

SENATE BILL 22

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

Peter Wirth and Kristina Ortez

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO THE ENVIRONMENT; ALPHABETIZING AND ADDING DEFINITIONS TO THE WATER QUALITY ACT; PROVIDING FOR CERTAIN WATER QUALITY CONTROL COMMISSION RULES RELATING TO THE REGULATION OF WATER POLLUTION; CREATING THE NEGLECTED AND CONTAMINATED SITES FUND; PROVIDING FOR GENERAL PERMIT COVERAGE FOR MULTIPLE DISCHARGERS; REVISING THE WATER QUALITY MANAGEMENT FUND AND DISTRIBUTION OF CERTAIN PENALTIES; ALLOWING FOR THE DENIAL OF PERMITS THAT WOULD CONTRIBUTE TO WATER CONTAMINANT

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LEVELS IN EXCESS OF DOWNSTREAM STATE OR TRIBAL WATER QUALITY STANDARDS; AMENDING NOTICE REQUIREMENTS FOR WATER QUALITY ACT PERMITS; PROVIDING FOR CERTAIN USES OF PERMIT FEES; AMENDING THE PURPOSES OF THE WATER QUALITY MANAGEMENT FUND; CREATING CERTAIN EXCEPTIONS FOR SURFACE WATER DISCHARGES; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 74-6-2 NMSA 1978 (being Laws 1967, Chapter 190, Section 2, as amended) is amended to read:

"74-6-2. DEFINITIONS.--As used in the Water Quality Act:

~~A. "gray water" means untreated household wastewater that has not come in contact with toilet waste and includes wastewater from bathtubs, showers, washbasins, clothes washing machines and laundry tubs, but does not include wastewater from kitchen sinks or dishwashers or laundry water from the washing of material soiled with human excreta, such as diapers;~~

~~B. "water contaminant" means any substance that could alter, if discharged or spilled, the physical, chemical, biological or radiological qualities of water. "Water contaminant" does not mean source, special nuclear or byproduct material as defined by the federal Atomic Energy Act of 1954;~~

~~C. "water pollution" means introducing or permitting the introduction into water, either directly or indirectly, of one or more water contaminants in such quantity~~

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~~and of such duration as may with reasonable probability injure human health, animal or plant life or property, or to unreasonably interfere with the public welfare or the use of property;~~

~~D. "wastes" means sewage, industrial wastes or any other liquid, gaseous or solid substance that may pollute any waters of the state;~~

~~E. "sewer system" means pipelines, conduits, pumping stations, force mains or any other structures, devices, appurtenances or facilities used for collecting or conducting wastes to an ultimate point for treatment or disposal;~~

~~F. "treatment works" means any plant or other works used for the purpose of treating, stabilizing or holding wastes;~~

~~G. "sewerage system" means a system for disposing of wastes, either by surface or underground methods, and includes sewer systems, treatment works, disposal wells and other systems;~~

~~H. "water" means all water, including water situated wholly or partly within or bordering upon the state, whether surface or subsurface, public or private, except private waters that do not combine with other surface or subsurface water;~~

~~I. "person" means an individual or any other entity, including partnerships, corporations, associations,~~

~~responsible business or association agents or officers, the state or a political subdivision of the state or any agency, department or instrumentality of the United States and any of its officers, agents or employees;]~~

A. "barrier" means a technical, including any log reduction credits assigned, operational or managerial measure to control microbial or chemical constituents;

~~[J.]~~ B. "commission" means the water quality control commission;

~~[K.]~~ C. "constituent agency" means, as the context may require, any or all of the following agencies of the state:

- (1) the department ~~[of environment];~~
- (2) the state engineer and the interstate stream commission;
- (3) the department of game and fish;
- (4) the oil conservation commission;
- (5) the state parks division of the energy, minerals and natural resources department;
- (6) the New Mexico department of agriculture;
- (7) the soil and water conservation commission; and
- (8) the bureau of geology and mineral resources at the New Mexico institute of mining and technology;

~~[L. "new source" means:~~

- ~~(1) any source, the construction of which is~~

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~~commenced after the publication of proposed regulations
prescribing a standard of performance applicable to the source;
or~~

~~(2) any existing source when modified to treat
substantial additional volumes or when there is a substantial
change in the character of water contaminants treated;~~

~~M. "source" means a building, structure, facility
or installation from which there is or may be a discharge of
water contaminants directly or indirectly into water;~~

~~N. "septage" means the residual wastes and water
periodically pumped from a liquid waste treatment unit or from
a holding tank for maintenance or disposal purposes;~~

~~O. "sludge" means solid, semi-solid or liquid waste
generated from a municipal, commercial or industrial wastewater
treatment plant, water supply treatment plant or air pollution
control facility that is associated with the treatment of these
wastes. "Sludge" does not mean treated effluent from a
wastewater treatment plant;~~

