



New Mexico Environment Department



New Mexico Surface Water Quality State Permitting Program

New Mexico Municipal League

New Mexico Municipal Environmental Quality Association

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September 17, 2025



Senate Bill 21



- Senate Bill 21 was passed during the 2025 Legislative Session.
- Signed into law by Governor Lujan Grisham on April 8, 2025.
- Protects the state's surface and ground water resources.
- Gives New Mexico control over its water resources in two ways:
 1. Amends the Water Quality Act
 2. Creates the New Mexico Pollutant Discharge Elimination System (NMPDES) Act to allow the Environment Department to implement the federal NPDES permitting program in New Mexico



Senate Bill 21 – NMPDES Act

Senate Bill 21:

Passed in the 2025
session

Signed by Governor
Lujan-Grisham on
April 8

Amends the New
Mexico Water
Quality Act

Creates the New
Mexico Pollutant
Discharge
Elimination System
Act (NMPDES Act)

In SB21, the New Mexico Pollutant Discharge Elimination System (NMPDES) Act is created to obtain primacy over the federal NPDES permitting program currently administered by the EPA. The NMPDES Act:

- 1) establishes a permit system for point source discharges of pollutants, including opportunities for public comment and protections for downstream waters,
- 2) identifies exemptions and limitations related to permitting,
- 3) specifies duties and powers of the Water Quality Control Commission and the Department of Environment,
- 4) provides for administrative, civil and criminal enforcement and penalties and for administrative appeals of department actions and judicial appeals of commission actions, and
- 5) makes most records generated or obtained by the department and the commission available to the public.



Senate Bill 21 – WQA Amendments

Senate Bill 21:

Passed in the 2025
session

Signed by Governor
Lujan-Grisham on
April 8

Amends the New
Mexico Water
Quality Act

Creates the New
Mexico Pollutant
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Act (NMPDES Act)

In SB21, the Water Quality Act amendments include:

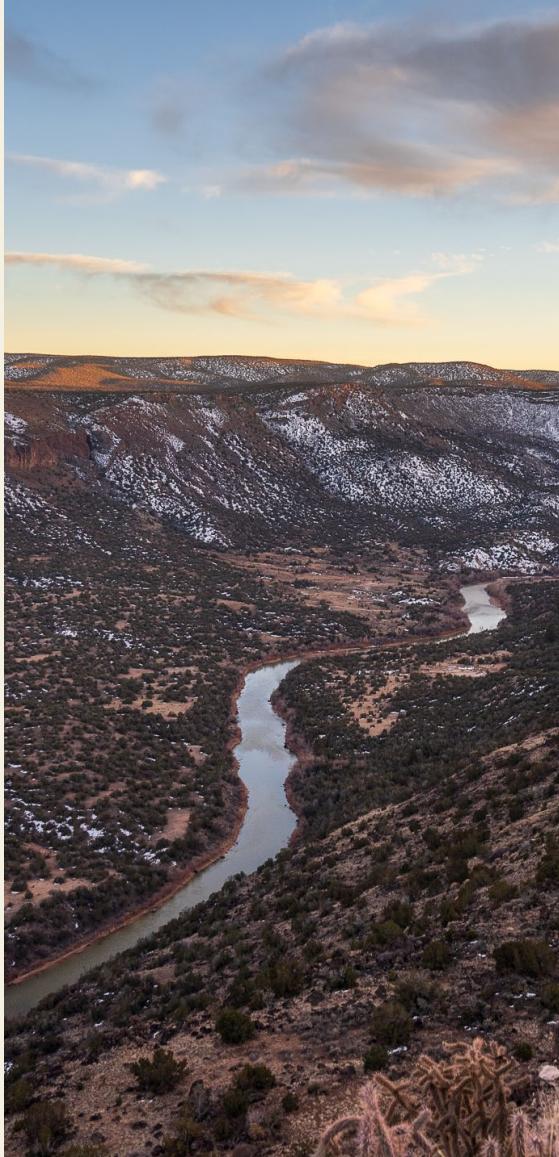
1. Surface water discharges: point source and dredge and fill
2. Downstream water quality protections
3. Compensatory mitigation: dredge or fill discharges
4. Antidegradation provisions to protect high quality waters
5. Public noticing
6. General permits
7. Exemptions
8. Penalties to General Fund
9. Fees to Water Quality Management Fund.

