



New Mexico Environment Department

SWAP Focus: Looking Forward

Shelly Lemon – Surface Water Quality Bureau Chief

August 19, 2024





Clean Water Act turns 52 this year



CUYAHOGA RIVER

Ca. 1960s

present day



Clean Water Act



“Restore and maintain the chemical, physical and biological integrity of the Nation’s waters”

- enhances drinking water quality,
- sustains our economy, and
- protects habitat for fish and other wildlife.

As a result, the number of places that meet CWA goals has doubled; the cost to treat our drinking water is lower because our waters are healthier; and as water quality improved, fish and wildlife rebounded.



Here's to the next 50 years!

“The future depends on what we do in the present.” - Mahatma Ghandi





Reminder: Scope of Proposed Program

"The commission ... may adopt regulations to be administered by the department of environment for surface water discharges."

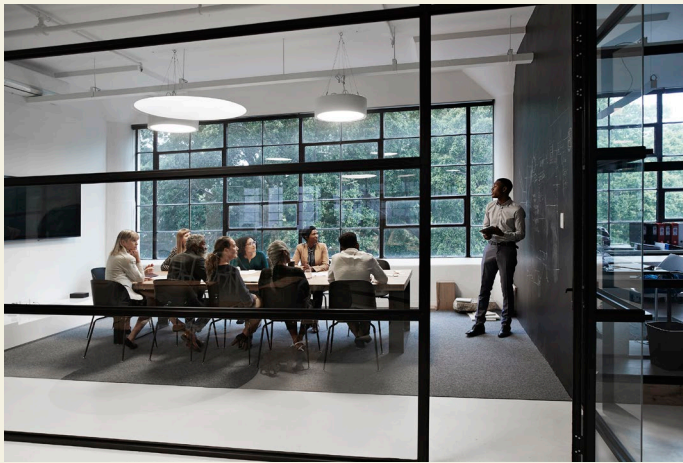
NM Water Quality Act, Section 74-6-4(Q)

"Commission" refers to the Water Quality Control Commission (WQCC)

- Waters of the U.S. (Clean Water Act)
 - **Seek delegation from EPA for the NPDES program for point source discharges**
 - Do not seek delegation 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 to fill the gaps left by *Sackett* 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



SWAP Questionnaire



1. In your view, what are the most important topics to be addressed during the SWAP process?

- **Scope/Types of Permits/Permitting Process:** delineation between NPDES and state program, examples from other states, overlap with existing permits, permitting workflows
- **Standards and Requirements:** discharge categories, naturally-occurring contaminants, unnecessary burdens
- **Cost/Funding and Implementation:** cost to regulated community, adequate staffing and resources, timelines and priorities for roll-out



SWAP Questionnaire

2. What factors do you think will lay the groundwork for successful implementation of a surface water quality state permitting program?

- **Program design and flexibility:** clear, easy-to-understand, efficient, focused; avoids burdensome requirements and unnecessary paperwork/administrative costs; tailored to NM using science and considering NM-specific conditions; flexibility in permit requirements; focus on what matters to protect water quality
- **Broad support and engagement:** broad support and shared understanding; transparency and effective engagement with regulated community and the public
- **Data and Information:** ready access to program information; electronic permitting and data management
- **Capacity and Resources:** NMED needs sufficient capacity, funding, and expertise; sufficient time between development and implementation



SWAP Questionnaire

3. What do you see as a successful outcome of the SWAP process?

- **Collaboration/learning from others:** NMED listened and considered input from all SWAP members; program recommendations that are holistic and focused; continued communication between NMED and stakeholders
- **Shared understanding and awareness:** why a state permitting program is needed and what is needed to implement a program; stakeholder engagement to maintain, protect, and restore water quality; increased communication and coordination between state agencies; general agreement on necessary elements of legislation and rules to minimize likelihood of litigation;
- **Program design and implementation:** practical considerations; what has worked elsewhere; efficiency; a report documenting the process outcomes to be used by NMED and shared with the public.



Looking Forward: Good, Bad, Interesting



[Good, Bad, Interesting - Important Things with Demetri Martin | Context is everything. Demetri Martin will prove it. #ComedyTBT | By Comedy CentralFacebook | Facebook](#)



Discussion Questions

1. What is working under the current permitting programs that should be retained for the state permitting program? What could be improved or adapted to better suit New Mexico under a state permitting program?
2. What protections or considerations would you like to add that do not exist in current permitting programs that would help ensure clean water for future generations?
3. What do you see as a way to positively protect and restore New Mexico's waters through this process?
4. What do you see as a way to positively affect water users and permittees through this process?
5. What are your biggest concerns about NPDES delegation and the creation of a state permitting program?