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HOUSE BILL 32

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

Debra M. Sariñana and Harold Pope and Kathleen Cates and
Antoinette Sedillo Lopez

AN ACT

RELATING TO THE ENVIRONMENT; ALPHABETIZING THE DEFINITIONS OF
AND ADDING DEFINITIONS FOR "CHILDREN'S HEALTH PROTECTION ZONE",
"OPERATOR" AND "SCHOOL" TO THE OIL AND GAS ACT; RESTRICTING OIL
AND GAS OPERATIONS IN CHILDREN'S HEALTH PROTECTION ZONES;
REQUIRING THE CESSATION OF OIL AND GAS OPERATIONS IN CHILDREN'S
HEALTH PROTECTION ZONES AFTER JANUARY 1, 2028; REQUIRING OIL
AND GAS OPERATORS TO CREATE A PROTECTION ZONE INVENTORY AND
MAP; REQUIRING OIL AND GAS OPERATORS LOCATED IN A CHILDREN'S
HEALTH PROTECTION ZONE TO DEVELOP AND IMPLEMENT A LEAK RESPONSE
AND DETECTION PLAN AND ALARM RESPONSE PROTOCOL AND CONDUCT
WATER QUALITY SAMPLING AND TESTING; PROVIDING PENALTIES.

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

SECTION 1. Section 70-2-33 NMSA 1978 (being Laws 1935,
Chapter 72, Section 24, as amended) is recompiled as Section
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1 70-2-1.1 NMSA 1978 and is amended to read:

2 "70-2-1.1. DEFINITIONS.--As used in the Oil and Gas Act:

3 [~~A. "person" means:~~

4 ~~(1) any individual, estate, trust, receiver,~~
5 ~~cooperative association, club, corporation, company, firm,~~
6 ~~partnership, joint venture, syndicate or other entity; or~~

7 ~~(2) the United States or any agency or~~
8 ~~instrumentality thereof or the state or any political~~
9 ~~subdivision thereof;~~

10 B. ~~"pool" means an underground reservoir containing~~
11 ~~a common accumulation of crude petroleum oil or natural gas or~~
12 ~~both. Each zone of a general structure, which zone is~~
13 ~~completely separate from any other zone in the structure, is~~
14 ~~covered by the word "pool" as used in the Oil and Gas Act.~~

15 ~~"Pool" is synonymous with "common source of supply" and with~~
16 ~~"common reservoir";~~

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

24 D. ~~"product" means any commodity or thing made or~~
25 ~~manufactured from crude petroleum oil or natural gas and all~~

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1 ~~derivatives of crude petroleum oil or natural gas, including~~
2 ~~refined crude oil, crude tops, topped crude, processed crude~~
3 ~~petroleum, residue from crude petroleum, cracking stock,~~
4 ~~uncracked fuel oil, treated crude oil, fuel oil, residuum, gas~~
5 ~~oil, naphtha, distillate, gasoline, kerosene, benzine, wash~~
6 ~~oil, waste oil, lubricating oil and blends or mixtures of crude~~
7 ~~petroleum oil or natural gas or any derivative thereof;~~

8 E. ~~"owner" means the person who has the right to~~
9 ~~drill into and to produce from any pool and to appropriate the~~
10 ~~production either for the person or for the person and another;~~

11 F. ~~"producer" means the owner of a well capable of~~
12 ~~producing oil or natural gas or both in paying quantities;~~

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

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

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1 ~~or gas or both in the pool and, for such purpose, to use the~~
2 ~~owner's just and equitable share of the reservoir energy;~~

3 ~~I. "potash" means the naturally occurring bedded~~
4 ~~deposits of the salts of the element potassium;~~

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

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

13 ~~L. "commission" means the oil conservation~~
14 ~~commission; and~~

15 ~~M. "division" means the oil conservation division~~
16 ~~of the energy, minerals and natural resources department]~~

17 B. "children's health protection zone" means an
18 area extending five thousand two hundred eighty feet from the
19 property line of a school;