Amendments fill gaps where the federal Clean Water Act no longer protects New Mexico's surface waters.

Aligns with half a century of practice under the Clean Water Act.



Scope of Permitting Program



- Waters of the U.S. (Clean Water Act)
 - **Seek delegation from EPA for the NPDES program for point source discharges.**
 - Do not seek authorization for the Section 404 discharge program: U.S. Army Corps of Engineers will continue to regulate discharges of dredged and fill materials to waters of the U.S.
- Surface waters of the state (Water Quality Act)
 - **Create a State program that covers both point source discharges and discharges of dredged and fill materials in surface waters of the state**
 - The program will not apply to tribal waters, but NMED will be responsive to tribal concerns



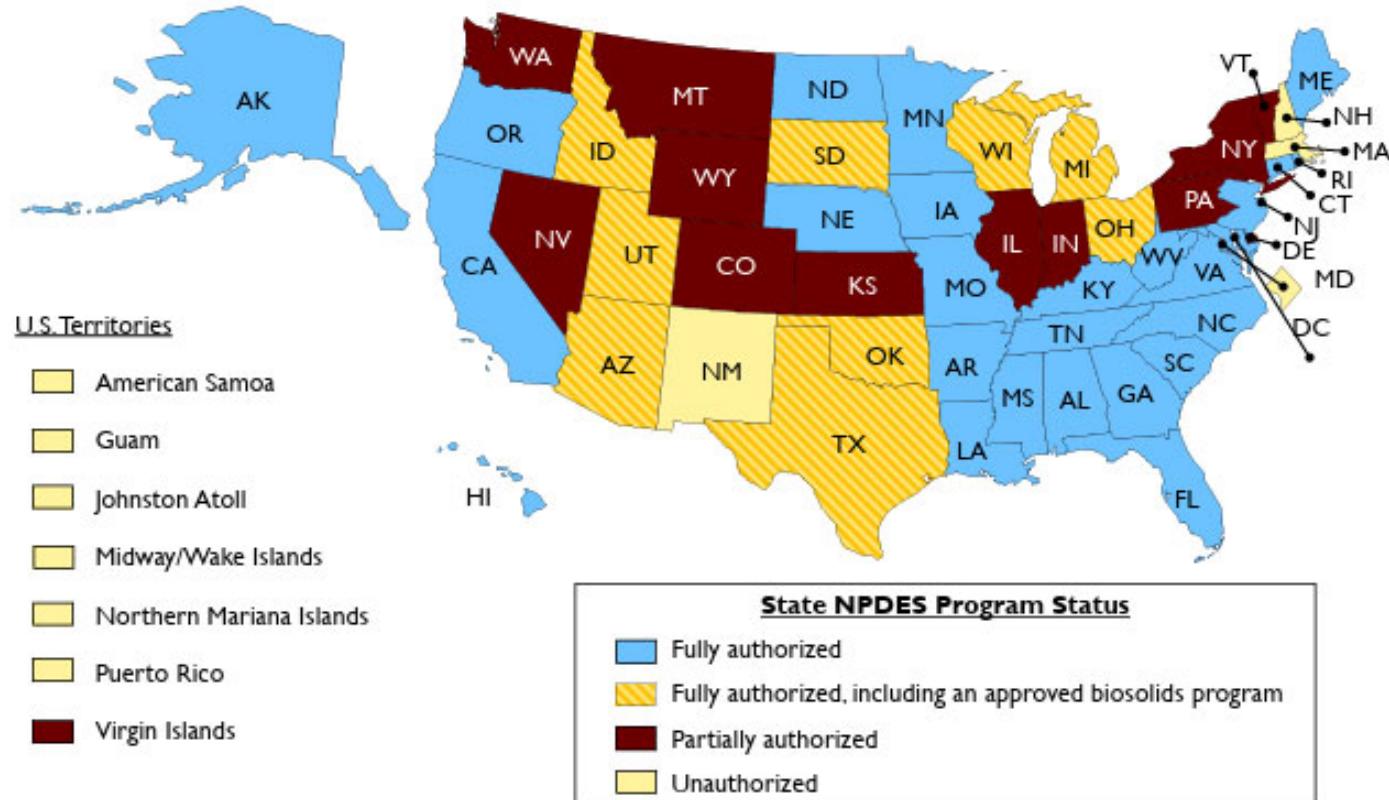
New Mexico Pollutant Discharge Elimination System (NMPDES) Act