~~P. "substantial adverse environmental impact" means
that an act or omission of the violator causes harm or damage:~~

~~(1) to human beings; or~~

~~(2) that amounts to more than ten thousand
dollars (\$10,000) damage or mitigation costs to flora,
including agriculture crops; fish or other aquatic life;
waterfowl or other birds; livestock or wildlife or damage to~~

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~~their habitats; ground water or surface water; or the lands of the state;~~

~~Q. "federal act" means the Federal Water Pollution Control Act, its subsequent amendment and successor provisions;~~

~~R. "standards of performance" means any standard, effluent limitation or effluent standard adopted pursuant to the federal act or the Water Quality Act; and~~

~~S. "produced water" means a fluid that is an incidental byproduct from drilling for or the production of oil and gas]~~

D. "compensatory mitigation" means the process of restoring, establishing, enhancing or preserving wetlands, streams or other aquatic resources to offset unavoidable adverse impacts that remain after appropriate and practicable avoidance and minimization measures have been achieved;

E. "department" means the department of environment;

F. "facility" means all contiguous land, and structures, other appurtenances and improvements on the land, including any building, installation, equipment, pipe or pipeline, including any pipe into a sewer or publicly owned treatment works, well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock or aircraft, or any site or area where a water contaminant has been, is currently or is proposed to be managed, treated,

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deposited, stored, disposed of or placed or otherwise come to be located;

G. "federal act" means the Federal Water Pollution Control Act, its subsequent amendment and successor provisions;

H. "general permit" means a permit that applies to one or more categories or subcategories of discharges, sludge use or disposal practices or facilities within a geographic area, including the state or a region, basin or watershed in the state;

I. "general permit coverage" means authorization to discharge pursuant to a general permit and any additional permit conditions required by a constituent agency;

J. "gray water" means untreated household wastewater that has not come in contact with toilet waste and includes wastewater from bathtubs, showers, washbasins, clothes washing machines and laundry tubs, but does not include wastewater from kitchen sinks or dishwashers or laundry water from the washing of material soiled with human excreta, such as diapers;

K. "new source" means:

(1) any source, the construction of which is commenced after the publication of proposed rules prescribing a standard of performance applicable to the source; or

(2) an existing source when modified to treat substantial additional volumes or when there is a substantial

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change in the character of water contaminants treated;

L. "pathogen" means a microorganism capable of causing illness in humans;

M. "person" means an individual or other entity, including partnerships, corporations, associations, a responsible business or association agents or officers, the state or a political subdivision of the state or an agency, a department or an instrumentality of the United States and any of its officers, agents or employees;

N. "produced water" means a fluid that is an incidental byproduct from drilling for or the production of oil and gas;

O. "responsible party" means those persons described in Section 107(a) of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980;

P. "septage" means the residual wastes and water periodically pumped from a liquid waste treatment unit or holding tank for maintenance or disposal purposes;

Q. "sewer system" means pipelines, conduits, pumping stations, force mains or other structures, devices, appurtenances or facilities used for collecting or conducting wastes to an ultimate point for treatment or disposal;

R. "sewerage system" means a system for disposing of wastes, either by surface or underground methods, and

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includes sewer systems, treatment works, disposal wells and other systems;

S. "sludge" means solid, semi-solid or liquid waste generated from a municipal, commercial or industrial wastewater treatment plant, a water supply treatment plant or an air pollution control facility that is associated with the treatment of these wastes. "Sludge" does not mean treated effluent from a wastewater treatment plant;

T. "source" means a building, a structure, a facility or an installation from which there is or may be a discharge of water contaminants directly or indirectly into water;

U. "standards of performance" means a standard, effluent limitation or effluent standard adopted pursuant to the federal act or the Water Quality Act;

V. "substantial adverse environmental impact" means that an act or omission of the violator causes harm or damage:

(1) to human beings; or

(2) that amounts to more than ten thousand dollars (\$10,000) damage or mitigation costs to flora, including agriculture crops; fish or other aquatic life; waterfowl or other birds; livestock or wildlife or damage to their habitats; ground water or surface water; or the lands of the state;

W. "treatment works" means a plant or other works

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used for the purpose of treating, stabilizing or holding wastes;

X. "wastes" means sewage, industrial wastes or other liquid, gaseous or solid substances that may pollute the waters of the state;

Y. "water" means all water, including water situated wholly or partly within or bordering upon the state, whether surface or subsurface, public or private, except private waters that do not combine with other surface or subsurface water;

Z. "water contaminant" means a substance that could alter, if discharged or spilled, the physical, chemical, biological or radiological qualities of water. "Water contaminant" does not mean source, special nuclear or byproduct material as defined by the federal Atomic Energy Act of 1954; and

AA. "water pollution" means introducing or permitting the introduction into water, either directly or indirectly, of one or more water contaminants in a quantity and duration as may with reasonable probability injure human health, animal or plant life or property or to unreasonably interfere with the public welfare or the use of property."