20 C. "commission" means the oil conservation
21 commission;

22 D. "correlative rights" means the opportunity
23 afforded, so far as it is practicable to do so, to the owner of
24 each property in a pool to produce without waste the owner's
25 just and equitable share of the oil or gas or both in the pool,

1 being an amount, so far as can be practicably determined and so
2 far as can be practicably obtained without waste, substantially
3 in the proportion that the quantity of recoverable oil or gas
4 or both under the property bears to the total recoverable oil
5 or gas or both in the pool and, for such purpose, to use the
6 owner's just and equitable share of the reservoir energy;

7 E. "division" means the oil conservation division
8 of the energy, minerals and natural resources department;

9 F. "field" means the general area that is underlaid
10 or appears to be underlaid by at least one pool and includes
11 the underground reservoir or reservoirs containing the crude
12 petroleum oil or natural gas or both. The words "field" and
13 "pool" mean the same thing when only one underground reservoir
14 is involved; however, "field", unlike "pool", may relate to two
15 or more pools;

16 G. "gas transportation facility" means a pipeline,
17 in operation, serving a gas well for the transportation of
18 natural gas, including an associated device or equipment used
19 for the transportation or consumption of natural gas;

20 H. "operator" means a person with the legal right
21 to conduct oil and gas operations and includes the agents,
22 employees and contractors of that person;

23 I. "owner" means the person who has the right to
24 drill into and to produce from a pool and to appropriate the
25 production either for the person or for the person and another;

1 J. "production facility" means facilities or
2 equipment attendant to oil and gas production or injection
3 operations and includes tanks, flowlines, headers, gathering
4 lines, wellheads, heater treaters, pumps, valves, compressors,
5 injection equipment, production safety systems, separators,
6 manifolds and pipelines, but does not include fire suppression
7 equipment;

8 K. "person" means:

9 (1) an individual, estate, trust, receiver,
10 cooperative association, club, corporation, company, firm,
11 partnership, joint venture, syndicate or other entity; or

12 (2) the United States or an agency or
13 instrumentality thereof or the state or a political subdivision
14 thereof;

15 L. "pool" or "common source of supply" means an
16 underground reservoir containing a common accumulation of crude
17 petroleum oil or natural gas or both, including each zone of a
18 general structure that is completely separate from any other
19 zone in the structure;

20 M. "potash" means the naturally occurring bedded
21 deposits of the salts of the element potassium;

22 N. "produced water" means a fluid that is an
23 incidental byproduct from drilling for or in the production of
24 oil and gas;

25 O. "producer" means the owner of a well capable of

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1 producing oil or natural gas or both in paying quantities;

2 P. "product" means a commodity or thing made or
3 manufactured from crude petroleum oil or natural gas and all
4 derivatives of crude petroleum oil or natural gas, including
5 refined crude oil, crude tops, topped crude, processed crude
6 petroleum, residue from crude petroleum, cracking stock,
7 uncracked fuel oil, treated crude oil, fuel oil, residuum, gas
8 oil, naphtha, distillate, gasoline, kerosene, benzine, wash
9 oil, waste oil, lubricating oil and blends or mixtures of crude
10 petroleum oil or natural gas or a derivative thereof; and

11 Q. "school" means an elementary, secondary, middle,
12 junior high or high school or any combination of those,
13 including a public school, state-chartered or locally chartered
14 charter school or private school that students attend in
15 person, including a daycare center, and a park, playground or
16 sports or recreation facility associated with a school."