- Stand alone instead of interpolated into the Water Quality Act
 - Easier for EPA to review
 - Avoids creating conflicts within the Water Quality Act
- Assumes the state will request delegation for all five NPDES program components: municipal and industrial, general permits, federal facilities, pretreatment, and biosolids
- Opportunity for public hearing on draft permits
- Notification to New Mexico's Nations, Pueblos, and Tribes that are downstream
- Downstream water quality protections
- Requires NMED to investigate complaints, report on findings and settlement, and not oppose intervention



EPA State Program Authorizations

NPDES Program Authorizations (as of July 2019)





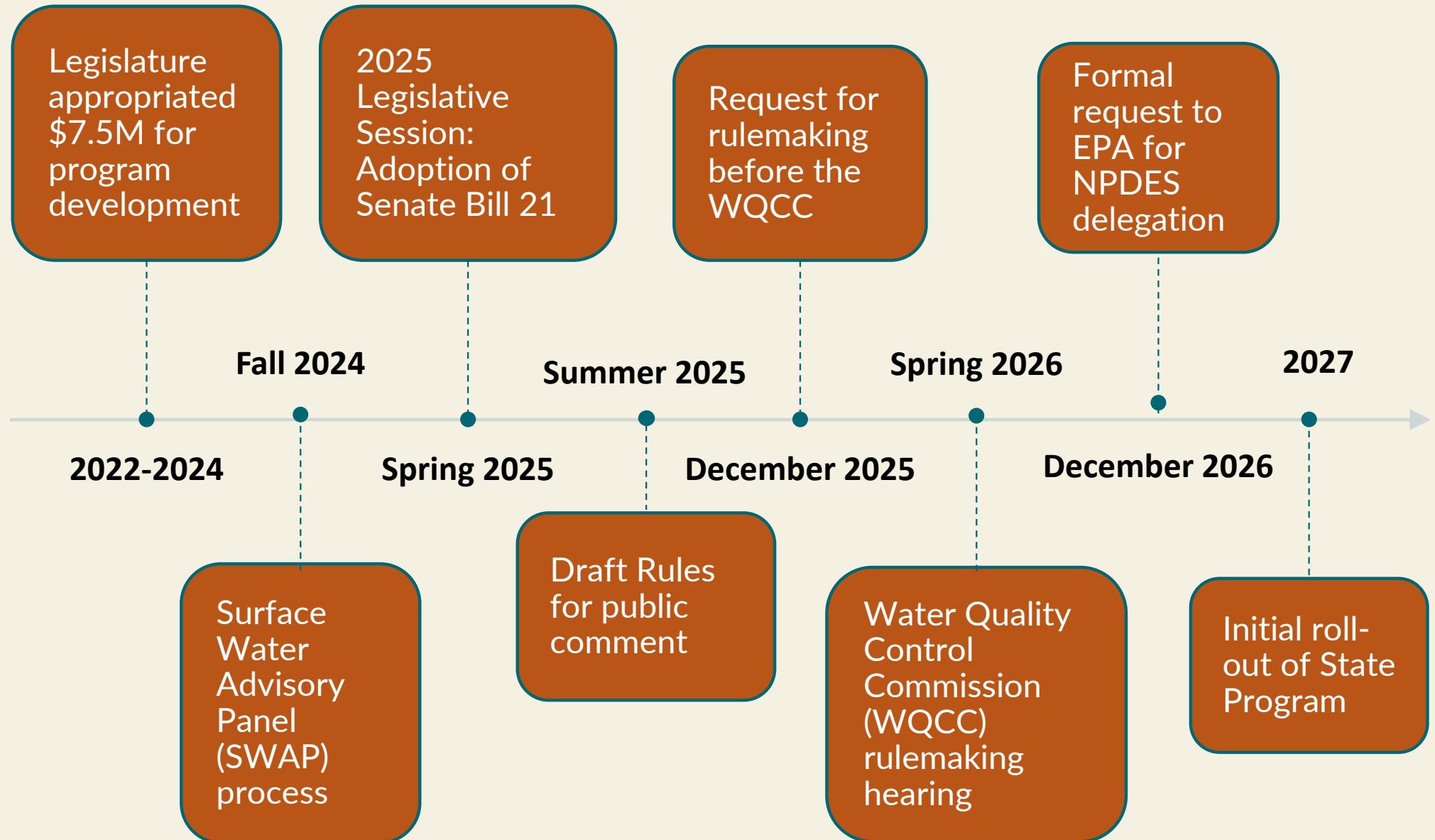
Primacy

- <https://www.epa.gov/npdes/npdes-state-program-authorization-information>
- <https://www.epa.gov/npdes/npdes-state-program-authority>

and



Program Timeline





Next Step - Rulemaking

- **New -- 20.6.5 NMAC New Mexico Pollutant Discharge Elimination System**
 - Implements the New Mexico Pollutant Discharge Elimination System Act.
 - Applies to all persons who discharge a pollutant from a point source to a water of the United States.
- **Amended -- 20.6.2 NMAC Ground and Surface Water Protection**
 - Implements the Water Quality Act amendments in Senate Bill 21 related to a state-led surface water permitting program.
 - Applies to persons who discharge from a point source or who discharge dredged or fill material to a surface water of the State.
- Protect surface waters of the State (SWOTS) using practical and common-sense approach to ensure clean water for all uses.
- Allow New Mexico to protect water quality regardless of what is happening at the federal level.



Next Step - Rulemaking

- May 2025: NMED provided draft permitting rules to the Surface Water Advisory Panel and Tribal Environmental Directors.
- August 2025: Public review draft rules announced.