SECTION 2. Section 74-6-4 NMSA 1978 (being Laws 1967, Chapter 190, Section 4, as amended) is amended to read:

"74-6-4. DUTIES AND POWERS OF COMMISSION.--The

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commission:

A. may accept and supervise the administration of loans and grants from the federal government and from other sources, public or private, which loans and grants shall not be expended for ~~[other than the]~~ purposes ~~[for which]~~ other than those provided;

B. shall adopt a comprehensive water quality management program and develop a continuing planning process;

C. shall not adopt or promulgate a standard or ~~[regulation]~~ rule that exceeds a grant of rulemaking authority listed in the statutory section of the Water Quality Act authorizing the standard or ~~[regulation]~~ rule;

D. shall adopt water quality standards for surface and ground waters of the state based on credible scientific data and other evidence appropriate under the Water Quality Act. The standards shall include narrative standards and, as appropriate, the designated uses of the waters and the water quality criteria necessary to protect such uses. The standards shall at a minimum protect the public health or welfare, enhance the quality of water and serve the purposes of the Water Quality Act. In making standards, the commission shall give weight it deems appropriate to all facts and circumstances, including the use and value of the water for water supplies, propagation of fish and wildlife, recreational purposes and agricultural, industrial and other purposes;

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E. shall adopt [~~promulgate and publish regulations~~] rules to prevent or abate water pollution in the state or in any specific geographic area, aquifer or watershed of the state or in any part thereof, or for any class of waters, and to govern the disposal of septage and sludge and the use of sludge for various beneficial purposes. The [~~regulations~~] rules governing the disposal of septage and sludge may include the use of tracking and permitting systems or other reasonable means necessary to assure that septage and sludge are designated for disposal in, and arrive at, disposal facilities, other than facilities on the premises where the septage and sludge is generated, for which a permit or other authorization has been issued pursuant to the federal act or the Water Quality Act. [~~Regulations~~] Rules may specify a standard of performance for new sources that reflects the greatest reduction in the concentration of water contaminants that the commission determines to be achievable through application of the best available demonstrated control technology, processes, operating methods or other alternatives, including where practicable a standard permitting no discharge of pollutants. The rules governing the prevention or abatement of water pollution shall include provisions for the responsible party and defenses of the responsible party that are equivalent to and no less stringent than federal regulations adopted pursuant to the federal Comprehensive Environmental Response,

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Compensation, and Liability Act of 1980. In making
[~~regulations~~] rules, the commission shall give weight it deems
appropriate to all relevant facts and circumstances, including:

- (1) the character and degree of injury to or interference with health, welfare, environment and property;
- (2) the public interest, including the social and economic value of the sources of water contaminants;
- (3) the technical practicability and economic reasonableness of reducing or eliminating water contaminants from the sources involved and previous experience with equipment and methods available to control the water contaminants involved;
- (4) the successive uses, including domestic, commercial, industrial, pastoral, agricultural, wildlife and recreational uses;
- (5) feasibility of a user or a subsequent user treating the water before a subsequent use;
- (6) property rights and accustomed uses; and
- (7) federal water quality requirements;

F. shall assign responsibility for administering its [~~regulations~~] rules to constituent agencies [~~so as~~] to assure adequate coverage and prevent duplication of effort. To this end, the commission may make such classification of waters and sources of water contaminants as will facilitate the assignment of administrative responsibilities to constituent

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agencies. The commission shall also hear and decide disputes between constituent agencies as to jurisdiction concerning [any] matters within the purpose of the Water Quality Act. In assigning responsibilities to constituent agencies, the commission shall give priority to the primary interests of the constituent agencies. The department [of environment] shall provide technical services, including certification of permits pursuant to the federal act, and shall maintain a repository of the scientific data required by the Water Quality Act;

G. may enter into or authorize constituent agencies to enter into agreements with the federal government or other state governments for purposes consistent with the Water Quality Act and receive and allocate to constituent agencies funds made available to the commission;

H. may grant an individual variance from [any regulation] a rule of the commission whenever it is found that compliance with the [regulation] rule will impose an unreasonable burden upon any lawful business, occupation or activity. The commission may only grant a variance conditioned upon a person effecting a particular abatement of water pollution within a reasonable period of time. [Any] A variance shall be granted for the period of time specified by the commission. The commission shall adopt [regulations] rules specifying the procedure under which variances may be sought, which [regulations] rules shall provide for the holding of a

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public hearing before ~~[any]~~ a variance may be granted;

I. may adopt ~~[regulations]~~ rules to require the filing with ~~[it]~~ the commission or a constituent agency of proposed plans and specifications for the construction and operation of new sewer systems, treatment works or sewerage systems or extensions, modifications of or additions to new or existing sewer systems, treatment works or sewerage systems. Filing with and approval by the federal housing administration of plans for an extension to an existing or construction of a new sewerage system intended to serve a subdivision solely residential in nature shall be deemed compliance with all provisions of this subsection;

