

Fact Sheet: SB 186: Oil and Gas Authority and Penalties Bill

The problem: Since 2009, the Oil Conservation Division (OCD), the agency in charge of enforcement, has had no authority to administratively penalize those bad actors that violate the Oil and Gas Act and its rules. SB 186 restores the Oil Conservation Division authority and provides the tools to ensure compliance rather than having to request the Attorney General's office to bring lawsuits against violators.

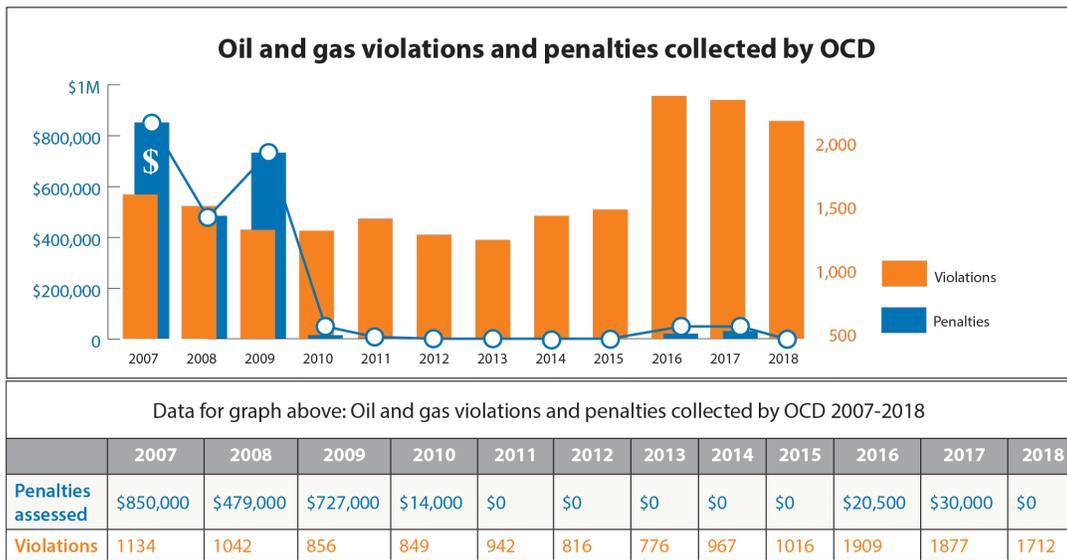
SB 186 will:

- Enable the Oil Conservation Division to assess civil penalties on violators of the Oil and Gas Act, its rules, orders or permits.
- Authorize OCD to go directly to court *or* impose a compliance order, if needed (after a public hearing). This provision replicates the Air Quality Control Act violation process.
- Increase the civil penalty from a \$1,000 maximum for each violation to not more than \$15,000 for each day of violation. The \$1,000 maximum has not been updated since 1935. Should the company fail to comply with a court order or a compliance order, the penalty may be increased to up to \$25,000. (These provisions are consistent with the Air Quality Control Act.)
- Clarify the existing criminal penalty section which makes it a third-degree felony if a company knowingly violates the Act, its rules, orders or permits, which includes making false statements, omitting, destroying or mutilating information on forms, records, accounts or memorandums. (Similar provisions are in the NM Mining Act.)
- Remove the **criminal** standard of proof, which is not applicable for assessing a **civil** penalty. This threshold is inconsistent with the requirements of other New Mexico statutes such as the Air Quality Control Act, Water Quality Act and the New Mexico Mining Act.
- Require the Division to prepare a publicly available annual enforcement report to the legislature and to the governor.

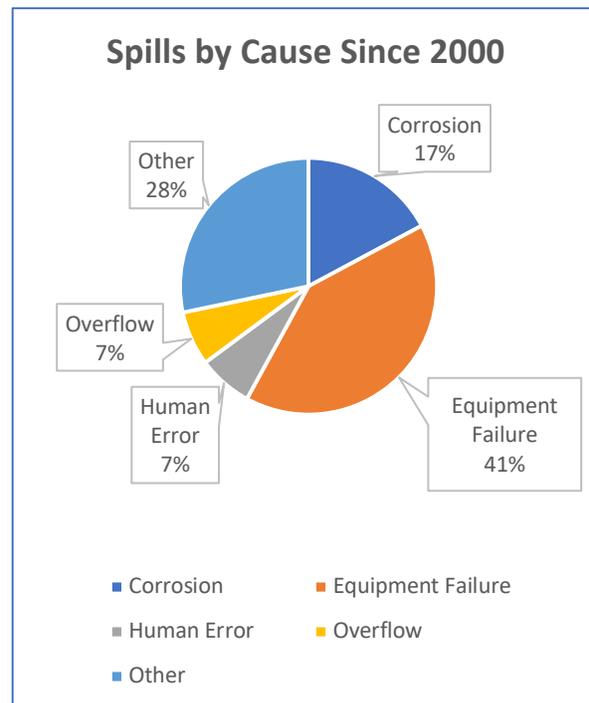
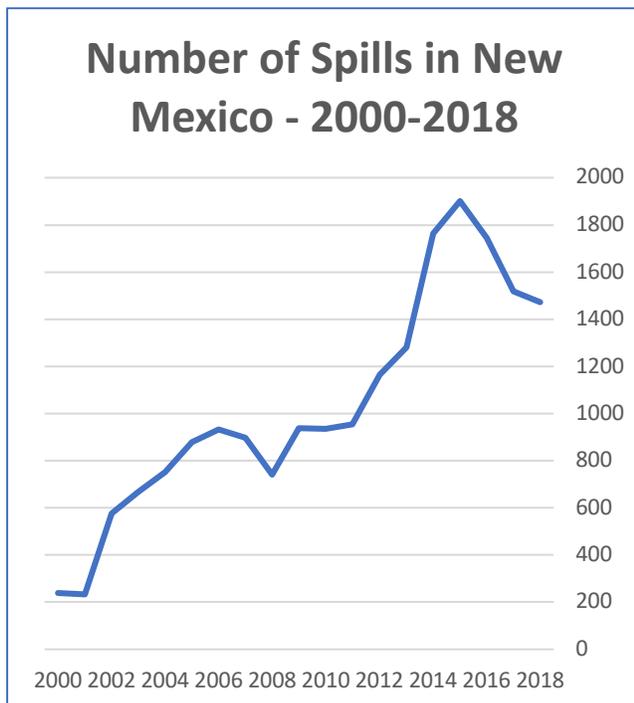
SB 186 addresses problems created by bad actors. In sum, providing OCD with these missing critical enforcement tools are important steps to achieving the goals of the Division's Administration and Compliance Bureau, which "ensures that activities comply with regulations and do not result in the waste of oil and gas resources and to protect human health and the environment."

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Annual OCD penalties dropped significantly while violations and spills rose.¹



Spills have increased nearly 100% since 2008 and more than 500% since 2000.
These spill numbers are based on industry reports.²



¹ OCD provides quarterly inspection and penalty reports. See <http://www.emnrd.state.nm.us/OCD/statistics.html>.

² New Mexico Oil Conservation Division. (2018). *Spills and Incidents Search* [Data File]. Available from New Mexico Oil Conservation Division website: at <https://www.wapps.emnrd.state.nm.us/ocd/ocdpermitting/Data/Spills/Spills.aspx>. Accessed 12/31/2018.