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

19 "70-2-12. ENUMERATION OF POWERS.--

20 A. The [~~oil conservation~~] division of the energy,
21 minerals and natural resources department may:

- 22 (1) collect data;
- 23 (2) make investigations and inspections;
- 24 (3) examine properties, leases, papers, books
25 and records;

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1 (4) examine, check, test and gauge oil and gas
2 wells, tanks, plants, refineries and all means and modes of
3 transportation and equipment;

4 (5) hold hearings;

5 (6) provide for the keeping of records and the
6 making of reports and for the checking of the accuracy of the
7 records and reports;

8 (7) limit and prorate production of crude
9 petroleum oil or natural gas or both as provided in the Oil and
10 Gas Act; and

11 (8) require either generally or in particular
12 areas certificates of clearance or tenders in connection with
13 the transportation of crude petroleum oil or natural gas or any
14 products of either or both oil and products or both natural gas
15 and products.

16 B. The ~~[oil conservation]~~ division may make rules
17 and orders for the purposes and with respect to the subject
18 matter stated in this subsection:

19 (1) to require dry or abandoned wells to be
20 plugged in a way so as to confine the crude petroleum oil,
21 natural gas or water in the strata in which it is found and to
22 prevent it from escaping into other strata; pursuant to Section
23 70-2-14 NMSA 1978, the division shall require financial
24 assurance conditioned for the performance of the rules;

25 (2) to prevent crude petroleum oil, natural

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1 gas or water from escaping from strata in which it is found
2 into other strata;

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

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

13 (5) to prevent fires;

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

17 (7) to require wells to be drilled, operated
18 and produced in such manner as to prevent injury to neighboring
19 leases or properties;

20 (8) to identify the ownership of oil or gas
21 producing leases, properties, wells, tanks, refineries,
22 pipelines, plants, structures and all transportation equipment
23 and facilities;

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

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1 (10) to fix the spacing of wells;

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

6 (12) to determine the limits of any pool
7 producing crude petroleum oil or natural gas or both and from
8 time to time redetermine the limits;

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

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

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

24 (16) to determine the limits of any area
25 containing commercial potash deposits and from time to time

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1 redetermine the limits;

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

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

18 (19) to make well price category
19 determinations pursuant to the provisions of the federal
20 Natural Gas Policy Act of 1978 or any successor act and, by
21 regulation, to adopt fees for such determinations, which fees
22 shall not exceed twenty-five dollars (\$25.00) per filing. Such
23 fees shall be credited to the account of the ~~[oil conservation]~~
24 division by the state treasurer and may be expended as
25 authorized by the legislature;

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

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

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

16 C. The division shall, in consultation with the
17 environmental improvement board, adopt:

18 (1) rules to implement and set performance
19 standards for an operator's emissions detection system; and

20 (2) other rules necessary to carry out the
21 provisions of the Oil and Gas Act that concern an oil and gas
22 operation located in a children's health protection zone."

23 SECTION 3. Section 70-2-31 NMSA 1978 (being Laws 1981,
24 Chapter 362, Section 1, as amended) is amended to read:

25 "70-2-31. VIOLATIONS OF THE OIL AND GAS ACT--PENALTIES.--

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

6 (1) issuing a notice of violation;

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

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

16 B. A notice of violation issued pursuant to
17 Paragraph (1) of Subsection A of this section shall state with
18 reasonable specificity the nature of the violation, shall
19 require compliance immediately or within a specified time
20 period, shall provide notice of the availability of an informal
21 review and the date of a hearing before the division and shall
22 provide notice of potential sanctions, including assessing a
23 penalty, suspending, canceling or terminating a permit or
24 authorization, shutting in a well and plugging and abandonment
25 of a well and forfeiting financial assurance pursuant to

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1 Section 70-2-14 NMSA 1978.

2 C. If the notice of violation is not resolved
3 informally within thirty days after service of the notice, the
4 division shall hold a hearing and determine whether the
5 violation should be upheld and whether any sanctions, including
6 civil penalties, shall be assessed. In assessing a penalty
7 authorized by this section, the division shall take into
8 account the seriousness of the violation, any good faith
9 efforts to comply with the applicable requirements, any history
10 of noncompliance under the Oil and Gas Act and other relevant
11 factors.

12 D. When a decision is rendered by the division
13 after a hearing, any party of record adversely affected shall
14 have the right to have the matter heard de novo before the
15 commission pursuant to Section 70-2-13 NMSA 1978.