J. may adopt ~~[regulations]~~ rules requiring notice to ~~[it]~~ the commission or a constituent agency of intent to introduce or allow the introduction of water contaminants into waters of the state;

K. shall specify in ~~[regulations]~~ rules the measures to be taken to prevent water pollution and to monitor water quality. The commission may adopt ~~[regulations]~~ rules for particular industries. The commission shall adopt ~~[regulations]~~ rules for the dairy industry and the copper industry. The commission shall consider, in addition to the factors listed in Subsection E of this section, the best available scientific information. The ~~[regulations]~~ rules may include variations in requirements based on site-specific

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factors, such as depth and distance to ground water and geological and hydrological conditions. The constituent agency shall establish an advisory committee composed of persons with knowledge and expertise particular to the industry category and other interested stakeholders to advise the constituent agency on appropriate [~~regulations~~] rules to be proposed for adoption by the commission. The [~~regulations~~] rules shall be developed and adopted in accordance with a schedule approved by the commission. The schedule shall incorporate an opportunity for public input and stakeholder negotiations;

L. may adopt [~~regulations~~] rules establishing pretreatment standards that prohibit or control the introduction into publicly owned sewerage systems of water contaminants that are not susceptible to treatment by the treatment works or that would interfere with the operation of the treatment works;

M. shall not require a permit respecting the use of water in irrigated agriculture, except in the case of the employment of a specific practice in connection with [~~such~~] the irrigation that documentation or actual case history has shown to be hazardous to public health or the environment or for the use of produced water;

N. shall not require a permit for applying less than two hundred fifty gallons per day of private residential gray water originating from a residence for the resident's

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household gardening, composting or landscape irrigation if:

- (1) a constructed gray water distribution system provides for overflow into the sewer system or on-site wastewater treatment and disposal system;
- (2) a gray water storage tank is covered to restrict access and to eliminate habitat for mosquitos or other vectors;
- (3) a gray water system is sited outside of a floodway;
- (4) gray water is vertically separated at least five feet above the ground water table;
- (5) gray water pressure piping is clearly identified as a nonpotable water conduit;
- (6) gray water is used on the site where it is generated and does not run off the property lines;
- (7) gray water is applied in a manner that minimizes the potential for contact with people or domestic pets;
- (8) ponding is prohibited, application of gray water is managed to minimize standing water on the surface and to ensure that the hydraulic capacity of the soil is not exceeded;
- (9) gray water is not sprayed;
- (10) gray water is not discharged to a watercourse; and

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(11) gray water use within municipalities or counties complies with all applicable municipal or county ordinances enacted pursuant to Chapter 3, Article 53 NMSA 1978;

O. shall coordinate application procedures and funding cycles for loans and grants from the federal government and from other sources, public or private, with the local government division of the department of finance and administration pursuant to the New Mexico Community Assistance Act;

P. shall adopt [~~regulations~~] rules to be administered by the department [~~of environment~~] for the discharge, handling, transport, storage, recycling or treatment for the disposition of treated produced water, including disposition in 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 or refinement of oil or gas; [~~and~~]

Q. [~~may~~] shall adopt [~~regulations~~] rules to be administered by the department [~~of environment~~] for surface water discharges, including discharges of dredged or fill materials. In making the rules, the commission shall give weight the commission deems appropriate to relevant facts and circumstances, including those identified in Subsection E of this section. For discharges of dredged or fill material, the

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rules shall prioritize avoidance and minimization of adverse impacts to wetlands, streams and other aquatic resources and may require compensatory mitigation for unavoidable adverse impacts that remain after appropriate and practicable avoidance and minimization measures have been achieved;

R. shall adopt rules to be administered by the department for state-led response, investigation and remediation of water pollution and contamination in soil and soil vapor for the protection of human health and the environment; and

S. shall adopt rules to be administered by the department to govern the transfer and use of treated SCONC→domestic←SCONC wastewater for potable reuse. The rules may specify a standard of performance, including log reduction for pathogen removal, critical control points, barriers and the greatest reduction in the concentration of water contaminants and pathogens that the commission determines to be achievable through application of the best available demonstrated control technology, processes, operating methods or other alternatives, including, where practicable, a standard permitting no risk to human health. The rules governing the potable reuse of wastewater may include the use of existing permitting systems or create new permitting rules that include the means necessary to assure that potable reuse projects are conducted in a manner that is directly protective of human health."

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SECTION 3. Section 74-6-5 NMSA 1978 (being Laws 1973, Chapter 326, Section 4, as amended) is amended to read:

"74-6-5. PERMITS--CERTIFICATION--APPEALS TO COMMISSION.--

A. By [~~regulation~~] rule, the commission may require [~~persons~~] a person to obtain from a constituent agency designated by the commission a permit or general permit coverage for the discharge of [~~any~~] a water contaminant or for the disposal or reuse of septage or sludge.