- August – October 2025: Outreach and engagement with the public and New Mexico's Nations, Pueblos, & Tribes.
- October 2025: Public review and comment period closes.
- October – November 2025: Incorporate comments into the draft rules.
- December 2025: Petition Water Quality Control Commission to request rulemaking hearing in spring 2026.



20.6.5 NMAC (draft) NMPDES Rule

100s. Prohibitions and permitting requirements

200s. Incorporation of federal regulations

301. Individual permits.
Applications, new permits, renewals, modifications, terminations, transfers, special provisions, variances, denials

302. General permits

303. General permit coverage.
NOIs, list, transfers, terminations, individual permit required

401. Administrative completeness.

402. Processing

403. Draft permits, NOI to deny, NOI to terminate the permit (public notice)

404. Public notice and participation

405. Public comments and requests for public hearings

406. Public Hearings

407. Final actions

408. Review of Secretary decisions

409. Review of Commission decisions

501. Enforcement

601. Fees, calculations, application fees, annual fees, payments and due dates



20.6.2 NMAC (amendments) Ground and Surface Water Protection Rules

20.6.2.7. Definitions

20.6.2.11. Federal regulations incorporated by reference

20.6.2.1201. Notice of intent to discharge (surface water discharges, general permit coverage, dredge-fill discharges)

20.6.2.2300. SURFACE WATER QUALITY PERMITTING

2303. Exemptions

2304. Individual permits (applications, disclosures, new permits, existing permits – renewals, modifications, revisions, transfers, inspections)

2305. General permits

2306. General permit coverage, incl. transfers, terminations, individual permit required, emergency permits

2307. Permit conditions (all surface water discharge permit conditions, point source permit conditions, dredge-fill permit conditions, compensatory mitigation)