16 [~~D. Any~~] E. Except as provided by Subsection F of
17 this section, a civil penalty assessed by a court or by the
18 division or commission pursuant to this section may not exceed
19 two thousand five hundred dollars (\$2,500) per day of
20 noncompliance for each violation unless the violation presents
21 a risk either to the health or safety of the public or of
22 causing significant environmental harm, or unless the
23 noncompliance continues beyond a time specified in the notice
24 of violation or order issued by the division, commission or
25 court, whereupon the civil penalty may not exceed ten thousand

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1 dollars (\$10,000) per day of noncompliance for each violation.
2 ~~[No]~~ A penalty assessed by the division or commission after a
3 hearing ~~[may]~~ shall not exceed two hundred thousand dollars
4 (\$200,000); provided that such limitation does not apply to
5 penalties assessed by a court.

6 F. A civil penalty assessed by a court, the
7 division or the commission for a violation by an operator
8 located in a children's health protection zone may not exceed
9 thirty thousand dollars (\$30,000) per day of noncompliance for
10 each violation. A penalty assessed by the division or
11 commission after a hearing pursuant to this section shall not
12 exceed two hundred thousand dollars (\$200,000); provided that
13 such limitation does not apply to penalties assessed by a
14 court.

15 ~~[E-]~~ G. The commission shall make rules, pursuant
16 to Section 70-2-12.2 NMSA 1978, providing procedures for the
17 issuance of notices of violations, the assessment of penalties
18 and the conduct of informal proceedings and hearings pursuant
19 to this section.

20 ~~[F-]~~ H. It is unlawful, subject to a criminal
21 penalty of a fine of not more than five thousand dollars
22 (\$5,000) or imprisonment for a term not exceeding three years
23 or both such fine and imprisonment, for any person to knowingly
24 and willfully:

25 (1) violate any provision of the Oil and Gas

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

3 (2) do any of the following for the purpose of
4 evading or violating the Oil and Gas Act or any rule,
5 regulation or order of the commission or the division issued
6 pursuant to that act:

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

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

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

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

21 ~~[G.]~~ I. For the purposes of Subsection ~~[F]~~ H of
22 this section, each day of violation shall constitute a separate
23 offense.

24 ~~[H.]~~ J. Any person who knowingly and willfully
25 procures, counsels, aids or abets the commission of any act

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1 described in Subsection A or [F] H of this section shall be
2 subject to the same penalties as are prescribed in Subsection D
3 or [F] H of this section."

4 SECTION 4. A new section of the Oil and Gas Act is
5 enacted to read:

6 "[NEW MATERIAL] OIL AND GAS DRILLING SETBACKS FROM
7 SCHOOLS--CESSATION OF OIL AND GAS OPERATIONS IN A CHILDREN'S
8 HEALTH PROTECTION ZONE--VARIANCES--ADMINISTRATIVE PROCEEDING.--

9 A. The purpose of this section is to exercise the
10 powers provided by Article 11, Section 14 of the constitution
11 of New Mexico to protect public health from the effects of
12 pollution from oil and gas operations in children's health
13 protection zones. This section is not intended, and shall not
14 be construed as authorizing, the state or an agency of the
15 state to exercise its power to grant or deny a permit in a
16 manner that will take private property for public use without
17 the payment of just compensation.

18 B. An oil and gas operation located in a children's
19 health protection zone shall cease operations in a children's
20 health protection zone no later than January 1, 2028, except as
21 provided in Subsection D of this section.

22 C. Beginning July 1, 2024, the division shall not
23 approve a permit to drill an oil and gas well in a children's
24 health protection zone, except as provided in Subsection D of
25 this section.