B. The commission shall adopt [~~regulations~~] rules establishing procedures for certifying federal water quality permits.

C. Prior to the issuance of a permit or approval of general permit coverage, the constituent agency may require the submission of plans, specifications and other relevant information that it deems necessary.

D. The commission shall by [~~regulation~~] rule set the dates upon which applications for permits shall be filed and designate the time periods within which the constituent agency shall, after the filing of an administratively complete application for a permit, either grant the permit, grant the permit subject to conditions or deny the permit. The constituent agency has the burden of showing that each condition is reasonable and necessary to ensure compliance with the Water Quality Act and applicable [~~regulations~~] rules, considering site-specific conditions. After [~~regulations~~]

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rules have been adopted for a particular industry, permits for facilities in that industry shall be subject to conditions contained in the [~~regulations~~] rules. Additional conditions on a final permit may be imposed if the applicant is provided with an opportunity to review and provide comments in writing on the draft permit conditions and to receive a written explanation of the reasons for the conditions from the constituent agency.

E. The constituent agency shall deny [~~any~~] an application for a permit or request for general permit coverage or deny the certification of a federal water quality permit if:

(1) the effluent would not meet applicable state or federal effluent regulations, standards of performance or limitations;

(2) [~~any~~] a provision of the Water Quality Act would be violated;

(3) the discharge would cause or contribute to water contaminant levels in excess of [~~any~~] a state or federal standard. Determination of the discharge's effect on ground water shall be measured at [~~any~~] a place of withdrawal of water for present or reasonably foreseeable future use.

Determination of the discharge's effect on surface waters shall be measured at the point of discharge; [~~or~~]

(4) the surface water discharge would cause or contribute to water contaminant levels in excess of a downstream state or tribal water quality standard; or

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[~~(4)~~] (5) the applicant has, within the ten years immediately preceding the date of submission of the permit application or request for general permit coverage:

(a) knowingly misrepresented a material fact in an application for a permit or request for general permit coverage;

(b) refused or failed to disclose [~~any~~] information required [~~under~~] pursuant to the Water Quality Act;

(c) been convicted of a felony or other crime involving moral turpitude;

(d) been convicted of a felony in [~~any~~] court for [~~any~~] a crime defined by state or federal law as being a restraint of trade, price-fixing, bribery or fraud;

(e) exhibited a history of willful disregard for environmental laws of [~~any~~] a state or the United States; or

(f) had an environmental permit revoked or permanently suspended for cause under [~~any~~] environmental laws of [~~any~~] a state or the United States.

F. The commission shall by [~~regulation~~] rule develop procedures that ensure that the public, affected governmental agencies, Indian nations, tribes and pueblos and any other state whose water may be affected shall receive notice of each [~~application for issuance, renewal or modification of a~~] draft permit. Public notice shall include

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the following, except that for a general permit, Paragraphs (1) and (3) of this subsection shall not be required:

(1) ~~[for issuance or modification of a permit:~~
~~(a)]~~ notice ~~[by mail]~~ to adjacent and nearby landowners using postal or electronic mail, text messages or a combination of these methods;

(2) notice to potentially affected local, state and federal [governments] government agencies, land grant organizations, ditch associations and Indian nations, tribes [or] and pueblos using postal or electronic mail;

~~[(b)]~~ (3) posting at a place conspicuous to the public and near the discharge or proposed discharge site; ~~[and (c) a display advertisement in English and Spanish]~~

(4) notice to the general public and others whom the commission deems appropriate using one or more reasonable and appropriate methods, such as electronic mail to persons who have requested notification, social media posts, radio announcements or advertisements in a newspaper of general circulation in the location of the discharge or proposed discharge; [provided, however, that the advertisement shall not be displayed in the classified or legal advertisement sections] and

~~[(2) for issuance of renewals of permits:~~
~~(a) notice by mail to the interested public, municipalities, counties, land grant organizations,~~

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~~ditch associations and Indian nations, tribes or pueblos; and~~

~~(b) a display advertisement in English and Spanish in a newspaper of general circulation in the location of the discharge; provided, however, that the advertisement shall not be displayed in the classified or legal advertisement sections]~~

(5) consideration of the languages spoken by and the communication methods accessible to the intended recipients of the public notice.

G. No ruling shall be made on [~~any application for~~] a draft permit without opportunity for a public hearing at which all interested persons shall be given a reasonable chance to submit evidence, data, views or arguments orally or in writing and to examine witnesses testifying at the hearing. The hearing shall be recorded. [~~Any~~] A person submitting evidence, data, views or arguments shall be subject to examination at the hearing.

H. The commission may adopt [~~regulations~~] rules for the operation and maintenance of the permitted facility, including requirements, as may be necessary or desirable, that relate to continuity of operation, personnel training and financial responsibility, including financial responsibility for corrective action.

