

NEW MEXICO OIL AND GAS JUSTICE AND REFORM ACT ([SB 418](#))

2/16/23

The New Mexico Oil and Gas Justice and Reform Act aims to modernize the 1935 Oil and Gas Act to reflect the public interests at stake today. When enacted 87 years ago, development of oil and gas resources was the only public interest considered at that time. Today, we know that oil and gas development:

- Plays an outsized role in contributing to climate change,
- Creates serious public health risks from its air pollutants, and
- Disproportionately impacts environmental justice and frontline communities.

These public interests are not reflected in the antiquated 1935 Oil and Gas Act, and it is long past time we updated it to take account of *all* interests at stake.

The New Mexico Oil and Gas Justice and Reform Act Reforms the Basic Framework of the 1935 Oil and Gas Act to:

- **Expand the duties and authorities of the Oil Conservation Commission (OCC) and Oil Conservation Division (OCD) to include:**
 - Protection of the environment,
 - Protection of public health, and
 - Fair treatment and meaningful involvement of all the public – especially communities of color, low-income communities, and tribal and indigenous communities who bear the brunt of oil and gas operations.
- **Expand and diversify the composition of the three member OCC, charged with making statewide rules, to include two members appointed by the legislature to represent:**
 - Protection of the environment and public health and
 - The interests of frontline and environmental justice communities.

The New Mexico Oil and Gas Justice and Reform Act Targets Other Provisions that No Longer Reflect Today's Realities Including:

- **Removing the cap on “blanket bonds” and ensuring that financial assurance is adequate**
 - Across New Mexico, abandoned oil and gas equipment threaten our [air](#) and [water](#). Oil and gas operators put up bonds as financial assurance to plug and clean up wells if a company goes out of business or abandons a site. The average cost to plug a well is [approximately \\$70,000](#), but the 1935 Oil and Gas Act caps financial assurance for “blanket bonds” at \$250,000—even if a company owns *hundreds* of wells—leaving New Mexico taxpayers to foot the bill for the rest. Although the cap amount was revisited by the legislature in 2018, it's already wildly out of step with the real costs of plugging and clean up. The New Mexico Oil and Gas Justice and Reform Act removes the cap on blanket bonds.
 - The New Mexico Oil and Gas Justice and Reform Act requires a “one well” bond for wells at greatest risk—wells that are inactive or held in “temporary abandonment” for more than one year.
 - And the New Mexico Oil and Gas Justice and Reform Act makes sure that, in setting bond amounts, OCC can take a range of relevant factors into account, including the proximity of a well to frontline communities.
- **Establishing setbacks to protect frontline communities**
 - People who live, work, and play close to oil and gas operations are at much greater risk for health impacts. The 1935 Oil and Gas Act doesn't give the OCC authority to protect them from oil and gas operations close to homes, businesses, and schools. The New Mexico Oil and Gas Justice and Reform Act allows the OCC to establish “setbacks” to site new wells at a safe distance from frontline communities.

- **Ensuring against conflicts of interest on the OCC**
 - The 1935 Oil and Gas Act doesn't protect against members serving on the OCC from having financial conflicts of interest. Members' decisions should reflect the public interest, not the interest of their own pocketbooks. The New Mexico Oil and Gas Justice and Reform Act would bar OCC members from being employed by or under contract with oil and gas for one year, and requires disclosure of gross income exceeding \$10,000 from oil and gas interests.
- **Expanding eligibility to serve as OCD Director**
 - The OCD Director position requires a broad skill set including superior management skills, a firm basis in oil and gas policy and regulation, and expertise in oil and gas operations. The 1935 Oil and Gas Act however unnecessarily limits eligibility to a licensed petroleum engineer or an expert in petroleum engineering. The New Mexico Oil and Gas Justice and Reform Act would expand eligibility to persons with expertise in the regulation of oil and gas and an understanding of the environmental, health, and social impacts of those operations.
- **Establishing an environmental justice advisory council**
 - A 2021 Environmental Defense Fund study found that over 35,000 New Mexicans live within 1,000 feet of a well regulated under the New Mexico Ozone Precursor Rule. Of those, 19,000 are people of color including over 5,800 Native Americans, and over 5,700 live in poverty. However, the impacts of oil and gas operations on these environmental justice communities are ignored under the 1935 Oil and Gas Act. The New Mexico Oil and Gas Justice and Reform Act would establish an advisory council to identify environmental injustice impacts and advise the OCC and OCD how to address those inequities.
- **Eliminating the cap on civil penalties**
 - The 1935 Oil and Gas Act caps administrative civil penalties for violations and rules at \$200,000. No other major environmental statute in New Mexico caps civil penalties for ongoing violations, especially violations that result in environmental or public health harm. The cap on penalties is anomaly, and should be removed.

