

FIFTY-SEVENTH LEGISLATURE
FIRST SESSION

February 26, 2025

SENATE FLOOR AMENDMENT number 3 to SENATE JUDICIARY COMMITTEE
SUBSTITUTE FOR SENATE BILLS
21 & 22

Amendment sponsored by Senator William E. Sharer

1. On page 19, line 10, after "including", strike the remainder of the line and insert in lieu thereof a colon.

2. On page 19, strike lines 11 through 16 and insert in lieu thereof:

"(1) for discharges from point sources, the rules shall not require a permit for a point source discharge for which a permit is issued under Section 402 of the federal Clean Water Act or the New Mexico Pollutant Discharge Elimination System Act; provided that in adopting rules related to this paragraph, in addition to the factors to be considered under Subsection F of this section, the commission may:

(a) identify exemptions from a discharge permit requirement when water contaminants in discharges are subject to effective and enforceable water quality requirements in a state or federally issued permit, unless there is a hazard to public health or the environment that may result or an applicable state water quality standard will not be achieved; and

(b) consider requirements for permits and general permits that are consistent with the requirements of similar permits issued under Section 402 of the federal Clean Water Act; and

(2) for discharges of dredged or fill material, the rules shall not require a permit for discharges of dredged or filled materials for which a permit or authorization is issued under Section 404 of the federal Clean Water Act; provided that the rules

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shall include avoidance and minimization to the maximum extent practicable 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; and provided further that in adopting rules related to this paragraph, in addition to the factors to be considered under Subsection F of this section, the commission may:

(a) identify exemptions from a discharge permit requirement when a discharge is subject to effective and enforceable water quality requirements in a state or federally issued permit, unless there is a hazard to public health or the environment that may result or an applicable state water quality standard will not be achieved; and

(b) consider the requirements for permits and general permits that are consistent with the requirements of similar permits issued under Section 404 of the federal Clean Water Act;".

3. On page 25, line 22, after "water", insert "discharge".

4. On page 26, line 10, after "water", insert "discharge".

5. On page 27, line 13, after "water", insert "discharge".

6. On page 29, line 2, after the second occurrence of "of", insert "or request for".

7. On page 32, strike lines 14 through 25, on page 33, strike lines 1 through 25 and on page 34, strike lines 1 through 23 and insert in lieu thereof:

"U. The only exemptions from surface water discharge permits for point sources are:

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(1) return flows composed entirely from irrigated agriculture;

(2) stormwater runoff from a mining operation or an oil and gas exploration, production, processing or treatment operation or transmission facility that is composed entirely of flows that are from conveyances or systems of conveyances, including pipes, conduits, ditches and channels, used for collecting and conveying precipitation runoff and that are not contaminated by contact with, or do not come into contact with, any overburden, raw material, intermediate products, finished product, byproduct or waste product located on the site of the operation or facility; provided that oil and gas exploration, production, processing or treatment operations or transmission facilities include activities necessary to prepare a site for drilling and for the movement and placement of drilling equipment, whether or not the field activities or operations may be considered to be construction activities;

(3) runoff resulting from the following silviculture activities conducted in accordance with standard industry practice:

- (a) nursery operations;
- (b) site preparation;
- (c) reforestation and subsequent cultural treatment;
- (d) thinning;
- (e) prescribed burning;
- (f) pest and fire control;
- (g) harvesting operations;

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(h) surface drainage; and

(i) road construction and maintenance; and

(4) discharges and water contaminants that are subject to effective and enforceable surface water quality requirements in a state or federally issued permit, unless there is a hazard to public health or the environment that may result or an applicable state water quality standard will not be achieved.

V. The only exemptions from surface water discharge permits for discharges of dredged or fill material are:

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

(2) maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways and bridge abutments or approaches and transportation structures;

(3) construction or maintenance of farm or stock ponds, acequias or irrigation ditches or the maintenance of drainage ditches;

(4) construction of temporary sedimentation basins on a construction site that does not include placement of fill material into the surface waters;

(5) construction or maintenance of farm roads, forest roads or temporary roads for moving mining equipment, where such roads are constructed and maintained, in accordance with best management practices, to assure that:

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(a) flow and circulation patterns and chemical and biological characteristics of the surface waters are not impaired;

(b) the reach of the surface waters is not reduced; and

(c) any adverse effect on the aquatic environment will be otherwise minimized; and

(6) discharges that are subject to effective and enforceable surface water quality requirements in a state-issued or federally issued permit, unless there is a hazard to public health or the environment that may result or an applicable state water quality standard will not be achieved.

W. The exemptions provided in Subsection V of this section shall not apply if the discharge 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."".

8. On page 42, line 17, after "for", strike the remainder of the line and strike line 18 through "water" and insert in lieu thereof "a surface water discharge for which a permit is required under rules adopted pursuant to Subsection R of Section 74-6-4 NMSA 1978".

9. On page 50, strike lines 7 and 8 and insert in lieu thereof:

"E. Only the following discharges are exempt from Subsection A of this section:".

10. On page 51, between lines 14 and 15, insert:

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"F. 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. A person submitting evidence, data, views or arguments shall be subject to examination at the hearing."

William E. Sharer

Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

Date _____