I. Permits shall be issued for fixed terms [~~not to exceed~~] of five years, except that surface water permits may be

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issued for fixed terms of up to ten years. For new discharges, the term of the permit shall commence on the date the discharge begins, but in no event shall the term of the permit exceed seven years from the date the permit was issued.

J. By [~~regulation~~] rule, the commission may impose reasonable conditions upon permits requiring permittees to:

- (1) install, use and maintain [~~effluent~~] monitoring devices;
- (2) sample effluents and receiving waters for any known or suspected water contaminants in accordance with methods and at locations and intervals as may be prescribed by the commission;
- (3) establish and maintain records of the nature and amounts of effluents and the performance of effluent control devices;
- (4) provide [~~any~~] other information relating to the discharge or direct or indirect release of water contaminants; and
- (5) notify a constituent agency of the introduction of new water contaminants from a new source and of a substantial change in volume or character of water contaminants being introduced from sources in existence at the time of the issuance of the permit.

K. The commission shall provide by [~~regulation~~] rule a schedule of fees for permits [~~not exceeding the~~

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~~estimated cost of investigation and issuance, modification and renewal of permits]~~ and approvals of general permit coverage sufficient to pay the cost of developing and implementing the permitting rules authorized pursuant to Section 74-6-4 NMSA 1978, including the review of applications, issuance and enforcement of permits and rules, compliance assistance, monitoring and inspection of facilities and discharges, data stewardship, records management and administrative and legal costs. Fees collected pursuant to this section shall be deposited in the water quality management fund.

L. The issuance of a permit or approval of a general permit coverage does not relieve [~~any~~] a person from the responsibility of complying with the provisions of the Water Quality Act, any applicable [~~regulations~~] rules or water quality standards of the commission or any applicable federal laws, regulations or standards.

M. A permit or general permit coverage may be terminated or modified by the constituent agency that issued the permit or approved the general permit coverage prior to its date of expiration for any of the following causes:

- (1) violation of [~~any~~] a condition of the permit;
- (2) obtaining the permit or general permit coverage by misrepresentation or failure to disclose fully all relevant facts;

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(3) violation of [~~any~~] the provisions of the Water Quality Act or any applicable [~~regulations~~] rules, standard of performance or water quality standards;

(4) violation of [~~any~~] applicable state or federal effluent regulations or limitations; or

(5) change in [~~any~~] a condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

N. If the constituent agency denies, terminates or modifies a permit or general permit coverage or grants a permit subject to condition, the constituent agency shall notify the applicant or permittee by certified mail or other method acceptable to the applicant or permittee of the action taken and the reasons. Notice shall also be given by postal or electronic mail to persons who participated in the permitting action.

O. A person who participated in a permitting action before a constituent agency or a person affected by a certification of a federal permit and who is adversely affected by [~~such~~] the permitting action or certification may file a petition for review before the commission. Unless a timely petition for review is made, the decision of the constituent agency shall be final and not subject to judicial review. The petition shall:

(1) be made in writing to the commission

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within thirty days from the date notice is given of the constituent agency's action;

(2) include a statement of the issues to be raised and the relief sought; and

(3) be provided to all other persons submitting evidence, data, views or arguments in the proceeding before the constituent agency.

P. If a timely petition for review is made, the commission shall consider the petition within ninety days after receipt of the petition. The commission shall notify the petitioner and the applicant or permittee, if other than the petitioner, by certified mail of the date, time and place of the review. If the petitioner is not the applicant or permittee, the applicant or permittee shall be a party to the proceeding. The commission shall ensure that the public receives notice of the date, time and place of the review.

Q. The commission shall review the record compiled before the constituent agency, including the transcript of ~~any~~ a public hearing held on the application or draft permit, and shall allow any party to submit arguments. The commission may designate a hearing officer to review the record and the arguments of the parties and recommend a decision to the commission. The commission shall consider and weigh only the evidence contained in the record before the constituent agency and the recommended decision of the hearing officer, if any,

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and shall not be bound by the factual findings or legal conclusions of the constituent agency. Based on the review of the evidence, the arguments of the parties and recommendations of the hearing officer, the commission shall sustain, modify or reverse the action of the constituent agency. The commission shall enter ultimate findings of fact and conclusions of law and keep a record of the review.

R. Prior to the date set for review, if a party shows to the satisfaction of the commission that there was no reasonable opportunity to submit comment or evidence on an issue being challenged, the commission shall order that additional comment or evidence be taken by the constituent agency. Based on the additional evidence, the constituent agency may revise the decision and shall promptly file with the commission the additional evidence received and action taken. The commission shall consider the additional evidence within ninety days after receipt of the additional evidence and shall notify the petitioner and the applicant or permittee, if other than the petitioner, of the date, time and place of the review.

S. The commission shall notify the petitioner and all other participants in the review proceeding of the action taken by the commission and the reasons for that action.

