 Chapter 260, Section 1) is amended to read:

19 "70-2-39. FEES--~~[APPROPRIATION]~~ FEE ADJUSTMENTS--OIL
20 CONSERVATION DIVISION SYSTEMS AND HEARINGS FUND.--

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

.230059.1

underscored material = new
[bracketed material] = delete

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

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

16 (3) [~~with each application for~~] a fluid
17 injection well permit, the applicant shall submit to the
18 division a nonrefundable fee of [~~five hundred dollars (\$500)~~]
19 one thousand five hundred dollars (\$1,500) per well;

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

25 (5) [~~with each application for~~] an

.230059.1

underscored material = new
[bracketed material] = delete

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

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

11 B. On January 1, 2027 and on January 1 of each
12 successive year, the division may adjust for inflation the fees
13 required in Subsection A of this section by multiplying the fee
14 as of January 1, 2026 by a fraction, the numerator of which is
15 the consumer price index ending in September of the prior year
16 and the denominator of which is the consumer price index ending
17 in September 2025; provided that the fees shall not be adjusted
18 below the minimum amounts provided in Subsection A of this
19 section as a result of a decrease in the consumer price index.
20 By November 1, 2026 and by November 1 of each successive year,
21 the division shall post on its website the fees required in
22 Subsection A of this section for the subsequent year.

23 [~~B.~~] C. An application for an administrative
24 hearing, re-hearing or de novo hearing before the [~~oil~~
25 ~~conservation~~] division or commission will be considered to be

.230059.1

underscored material = new
[bracketed material] = delete

1 materially amended if the amendment is made for a purpose other
2 than to correct:

3 (1) typographical errors; or

4 (2) clerical errors.

5 ~~[G.]~~ D. The "oil conservation division systems and
6 hearings fund" is created in the state treasury as a
7 nonreverting fund. All funds received by the ~~[oil~~
8 ~~conservation]~~ division from fees imposed pursuant to Subsection
9 A of this section shall be delivered to the state treasurer and
10 deposited in the fund. Disbursements from the fund shall be
11 made upon warrants drawn by the secretary of finance and
12 administration pursuant to vouchers signed by the secretary of
13 energy, minerals and natural resources or the secretary's
14 authorized representative. Money in the fund is subject to
15 appropriation by the legislature to the division to develop and
16 modernize the division's online application processing system,
17 online case management system, online data reporting and
18 visualization systems and online case file system and for other
19 technological and equipment upgrades necessary to support the
20 efficient and transparent implementation and enforcement of the
21 Oil and Gas Act, including hiring necessary information
22 technology personnel, and for hearing administration costs.
23 Any unexpended or unencumbered balance remaining in the fund at
24 the end of a fiscal year shall not revert to the general fund.
25 ~~[Money in the fund in fiscal year 2020 may be expended by the~~

.230059.1

1 ~~division for the purposes of the fund.]~~

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

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

9 - 9 -

underscored material = new
[bracketed material] = delete