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1 D. An operator or owner may apply with the division
2 for a variance from the provisions of Subsection B or C of this
3 section. Except as provided by Subsection E of this section,
4 the division shall grant a variance from the provisions of
5 Subsection B or C of this section if:

6 (1) the variance is necessary to plug and
7 abandon or reabandon a well, including an intercept well
8 necessary to plug and abandon or reabandon a well; or

9 (2) the commission determines at an
10 administrative proceeding that, based on a preponderance of the
11 evidence, the cessation of operations after January 1, 2028 or
12 the denial of a permit to drill after July 1, 2024 would:

13 (a) result in a loss of all economic
14 value of the applicant's property; or

15 (b) result in a severe adverse economic
16 impact and deprive the applicant of objectively reasonable
17 investment-backed expectations.

18 E. The division shall not grant a variance pursuant
19 to Paragraph (2) of Subsection D of this section if the
20 commission determines that, based on the preponderance of the
21 evidence, granting the variance would harm public health.

22 F. The division shall grant a variance pursuant to
23 this section only to the extent necessary to avoid the effects
24 on the applicant proven pursuant to Paragraph (2) of Subsection
25 D of this section.

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1 G. The division shall not be deemed to have reached
2 a final decision regarding the application of this section
3 until the applicant requests a variance and administrative
4 proceedings are complete and final. A decision of the division
5 or a decision of the commission at an administrative proceeding
6 regarding an application for a variance pursuant to this
7 section shall not constitute an adjudication of any claim or
8 cause of action or otherwise have a preclusive effect in a
9 judicial proceeding.

10 H. The commission shall adopt rules and guidelines
11 to govern the conduct of an administrative proceeding pursuant
12 to this section that, at a minimum, shall provide for adequate
13 notice to interested stakeholders and a transparent process in
14 which the public can participate."

15 SECTION 5. A new section of the Oil and Gas Act is
16 enacted to read:

17 "[NEW MATERIAL] PROTECTION ZONE INVENTORY AND MAP.--

18 A. In addition to other requirements prescribed by
19 rule or law, an operator applying to the division for a permit
20 to drill shall submit a protection zone inventory and map to
21 the division.

22 B. On or before January 1, 2025, an operator of an
23 oil and gas well as of the effective date of this 2024 act
24 shall submit to the division a protection zone inventory and
25 map.

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1 C. A protection zone inventory and map shall
2 include:

3 (1) a statement as to whether an operator's
4 wellhead or production facility is in a children's health
5 protection zone;

6 (2) a list of the operator's production
7 facilities and wellheads, including a unique, permanent
8 identifier number assigned to a wellhead and the longitude and
9 latitude coordinates for each wellhead and production facility;
10 and

11 (3) if an operator's wellhead or production
12 facility is in a children's health protection zone:

13 (a) a list of schools within five
14 thousand two hundred eighty feet of an operator's wellhead and
15 production facility, including the type of school and the
16 distance from the operator's wellheads and production
17 facilities to the school; and

18 (b) a map that shows the location of
19 each school in relation to the operator's wellheads and
20 production facilities.

21 D. Beginning January 1, 2026 and on or before each
22 January 1 thereafter, an operator shall submit to the division
23 an updated version of the protection zone inventory and map
24 previously submitted; provided that if there are no changes to
25 the information, the operator may submit to the division a

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1 statement that there are no changes to the protection zone
2 inventory and map.

3 E. The division shall review a protection zone
4 inventory and map for completeness and accuracy and notify the
5 operator of any deficiencies. Within thirty days of an
6 operator's receipt of the division's notification that a
7 protection zone inventory and map is deficient, the operator
8 shall submit to the division any additional information
9 required by the division.

10 F. The division shall post an operator's protection
11 zone inventory and map on the agency's website."

12 SECTION 6. A new section of the Oil and Gas Act is
13 enacted to read:

14 "[NEW MATERIAL] OPERATION IN A CHILDREN'S HEALTH
15 PROTECTION ZONE--RESTRICTIONS.--

16 A. On or before January 1, 2025, an operator that
17 has a wellhead or production facility in a children's health
18 protection zone shall post contact information for addressing
19 complaints about noise, odor or other concerns on the perimeter
20 of the operator's property, including the responsible persons
21 employed by the operator and enforcement officials in the city
22 and county where the property is located.

