

Frequently Asked Questions*:

Executive Order No. 2023-001 Moratorium on New Oil and Gas Leasing Within One Mile of Schools

Introduction

On June 1, New Mexico Commissioner of Public Lands Stephanie Garcia Richard issued Executive Order No. 2023-001: Moratorium on New Oil and Gas Leasing Within One Mile of Schools. Below are frequently asked questions about the executive order and its impact on state trust lands.

1. What does the executive order do?

The executive order places a moratorium, or prohibition, on new oil and gas leasing on state trust lands within one mile of schools or other educational facilities.

2. What does state law say about the authority of the Commissioner of Public Lands regarding the placement of oil and gas operations?

Under state law, the Commissioner of Public Lands is authorized to lease state trust lands, or withhold any tracts from leasing for oil and gas or other purposes, if in her opinion the best interests of the state land trust will be served by so doing (*see* NMSA 1978 §§ 19-8-33 and 19-10-19; 19.2.100.31 NMAC).

If a decision is made by the State Land Office to lease a specific parcel of land, the actual location of where a well is placed is determined by the company as authorized by the EMNRD Oil and Conservation Division (OCD). The State Land Office's statutory oil and gas lease does not authorize the agency to require companies to place wells in specific locations.

3. Does the State of New Mexico have a responsibility to provide environmental protection for its citizens?

Yes. According to the New Mexico Constitution, the legislature "shall provide for control of pollution and control of despoilment of the air, water and other natural resources of this state, consistent with the use and development of these resources for the maximum benefit of the people (*see* NM Const., art. XX, Sec. 21).

4. Does the moratorium apply to preexisting oil and gas operations within one mile of schools, or just to new operations?

The moratorium will only apply to new oil and gas leases. However, the moratorium instructs State Land Office staff to conduct a review of all existing oil and gas leases, business leases, and rights-of-way within one mile of schools or other educational institutions to assess their compliance with lease requirements and other applicable laws and regulations.

5. Does the moratorium apply to oil and gas operations on federal, tribal, or private lands?

No, the moratorium only applies to state trust lands.

6. What are the impacts of oil and gas activity occurring in such close proximity to schools? How big of a problem is this in New Mexico?

High air pollution can lead to long-term adverse health impacts for youth, including asthma and other respiratory problems. Recently, Eddy and San Juan Counties (which are both in high oil- and gas-producing regions) earned an “F” grade from the American Lung Association for an unacceptable amount of high ozone days.

7. How many schools are located within one mile of oil and gas activity?

While the total number of schools within one mile of oil and gas activity on state trust lands is currently unknown, a study conducted by Earthworks and FracTracker Alliance suggests that there could be as many 119 schools within *a half mile* of oil and gas operations combined on federal, state, Tribal, and private lands.

8. What does state law say about how close oil and gas operations can be to schools?

State law does not currently specify a required minimum setback for oil and gas operations in relation to schools or other institutions. This moratorium would provide an administrative solution to the problem on state trust lands, providing more time for the state legislature to create a state law on oil and gas setbacks.

9. When does the moratorium go into effect?

The moratorium goes into effect immediately on the date of issuance, June 1, 2023.

10. Does the moratorium have an end date?

No, the moratorium is in effect until further notice.

*Revised 6/12/2023.