



REGULATING INDUSTRY, CORPORATE ACCOUNTABILITY, & GOVERNMENT OVERSIGHT: USE OF WATER IN OIL AND GAS OPERATIONS ACT - SB 86

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Why are these amendments being proposed?

In 2019 the Fluid Oil and Gas Waste Act passed the NM legislature and was signed by the Governor. Marathon Oil was the primary author of the bill, with input from the New Mexico Environment Department and others.

Why did Oil & Gas write this law?

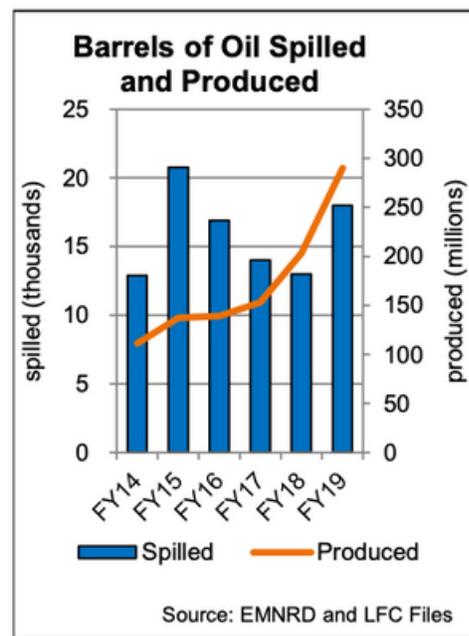
The constant flow of freshwater needed for fracking is ever harder to come by in New Mexico's parched region, and as the easier-to-reach oil deposits have been tapped out, companies have had to drill ever-longer wells, using ever-more water to force out the hydrocarbons.

Flowback from Fracking: Toxic Radioactive Wastewater

The flowback from the fracking process is also known as "produced water." The flowback is actually a toxic cocktail of radioactive materials, heavy metals, proprietary fracking chemicals, and other contaminants that are known to be carcinogenic and dangerous to human health and the environment.

In 2019, the Oil & Gas industry produced an estimated 300 million barrels of oil, and 1,259,341,048 barrels (>50b gallons) of produced wastewater.[1] By 2030, that number could rise to 38 million barrels daily.[2] Companies dump the contaminated wastewater into disposal wells or into illegal "abandoned" areas. Not only is there so much of this produced wastewater being generated, industry has failed to dispose of this toxic waste safely. Moreover, the government agencies that are responsible for regulating this rogue industry are failing to reign in the polluters.

According to the New Mexico Oil Conservation Division (OCD), there were 1,523 reported spills in New Mexico in 2018. That's roughly 4.2 spills per day. That means on an average each day there are 252 barrels of produced water discharged; 44 barrels of crude oil discharged; 677,000 cubic feet of natural gas leaked.[3] More than 1.4 million gallons of produced wastewater have ended up running over the surface of the earth from 327 spills in the first eight months of 2020 alone.[4] The total volume spilled would cover 4.4 acres with one foot of liquid oil and gas toxic wastewater.[5]



[1] Bill Brancard, General Counsel, Energy, Minerals and Natural Resource Department, 9/3/2020, presentation before the Water & Natural Resources Committee, NM Leg

[2] <https://nmpoliticalreport.com/2020/02/03/wastewater-wastewater-everywhere-in-the-permian-basin-a-new-kind-of-boom/>

[3] <https://westernpriorities.org/2018-new-mexico-oil-and-gas-toxic-release-tracker/>

[4] As of August 2020 produced water spills Excel spreadsheet downloaded from <http://www.emnrd.state.nm.us/OCD/statistics.html>

[5] New Mexico Oil and Gas Waste Report, The failure to safely manage oil and gas waste, September 2020.



OUR JOINT PROPOSED AMENDMENTS WILL PROTECT NEW MEXICO PEOPLE, LAND AND WATER BY:

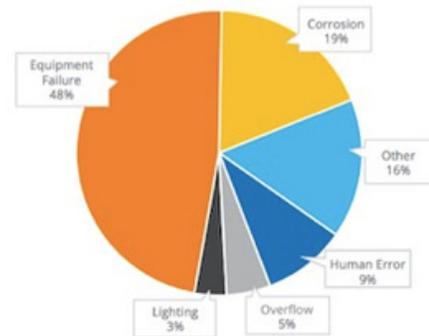
- minimizing the use of fresh water in oil and gas well drilling.
- making the discharge or release of produced water illegal and defining penalties for violations.
- requiring the Oil Conservation Division to use “the best available science” when developing rules to protect public health, worker safety and the environment, including fresh water resources, wildlife and domestic animals
- requiring the identification and public disclosure of the chemical composition of produced water
- requiring the Oil Conservation Division to increase regulation of produced water and other oil and gas waste through the entire process to avoid circumstances that may “directly or indirectly, with reasonable probability injure human health, animal or plant life or property, or unreasonably interfere with the public welfare or the use of property.”
- forbids the use of “produced water” to be used for “road construction maintenance, roadway ice or dust control, or other construction or in the application of treated produced water to land, for activities unrelated to the exploration, drilling, production, treatment and refinement of oil or gas.”[6]

822 WASTEWATER SPILLS IN 2019, HALF BY 4 FIRMS



Source: OCD Data and Statistics, Spills and Incidents (Search and Listing), available at: <http://www.emnrd.state.nm.us/OCD/statistics.html>

STATED CAUSES OF WASTEWATER SPILLS IN 2019



Source: OCD Data and Statistics, Spills and Incidents (Search and Listing), available at: <http://www.emnrd.state.nm.us/OCD/statistics.html>

Existing Science Confirms that Produced Water is Dangerous

The existing science clearly indicates that produced water is dangerous. Spreading fracked wastewater, which contains high levels of the carcinogenic element radium, inorganic salts, and oil and gas hydrocarbons, on unpaved roads to control dust is a threat to human health and the environment. Lab experiments have demonstrated that nearly all of the metals from these wastewaters leach from roads after rain events, likely reaching ground and surface water. In Pennsylvania, from 2008 to 2014, spreading O&G wastewaters released over four times more radium, a known carcinogen, to the environment (320 millicuries) than O&G wastewater treatment facilities and 200 times more radium than spill events. Consequently, Pennsylvania and four other states have banned road spreading of wastewater from hydraulically fractured wells.

The Land that we Love and the Water we Need Requires More Protection from Industry, Not Less

Governmental agencies have already failed to protect human health and the environment from the effects of development of the state’s oil and gas resources. Limited inspections and enforcement are common. The number of well inspections has decreased by 28% between the administrations of Governor Martinez (42,880 inspections in 2018) and Governor Lujan Grisham (31,043 inspections in 2019). Indeed many of these companies are repeat violators of basic environmental regulations and are allowed to continue to operate. The amendments proposed will begin to hold industry accountable and protect New Mexico people, land and fresh water resources. We acknowledge that much more is needed, and yet, this is a significant effort in the right direction.

As is our inalienable right: The people of the state of New Mexico, including future generations, have the right to a clean and healthy environment, including pure water, clean air, healthy ecosystems, and a stable climate, and to the preservation of the natural, cultural, scenic and healthful qualities of the environment.

[6] HB 546, “Fluid Oil & Gas Waste Act,” sponsored by Representatives Nathan P. Small, Brian Egolf, and Rod Montoya, §11 P, which was in the 2019 bill.