23 B. An operator with a wellhead or production
24 facility in a children's health protection zone shall:

25 (1) unless more stringent local requirements

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1 apply:

2 (a) ensure that noise, as measured at
3 the operator's property line, does not exceed ambient noise
4 levels between the hours of 8:00 p.m. and 7:00 a.m.;

5 (b) minimize light generated on the
6 operator's property by using only lighting that is necessary to
7 provide minimum intensity and coverage for safety and security
8 between the hours of 8:00 p.m. and 7:00 a.m. and place hoods on
9 lighting so that the light shines predominantly on the
10 operator's property and not onto a neighboring property or the
11 sky; and

12 (c) employ operational measures to
13 prevent dust and particulates from migrating beyond the
14 operator's property boundaries by limiting vehicle speeds on
15 unpaved roads to fifteen miles per hour and containing or
16 covering stored sands, drilling muds and excavated soil; and

17 (2) provide the division with a representative
18 chemical analysis for produced water transported away from the
19 operator's property. An operator shall file the representative
20 chemical analysis with the division within three months of the
21 produced water being transported away from the operator's
22 property and whenever the source of the produced water changes.
23 For the purposes of this paragraph, the source of produced
24 water changes if the treatment process or additives are
25 changed, if a contributing source is added or removed or if

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1 there is a significant change to the relative contribution of
2 individual sources such that the last representative chemical
3 analysis is not representative of the produced water."

4 SECTION 7. A new section of the Oil and Gas Act is
5 enacted to read:

6 "[NEW MATERIAL] LEAK DETECTION AND RESPONSE PLAN--ALARM
7 RESPONSE PROTOCOL--CHEMICAL ANALYSIS OF PRODUCED WATER--
8 RECORDS--PUBLIC TECHNICAL WORKSHOPS.--

9 A. An operator with a wellhead or production
10 facility in a children's health protection zone shall develop a
11 leak detection and response plan, submit that plan to the
12 division by January 1, 2025 and fully implement the plan by
13 July 1, 2025. The division shall, in consultation with and
14 with the concurrence of the environmental improvement board,
15 review an operator's leak detection and response plan and
16 either approve the plan or provide notice to the operator of
17 the plan's deficiencies within ninety days of the division's
18 receipt of the operator's plan.

19 B. A leak detection and response plan shall:

20 (1) identify the chemical constituents and
21 toxic substances of highest concern in the region as identified
22 by the environmental improvement board or the city or county
23 where the operator is located; provided that methane may serve
24 as a surrogate for chemical constituents identified in the plan
25 that cannot be continuously monitored;

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1 (2) include a continuously operating emissions
2 detection system designed to provide for rapid detection of
3 chemical constituents and identify leaks;

4 (3) provide the locations where emissions will
5 be sampled that are consistent with local meteorology and best
6 practices;

7 (4) include an alarm system that effectively,
8 immediately and reliably alerts the operator of a leak of a
9 chemical constituent;

10 (5) identify a meteorological system
11 appropriately sited on the operator's property with the ability
12 to continuously record weather data; and

13 (6) include an alarm response protocol that:

14 (a) provides for immediate action to
15 rapidly identify, fix and provide notification of a leak that
16 is continuous for more than forty-eight hours;

17 (b) includes a communication plan to
18 notify local emergency responders, public health officials, the
19 division and people in the community where the operator is
20 located in languages that are easily understood by the people
21 in the community where the operator is located;

22 (c) complies with local, state and
23 federal requirements for reporting leaks of hazardous
24 materials;

25 (d) is created in consultation with

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1 local emergency response officials; and

2 (e) provides for the collection and
3 determination of the chemical composition of a representative
4 sample for a leak that could reasonably have an adverse effect
5 on the health of people in the community where the operator is
6 located and provides for a subsequent collection and
7 determination of the chemical composition of the leak when
8 there is reason to believe that the chemical composition of the
9 leak may be changing.