2308. Public notice and participation incl. public comments, hearings

2309. Secretary review and approval

2310. Public hearing participation

2311. Review of Secretary decisions

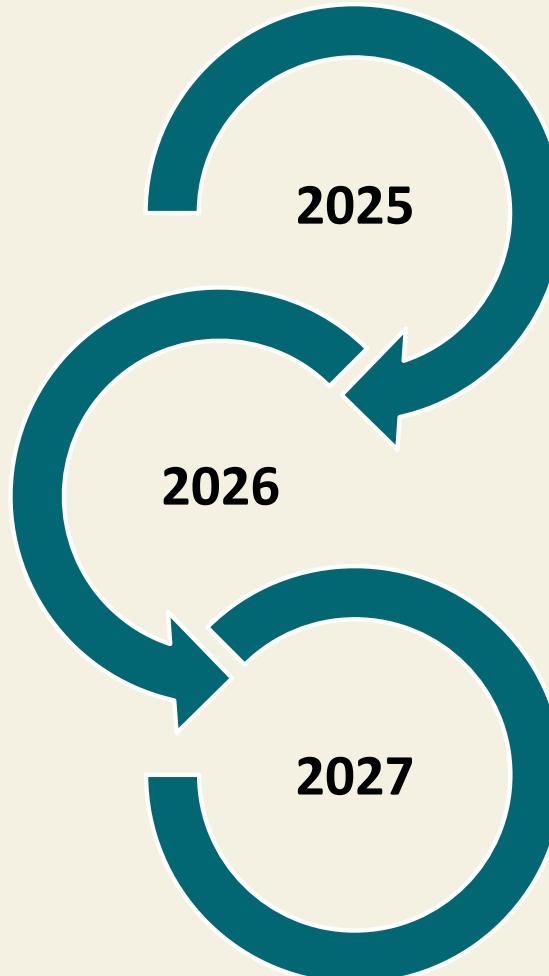
2312. Review of Commission decisions

2350. Fees, calculations, application fees, annual fees, payments and due dates



e-Permitting Database: On-going

- Add features and refine, including mapping and external database links
- Test, populate
- Finalize internal/external user guidance



- Demonstrate surface water database functionality
- Roll out ground water database for domestic waste facilities
- Plan next phases

- Training
- Ready for roll out of surface water quality state permitting program



The Water Data Benefit



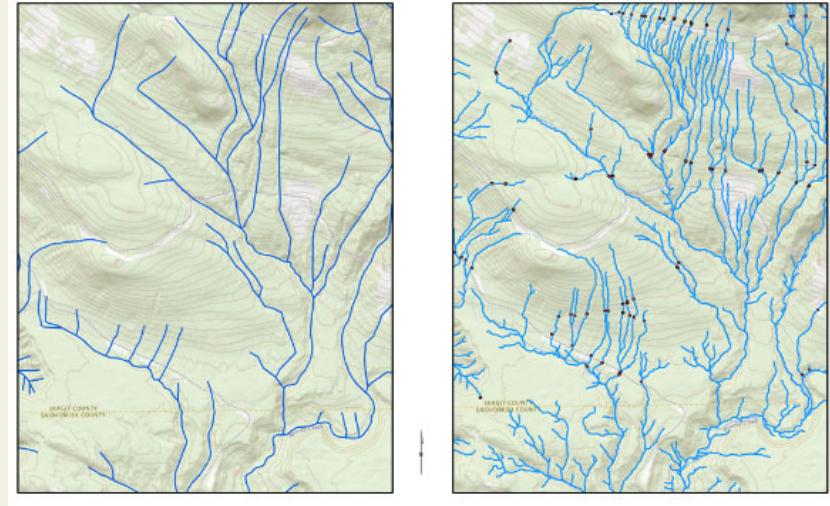
Data will be uploaded to and available on EPA's Integrated Compliance Information System (ICIS) for public access

- Information on regulated facilities
- Data related to discharge quality
- Groundwater monitoring data



Surface Water Mapping

- Assist with jurisdiction questions.
- Help determine a discharge's impact on a surface water.
- Assist the regulated community in determining if they need a permit or not.
- Improved hydrography data will benefit management and protection of flows, water quality, water resource planning, flood risk, restoration, conservation, wildlife and habitat, infrastructure, etc.
- Better surface water mapping will improve the ability to track information related to water (like streamflow permanence).
- October 2025 – draft Mapper for validation and testing.
- October 2026 – Mapper expected to go live.





