

**LFC Requester:**

**NMED In-House**

**AGENCY BILL ANALYSIS  
2025 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:**

**Analysis.nmlegis.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}*

Check all that apply:

**Original**  **Amendment**   
**Correction**  **Substitute**

**Date** 1/10/2025

**Bill No:** SB 22

**Sponsor:** Senator Wirth  
**Short Title:** WQA AMENDMENTS

**Agency Name and Code Number:** 667  
**Person Writing** Michael Sloane  
**Phone:** 505-476-8000 **Email:** Michael.sloane@dgf.

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
N/A	N/A	N/A	N/A

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

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	N/A	N/A	N/A	N/A	N/A	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to SB21  
Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis: This bill supports the Governor’s 50 Year Water Action Plan by modernizing the Water Quality Act to improve water quality protections and expand regulatory authority to promote water reuse, protect state surface waters that are no longer covered by the federal

Clean Water Act, and to clean up and monitor polluted groundwater. These amendments fill regulatory gaps, enhance public involvement, and ensure stronger public health and environmental safeguards while addressing feedback from stakeholders and aligning with federal standards. Key provisions include:

- **General Permits:** Authorizes general permits for discharges to surface waters such as stormwater runoff, pesticide applications, and wildfire recovery. Clarifies public notice requirements and enables fee collection for approvals.
- **Public Notification Updates:** Expands and modernizes communication methods for draft permit notices, including electronic mail, text messages, social media, and traditional advertising. Special exclusions apply for general permits.
- **Mitigation Requirements:** Introduces mandatory mitigation for adverse surface water quality impacts and authorizes the Water Quality Control Commission (WQCC) to establish regulations to offset harm caused by dredged or fill material discharges.
- **Antidegradation Policy:** Strengthens protections to maintain high-quality surface waters.
- **Oil and Gas Oversight:** Shifts responsibility for surface water discharges from oil and gas facilities from the Oil Conservation Commission to the Environment Department.
- **Groundwater Protection:** Establishes WQCC authority to promulgate rules for state-led response, investigation, and remediation of water pollution and soil contamination. Creates a non-reverting fund dedicated to this cleanup work. The Executive Budget Recommendation includes \$50 million to support this proposal.
- **Groundwater Liability and Liability Protections:** Clarifies cleanup and financial liability by aligning with the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) liability provisions and also liability protections, which previously did not exist in state law.
- **Potable Water Reuse:** Clarifies the WQCC's authority to adopt regulations for direct potable reuse of treated wastewater, potentially benefitting more than 60 permitted municipal or county wastewater treatment facilities in New Mexico.

## **FISCAL IMPLICATIONS**

None

## **SIGNIFICANT ISSUES**

See below under "WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL."

## **PERFORMANCE IMPLICATIONS**

None.

## **ADMINISTRATIVE IMPLICATIONS**

None

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

Many proposed amendments to the Water Quality Act are related to the New Mexico Pollutant Discharge Elimination System Act (Senate Bill 21) and support needed authorities for the Environment Department to administer and enforce a comprehensive water quality permitting program for all surface waters within the State, including waters of the U.S., surface waters of the

State, *and* wetlands, but excluding tribal waters.

## **TECHNICAL ISSUES**

None.

## **OTHER SUBSTANTIVE ISSUES**

None.

## **ALTERNATIVES**

None.

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

**Surface Water Permitting Program:** These amendments are necessary to enact a state surface water discharge permitting program for surface waters of the State that are not “waters of the U.S.” (non-WOTUS) and to fully protect surface waters, including wetlands, from the discharge of pollutants, including dredged-and-fill materials. Failure to enact these amendments will place many surface waters throughout New Mexico at risk from contamination and degradation.

**Groundwater response, investigation, and remediation:** New Mexico has more than 300 neglected contamination sites. The program, fund, and funding mechanism are necessary to address abatement of water pollution and contamination of soil and soil vapor at sites without a responsible party or where liability is unresolved and the site does not meet the ranking qualifications for the federal Superfund program or other federal remediation funding. Failure to enact these groundwater protection amendments will cause contamination to remain unaddressed at hundreds of sites throughout New Mexico, threatening human health and precious environmental resources.

**Groundwater liability and liability protections:** There are currently 97 sites in the State Cleanup Program (the NMED program that requires assessment and abatement of groundwater pollution and contamination of soil and soil vapor). If the Water Quality Act amendment to clarify the liability framework is not enacted, all 97 of these sites may be able to refuse to conduct further assessment and abatement of contamination. Failure to enact this amendment to the Water Quality Act will lead to uncertainty for property owners and prospective purchasers, potential and prolonged litigation, and delays or failure to achieve abatement of pollution and protection of human health.

**Groundwater discharge permit conditions:** More than 400 active groundwater discharge permits are managed by NMED. Clarifying the scope of conditions that may be imposed upon permits for monitoring devices is necessary to determine if other/additional parties are responsible for observed groundwater contamination or if observed concentrations represent natural conditions. Failure to enact this amendment will make it difficult to determine if a permitted entity, or another party, is required to treat groundwater to applicable water quality standards or if they are warranted protections from liability.

## **AMENDMENTS**

None.