10 C. The division shall review an operator's leak
11 detection and response plan and request updates to the plan at
12 least once every five years from the date of the plan's initial
13 approval by the division.

14 D. An operator shall record and maintain records of
15 emissions and meteorological data, including the composition of
16 any samples collected during leak events, for ten years.

17 E. The division shall hold one public technical
18 workshop at least once every two years to provide information
19 and guidance to operators on best practices for the
20 development, review and update of a leak detection and response
21 plan.

22 F. The division shall post an operator's leak
23 detection and response plan on the agency's website."

24 SECTION 8. A new section of the Oil and Gas Act is
25 enacted to read:

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1 "[NEW MATERIAL] SUSPENSION OF OIL AND GAS OPERATIONS.--An
2 operator shall immediately suspend the operation of:

3 A. a well or production facility in a children's
4 health protection zone if a leak of a chemical constituent is
5 detected and continuous for more than forty-eight hours.
6 Operations shall be suspended until the leak has been corrected
7 and the division has approved the resumption of operations. If
8 an operator can demonstrate to the division that the source of
9 the leak is not the operator's oil and gas operation, the
10 division may waive any additional actions required under the
11 alarm response protocol;

12 B. a well or production facility, if an operator
13 with a wellhead or production facility in a children's health
14 protection zone has not implemented a leak detection and
15 response plan by July 1, 2025, until the operator implements a
16 leak detection and response plan approved by the division; and

17 C. a production facility if the production facility
18 or any permanent or temporary equipment in a children's health
19 protection zone is not in compliance with the Air Quality
20 Control Act or a city or county ordinance adopted pursuant to
21 that act. Operations shall be suspended until the production
22 facility attains compliance with the Air Quality Control Act or
23 a city or county ordinance adopted pursuant to that act and the
24 division has approved the resumption of operations."

25 SECTION 9. A new section of the Oil and Gas Act is

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1 enacted to read:

2 "[NEW MATERIAL] WATER QUALITY SAMPLING AND TESTING--
3 EXCEPTIONS.--

4 A. Beginning July 1, 2024, an operator with a
5 wellhead or production facility in a children's health
6 protection zone that receives a permit to drill from the
7 division under an exception in the Oil and Gas Act shall
8 provide notice of the operator's intent to drill to the
9 property owners and tenants located within five thousand two
10 hundred eighty feet of the property line of the operator's
11 wellhead or production facility and offer to sample and test
12 water wells and surface water on the property owners' and
13 tenants' properties at least thirty days before commencing a
14 drilling operation. If the property owner or tenant requests
15 water sampling and testing within ten days of receipt of the
16 operator's notice and makes the necessary accommodations to
17 enable the collection of a water sample within fifteen days of
18 receipt of the operator's notice, the operator may not commence
19 drilling until a baseline water sample of the property owner's
20 or tenant's well water or surface water has been collected. If
21 the operator collects a baseline water sample, the operator
22 shall collect another water sample of the well water or surface
23 water on the property owner's or tenant's property no sooner
24 than thirty days and no later than sixty days after drilling is
25 complete. Before commencing a drilling operation in a

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1 children's health protection zone, an operator shall provide
2 documentation to the division of the operator's notification of
3 property owners and tenants as required by this subsection.

4 B. An operator shall conduct water sampling and
5 testing in accordance with the following requirements:

6 (1) an appropriately qualified person shall
7 conduct the water quality sampling and testing in a manner
8 consistent with standard environmental industry practice and
9 chain of custody protocols;

10 (2) documentation of the water quality
11 sampling and testing process shall accurately describe the
12 location that the sample was taken from and the process for
13 collecting the sample;

14 (3) a laboratory accredited by the state to
15 perform the tests necessary to complete the required analysis
16 shall perform the water quality analytical testing, except for
17 field tests that may be conducted by a person who is qualified
18 to sample and interpret the results of the required test; and

19 (4) water quality testing shall include
20 testing for total dissolved solids, total petroleum hydrocarbon
21 as crude oil, major cations, major anions, a water contaminant
22 or combination of water contaminants identified as a toxic
23 pollutant by the water quality control commission, appropriate
24 indicator chemicals for drilling mud and fluids used for well
25 cleanout, total alkalinity and hydroxide, electrical

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1 conductance, pH and temperature. The division may require
2 testing for additional constituents on a case-by-case basis.