Estimated Program Costs

Program	Estimated FTE	Estimated Cost (\$ Million)
Permitting	16.7	2.2
Compliance	14.1	1.7
Enforcement	17.1	2.1
Dredge/Fill	9.1	1.1
Other Related Costs	NA	~0.9
Total:	57 FTE	\$8.0

Approximate Values



Permitting Fees

Considerations:

- ❑ 100% fee-based? 100% legislative appropriations? Mix?
- ❑ Application fees and Annual fees
- ❑ Type of Facility (Industrial, Municipal, Mine, etc.)
- ❑ Flow Volume/Design Flow
- ❑ Number of Outfalls
- ❑ Permit Type
 - Individual vs. General
 - Major (>1 MGD) vs. Minor (<1 MGD)
 - Complexity, toxic potential, pollutant loadings, population, etc.
- ❑ Compliance history; previous violations
- ❑ Service-Related Fees (e.g., Special Study Reviews)
- ❑ Fee exemptions (state or federal agencies, public schools, minimal impact discharges, hardship waivers, etc.)

Fees roughly evenly split between general permits and individual permits.



Permitting Fees

- **Regionally, 60% of program costs are covered by fees (AZ, CO, KS, OK, UT, NV)**
- **Nationally, 45% of program costs are covered by fees**
- **Arizona, Colorado, and Utah**, among others, charge the highest permit fees to municipal wastewater treatment plants.
- All states with NPDES primacy have permit fees *except* North Dakota and Mississippi.
- Costs not covered by fees are made up of General Funds and some Clean Water Act (CWA) Section 106 grant funds (est. ~10%).
- There is considerable diversity in fee schedule design across the states, ranging from flat fees to complex formulae. About 50% of states are required to pay permit fees annually.



Public Review & Comment

**TITLE 20
CHAPTER 6
PART 5**

**ENVIRONMENTAL PROTECTION
WATER QUALITY
NEW MEXICO POLLUTANT DISCHARGE ELIMINATION
SYSTEM**

**TITLE 20
CHAPTER 6
PART 2**

**ENVIRONMENTAL PROTECTION
WATER QUALITY
GROUND AND SURFACE WATER PROTECTION**

Notice of Public Review Draft Regulations, Public Comment Period, and Informational Meetings

- The 60-day public review and comment period -- began August 29, 2025, and closes October 28, 2025.
- You can access the public review draft regulations on NMED's website at <https://www.env.nm.gov/surface-water-quality/spp/> or <https://www.env.nm.gov/surface-water-quality/amendments-to-20-6-2-nmac-and-proposed-new-rule-20-6-5-nmac-review/> or <https://nmed.commentinput.com/comment/search>.
- Written comments will be accepted via mail, email, and NMED's public comment portal at <https://nmed.commentinput.com/comment/search>
- The WQCC will have an additional public comment period in conjunction with the rulemaking hearing pursuant to 20.1.6.204(B) NMAC.



Public Review & Comment

Notice of Public Review Draft Regulations, Public Comment Period, and Informational Meetings

Three virtual informational meetings are planned:

- **Monday, September 22, 2025, at 6:00 pm (MDT),**
- **Wednesday, September 24, 2025, at 2:00pm (MDT), or**
- **Friday, September 26, 2025, at 10:00am (MDT)**

You may register for the informational meetings is available at
https://www.zoomgov.com/webinar/register/WN_uCUWvCmQSagb5BmjkPTiA.



Contact Us / Learn More

Email: swq.pp@env.nm.gov

SWQB website: www.env.nm.gov/surface-water-quality/spp

SWAP website: <https://www.env.nm.gov/surface-water-quality/swap/>

Phone: 505-827-2855 | 1-800-219-6157 | Environmental Emergencies: 505-827-9329 (24 hours)

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Surface Water Quality State Permitting Program



Contact us

Ph: 505-827-0187 Find a list of Surface Water Quality staff contacts [here](#).