T. ~~SCONC~~→Exemptions←~~SCONC~~ ~~SCONC~~→Except as provided in Subsection U of this section, exemptions←~~SCONC~~ for surface water permits shall include:

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(1) normal farming SCONE→, silviculture←SCONE
and ranching activities SCONE→as←SCONE SCONE→determined by the
commission or constituent agency;←SCONE SCONE→such as plowing,
seeding, cultivating, minor drainage, harvesting for the
production of food, fiber and forest products or upland soil
and water conservation practices;←SCONE

(2) construction or maintenance of farm or
stock ponds, acequias or irrigation ditches or the maintenance
of drainage ditches; SCONE→and←SCONE

(3) construction or maintenance of farm roads
in accordance with best management practices SCONE→."←SCONE
SCONE→; and←SCONE

SCONE→(4) a discharge composed entirely of
return flows from irrigation.←SCONE

SCONE→U. The exemptions provided in Subsection T of
this section shall not apply if the discharge of dredged or
fill material resulting from the activities contains any toxic
pollutant as set forth in rule by the commission or if a new
activity brings a surface water of the state into farm
production where the area of the surface water has not
previously been used for farming."←SCONE

SECTION 4. Section 74-6-5.2 NMSA 1978 (being Laws 1993,
Chapter 100, Section 4) is amended to read:

"74-6-5.2. WATER QUALITY MANAGEMENT FUND CREATED.--There
is created as a nonreverting fund in the state treasury the

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"water quality management fund" to be administered by the department [~~of environment~~]. Unless otherwise required by law, all fees and penalties collected pursuant to [~~the regulations adopted by the commission under Subsection H of~~] Section 74-6-5 NMSA 1978 and for the operation and maintenance of a permitted facility pursuant to Subsection H of Section 74-6-5 NMSA 1978 shall be deposited in the fund. Money in the fund is appropriated to the department [~~of environment~~] for the purpose of administering the [~~regulations~~] rules adopted by the commission pursuant to [~~Section~~] Sections 74-6-4 and 74-6-5 NMSA 1978. Disbursements from the fund shall be made upon warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the secretary of environment."

SECTION 5. Section 74-6-10 NMSA 1978 (being Laws 1967, Chapter 190, Section 9, as amended) is amended to read:

"74-6-10. PENALTIES ENFORCEMENT--COMPLIANCE ORDERS--
PENALTIES--ASSURANCE OF DISCONTINUANCE.--

A. Whenever, on the basis of any information, a constituent agency determines that a person violated or is violating a requirement, regulation or water quality standard adopted pursuant to the Water Quality Act or a condition of a permit issued pursuant to that act, the constituent agency may:

(1) issue a compliance order requiring compliance immediately or within a specified time period or issue a compliance order assessing a civil penalty, or both; or

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(2) commence a civil action in district court for appropriate relief, including injunctive relief.

B. A compliance order issued pursuant to Paragraph (1) of Subsection A of this section may include a suspension or termination of the permit allegedly violated.

C. A compliance order shall state with reasonable specificity the nature of the violation. Any penalty assessed in the compliance order shall not exceed:

(1) fifteen thousand dollars (\$15,000) per day of noncompliance with the provisions in Section 74-6-5 NMSA 1978, including a regulation adopted or a permit issued pursuant to that section; or

(2) ten thousand dollars (\$10,000) per day for each violation of a provision of the Water Quality Act other than the provisions in Section 74-6-5 NMSA 1978 or of a regulation or water quality standard adopted pursuant to the Water Quality Act.

D. In assessing a penalty authorized by this section, the constituent agency shall take into account the seriousness of the violation, any good faith efforts to comply with the applicable requirements and other relevant factors.

E. For purposes of this section, a single operational event that leads to simultaneous violations of more than one standard shall be treated as a single violation.

F. If a person fails to take corrective actions

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within the time specified in a compliance order, the constituent agency may:

(1) assess a civil penalty of not more than twenty-five thousand dollars (\$25,000) for each day of continued noncompliance with the compliance order; and

(2) suspend or terminate the permit violated by the person.

G. ~~Any~~ A compliance order issued by a constituent agency pursuant to this section shall become final unless, no later than thirty days after the compliance order is served, ~~any~~ a person named in the compliance order submits a written request to the commission for a public hearing. The commission shall conduct a public hearing within ninety days after receipt of a request.

H. The commission may appoint an independent hearing officer to preside over ~~any~~ a public hearing held pursuant to Subsection ~~[F]~~ G of this section. The hearing officer shall:

(1) make and preserve a complete record of the proceedings; and

(2) forward to the commission a report that includes recommendations if recommendations are requested by the commission.

I. The commission shall consider the findings of the independent hearing officer, and based on the evidence

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presented at the hearing, the commission shall make a final decision regarding the compliance order.

J. In connection with any proceeding [~~under~~] provided for in this section, the commission may:

- (1) adopt rules for discovery procedures; and
- (2) issue subpoenas for the attendance and testimony of witnesses and for relevant papers, books and documents.

