

LFC Requester:

Davidson

**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

[AgencyAnalysis.nmlegis.gov](https://www.legis.nm.gov/AgencyAnalysis) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.gov)*(Analysis must be uploaded as a PDF)***SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}***Date Prepared:** 1/16/2025

Check all that apply:

**Bill Number:** HB33Original  Correction Amendment  Substitute 

<b>Sponsor:</b>	DEBRA M. SARIÑANA	<b>Agency Name and Code Number:</b>	Environment Department 667		
<b>Short Title:</b>	PROHIBIT NEW EMISSIONS IN HIGH OZONE COUNTIES	<b>Person Writing</b>	Michelle Miano		
		<b>Phone:</b>	505-479-2596	<b>Email:</b>	Michelle.miano@env.nm.gov

**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
	(\$1,530)	(\$2,214)	Recurring	Air Quality Permitting Fund

(Parenthesis ( ) indicate revenue decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected

<b>Total</b>		\$1,750			Nonrecurring	Air Quality Permit Fund
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(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
 Duplicates/Relates to Appropriation in the General Appropriation Act:

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis: HB 33 aims to add a new section to the Air Quality Control Act, prohibiting construction of new oil and gas production facilities in counties that cause or contribute to exceedance of the National Ambient Air Quality Standards for ozone.

**FISCAL IMPLICATIONS**

Based on 2022-2024 data, the following counties currently exceed the current NAAQS for ozone which is 70 parts per billion: Eddy County, Lea County, and Doña Ana County, and would be immediately affected.<sup>1</sup> The City of Albuquerque’s local agency regulates Bernalillo County, so Bernalillo County is not addressed here.

HB33 distinguishes between new construction of oil and gas facilities in the counties compared to existing facilities that may be contributing to ozone NAAQS exceedances. HB33 also addresses ozone pollution only and thus addresses those facilities that are permitted for ozone precursor emissions.

NMED estimates the following decrease in permit applications and corresponding decrease in revenue derived from new fee applications.

- Prohibition on approximately 300 new Oil & Gas General Construction Permits in FY26 will result in decrease of \$1,530,000 in revenue from NMED’s Air Quality Program.
- Prohibition on approximately 350 new Oil & Gas General Construction Permits in FY27 will result in decrease of \$1,830,000 in revenue from NMED’s Air Quality Program.
- Prohibition on approximately 12 new New Source Review permits in FY27 will result in a decrease of \$384,000 in revenue from NMED’s Air Quality Program.

These decreases from new applications will continue to occur and may accelerate depending on if other counties exceed the NAAQS for ozone.

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<sup>1</sup> In a June 2023 report, two advisory panels, the U.S Environmental Protection Agency’s Scientific Advisory Committee and the White House Environmental Justice Advisory Council urged the agency to lower the current ozone standard, the panel stated that a limit of 55 to 60 parts per billion as “is more likely to be protective and to provide an adequate margin of safety.” Although likely years away, 2022-2024 data indicates that Rio Arriba County, Sandoval County, Valencia County and San Juan County are currently within that range.

At the same time, as HB33 does not affect existing oil and gas production facilities, NMED anticipates that the oil and gas industry will amend existing permits and/or utilize other permitting mechanisms. The fees from these amendments may offset some of the revenue lost from the prohibition on new applications.

Moreover, to more specifically determine which application would cause or contribute to exceedances of the National Ambient Air Quality Standards for ozone, especially given the State of New Mexico's shared border with the State of Texas in the Permian Basin (i.e. Lea and Eddy Counties in New Mexico), NMED will require additional resources for regional ozone modeling. NMED projects the regional ozone modeling effort will be approximately \$1 million.

Finally, NMED anticipates conducting a rulemaking to implement HB33 before the Environmental Improvement Board, which is anticipated to cost approximately \$750,000.

NMED does not have the ability to calculate how much decrease in production or state royalty revenue would result from the prohibition on permitting.

### **SIGNIFICANT ISSUES**

Although HB33 focuses on new sources relating to oil and gas production, NMED assumes that downstream facilities, such as tank batteries, compressor stations and possibly gas plants may be affected. NMED expects that current permit holders will submit significant revisions to boost throughputs and trains, increasing those facilities' emissions.

NMED also anticipates that many compressor stations will increase emissions to Title V levels or above, causing a significant workload shift from minor source permitting to major source permitting. Title V permitting requires a different skill set than minor source permitting, so the shift requires significant additional training for permitting staff.

### **PERFORMANCE IMPLICATIONS**

None.

### **ADMINISTRATIVE IMPLICATIONS**

None.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

**House Bill 33 identifies Children Protection Zones that are the same as those identified in House Bill 35, dealing with prevention and reporting of spills and groundwater contamination in these areas of oil and gas.**

### **TECHNICAL ISSUES**

None.

## **OTHER SUBSTANTIVE ISSUES**

From a greenhouse gas emissions perspective, halting increases in oil and gas production in New Mexico from 2025-2030 would reduce oil and gas related greenhouse gas emission projections for 2030 from 26.0 million metric tons to 25.3 million metric tons, a decrease of 1.1% of the State's total projected 2030 greenhouse gas emissions.

As NMED has been unable to complete regional modeling in areas exceeding the NAAQS for ozone to date, there is no data to suggest that this bill will reduce ozone levels below the NAAQS outside of current planning and compliance programs currently underway given emissions from the State of Texas.

## **ALTERNATIVES**

Alternatively, the New Mexico Legislature could appropriate a \$10 million of general fund to the Air Quality Permit Fund so that the Department does not need to seek an air permit fee increase through the Environmental Improvement Board. This would provide adequate resources for the Department to manage the current and future workload but shifts the costs for air permitting from the industry to New Mexicans.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Not enacting the bill will allow for NMED's Air Quality Program to continue developing and implementing control strategies and regulations funded by fee revenues to decrease ozone levels.

## **AMENDMENTS**

### **NMED/EIB should handle emissions detection**

Rationale: OCD handling these would require new bureau and create start-up and recurring costs; NMED has existing expertise and would require less additional cost

Changes to text:

P20, lines 22-24: strike "the division" and replace with "the environment department"...T

P20 line 23: strike "division" and replace with "the environment department" and strike language about "in consultation with and with concurrent of environmental improvement board..."

P22, line 4: add "environment department and..." after the word division

P22, line 20: strike "division" and replace with "environment department"

P23, lines 2 and 7: strike "division" and replace with "environment department"

P27, lines 19 and 20: add "and the environment department" after the word "division"

P28, line 12: Add "and the Environment Department" after the word "division"