3 C. Within one hundred twenty days of the completion
4 of drilling in a children's health protection zone, the
5 operator shall provide to the division, the property owner and
6 the tenant the results of any baseline and follow-up water
7 quality testing.

8 D. Water quality data collected pursuant to this
9 section shall be submitted to the division in electronic format
10 within one hundred twenty days after drilling is complete.

11 E. If a property owner or tenant is unable to
12 accommodate the necessary access to perform baseline or follow-
13 up testing pursuant to this section, failure to do the testing
14 is not a violation of this section.

15 F. The division may waive the requirements of this
16 section if the operator demonstrates that a delay in drilling
17 caused by complying with this section is likely to result in
18 significant damage to life, health or natural resources.

19 G. An operator is not required to sample or test
20 water pursuant to this section if a state agency or the United
21 States environmental protection agency has determined that the
22 water within five thousand two hundred eighty feet of the
23 property line of an operator's wellhead or production facility
24 is not an underground source of drinking water, as defined in
25 the federal Safe Drinking Water Act, and the water does not

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1 have a beneficial use.

2 H. The costs of sampling and testing required by
3 this section shall be the responsibility of the operator."

4 SECTION 10. A new section of the Oil and Gas Act is
5 enacted to read:

6 "[NEW MATERIAL] REPORTING.--

7 A. Beginning January 1, 2026 and each January 1
8 thereafter, an operator located in a children's health
9 protection zone shall provide to the division a report that
10 includes:

11 (1) the number of times and lengths of time
12 the emissions detection system was not operating;

13 (2) the number of validated alarms and the
14 reasons for the alarms;

15 (3) the number of leaks that have occurred,
16 the time needed to repair each leak and a brief description of
17 each leak that includes the impact on air quality and exposure
18 to the surrounding community;

19 (4) the number of times the surrounding
20 community was notified of a leak that persisted for more than
21 forty-eight hours;

22 (5) the number of times and lengths of time
23 that production and injection operations and other use of the
24 facility were suspended due to a leak; and

25 (6) the results of any baseline and post-

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1 drilling ground water testing performed, by location.

2 B. The division shall report annually before
3 October 1 to the appropriate legislative interim committee on
4 oil and gas operations in children's health protection zones in
5 the state, including information on the progress achieved on
6 the implementation of operators' leak detection and response
7 plans."

8 SECTION 11. A new section of the Air Quality Control Act
9 is enacted to read:

10 "[NEW MATERIAL] OIL AND GAS PRODUCTION FACILITIES--
11 SUSPENSION OF OPERATION.--

12 A. An operator of an oil and gas production
13 facility shall immediately suspend the operation of a
14 production facility if the production facility or any permanent
15 or temporary equipment within five thousand two hundred eighty
16 feet from the property line of a school is not in compliance
17 with the Air Quality Control Act or a city or county ordinance
18 adopted pursuant to that act. Operations shall be suspended
19 until the production facility attains compliance with the Air
20 Quality Control Act or a city or county ordinance adopted
21 pursuant to that act and the oil conservation division of the
22 energy, minerals and natural resources department has approved
23 the resumption of operations.

24 B. As used in this section, "school" means an
25 elementary, secondary, middle, junior high or high school or

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1 any combination of those, including a public school, state-
2 chartered or locally chartered charter school or private school
3 that students attend in person, including a daycare center, and
4 a park, playground or sports or recreation facility associated
5 with a school."

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