K. Unless otherwise required by law, penalties collected pursuant to this section for surface waters shall be deposited in the [general] water quality management fund.
Unless otherwise required by law, penalties collected pursuant to this section for ground waters, other than the provisions in Section 74-6-5 NMSA 1978, shall be deposited in the neglected and contaminated sites fund.

L. As an additional means of enforcing the Water Quality Act or any regulation or standard of the commission, the commission may accept an assurance of discontinuance of any act or practice deemed in violation of the Water Quality Act, or any regulation or standard adopted pursuant to that act, from any person engaging in, or who has engaged in, such act or practice, signed and acknowledged by the [~~chairman~~] chair of the commission and the party affected. Any such assurance shall specify a time limit during which the discontinuance is to be accomplished."

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SECTION 6. Section 74-6-12 NMSA 1978 (being Laws 1967, Chapter 190, Section 11, as amended) is amended to read:

"74-6-12. LIMITATIONS.--

A. The Water Quality Act does not grant to the commission or to any other entity the power to take away or modify the property rights in water, nor is it the intention of the Water Quality Act to take away or modify such rights.

B. The Water Quality Act does not apply to ~~[any]~~ an activity or condition subject to the authority of the environmental improvement board pursuant to the Hazardous Waste Act, the Ground Water Protection Act or the Solid Waste Act except to abate water pollution or to control the disposal or use of septage and sludge.

C. The Water Quality Act does not authorize the commission to adopt ~~[any regulation]~~ a rule with respect to ~~[any]~~ a condition or quality of water if the water pollution and its effects are confined entirely within the boundaries of property within which the water pollution occurs when the water does not combine with other waters.

D. The Water Quality Act does not grant to the commission any jurisdiction or authority affecting the relation between employers and employees with respect to or arising out of ~~[any]~~ a condition ~~[of water]~~ or quality of water.

E. The Water Quality Act does not supersede or limit the applicability of ~~[any]~~ a law relating to industrial

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health, safety or sanitation.

F. Except as required by federal law or for surface water discharges permitted pursuant to the Water Quality Act, in the adoption of [~~regulations~~] rules and water quality standards and in an action for enforcement of the Water Quality Act and [~~regulations~~] rules adopted pursuant to that act, reasonable degradation of water quality resulting from beneficial use shall be allowed. [~~Such~~] The degradation shall not result in impairment of water quality to the extent that water quality standards are exceeded.

G. Except for the discharge of a water contaminant to a surface water, the Water Quality Act does not apply to [~~any~~] an activity or condition subject to the authority of the oil conservation commission pursuant to provisions of the Oil and Gas Act [~~Section 70-2-12 NMSA 1978~~] and other laws conferring power on the oil conservation commission to prevent or abate water pollution.

H. When changes in dissolved oxygen, temperature, dissolved solids, sediment or turbidity in a water of the state is attributable to natural causes or to the reasonable operation of irrigation and flood control facilities that are not subject to federal or state water pollution control permitting, numerical standards for temperature, dissolved solids content, dissolved oxygen, sediment or turbidity adopted under the Water Quality Act do not apply. "Reasonable

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operation", as used in this subsection, shall be defined by
[~~regulation~~] rule of the commission."

SECTION 7. A new section of the Water Quality Act is
enacted to read:

"[NEW MATERIAL] NEGLECTED AND CONTAMINATED SITES FUND--
CREATED.--

A. The "neglected and contaminated sites fund" is
created as a nonreverting fund in the state treasury. The fund
consists of appropriations, gifts, grants, donations and money
received by the department from the federal government or other
state agencies. Unless otherwise required by law, money
received or recovered by the state by or on behalf of the
department arising from claims for enforcement actions,
response actions or response costs relating to the
contamination liability, including any fees, penalties,
settlement funds, recovered litigation costs and any interest
derived therefrom, shall be deposited in the fund.

B. The department shall administer the fund. Money
in the fund is appropriated to the department for state-led
response, investigation and remediation of water pollution and
contamination in soil and soil vapor.

C. Money in the fund shall be disbursed on warrants
signed by the secretary of finance and administration pursuant
to vouchers signed by the secretary of environment or the
secretary's designee."

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SECTION 8. APPROPRIATION.--Fifty million dollars

(\$50,000,000) is appropriated from the general fund to the neglected and contaminated sites fund for expenditure in fiscal year 2026 and subsequent fiscal years for the purposes of the fund, for contracted expenditures and to provide full-time-equivalent employees and supplies for the state ground water quality bureau of the department of environment to implement a state-led response, investigation and remediation of water pollution and contamination in soil and soil vapor at neglected and contaminated sites. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund.

SECTION 9. SEVERABILITY.--If any part or application of this 2025 act is held invalid, the remainder or its application to other situations or persons shall not be affected.

SECTION 10. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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