



# New Mexico Environment Department

Public Informational Meetings  
Surface Water Quality Permitting Rules  
September 2025







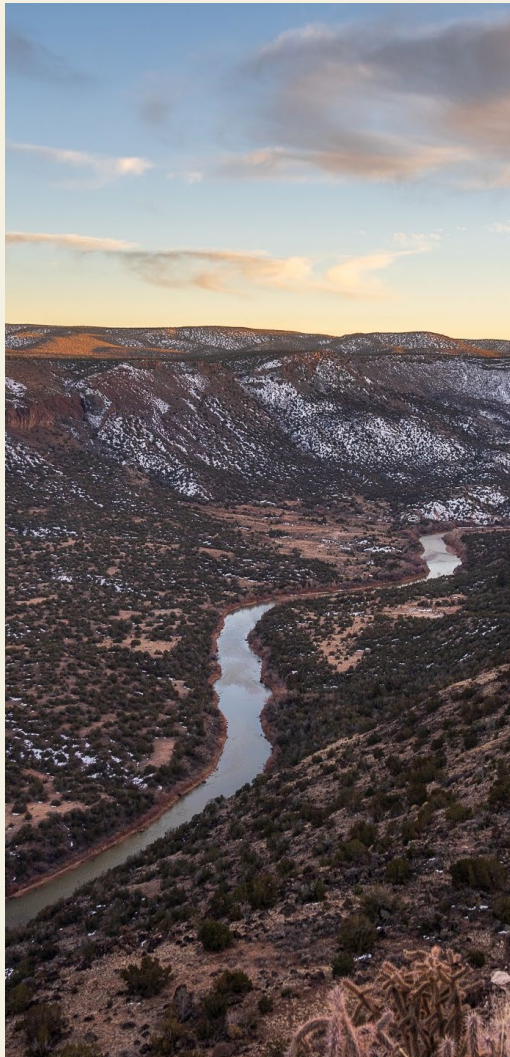
# Introductions



- ❑ Susan Lucas Kamat, SWQB Point Source Regulation Section Manager
- ❑ Trent Botkin, SWQB State Permitting Program Team Supervisor
- ❑ Beatriz Salazar Archuleta, SWQB State Permitting Program
- ❑ Maryann McGraw, SWQB Wetlands Team Supervisor
- ❑ Brecken Scott, NMED Assistant General Counsel
- ❑ Christal Weatherly , NMED Assistant General Counsel
- ❑ Andrew Knight, NMED Assistant General Counsel



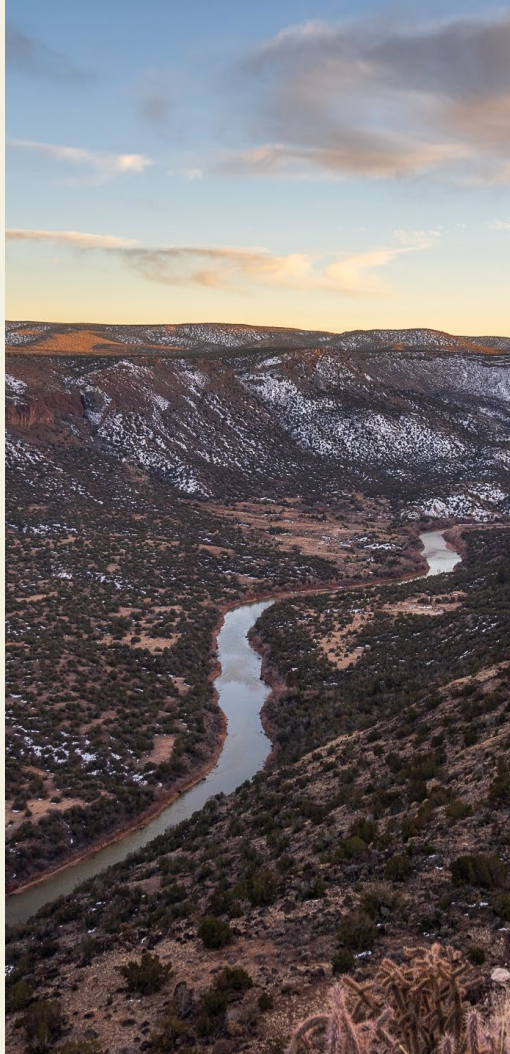
# AGENDA



- ❑ Overview Senate Bill 21 (SB21)
- ❑ Scope of Permitting Program & State NPDES Program Authorization
- ❑ Program Timeline
- ❑ Rulemaking Process
- ❑ Overview of 20.6.5 – NMPDES Program Rule
- ❑ Overview of 20.6.2 – State Program Rule
- ❑ Opportunities for Participation
- ❑ How/When to Submit Comments
- ❑ Questions/Discussion



# Senate Bill 21

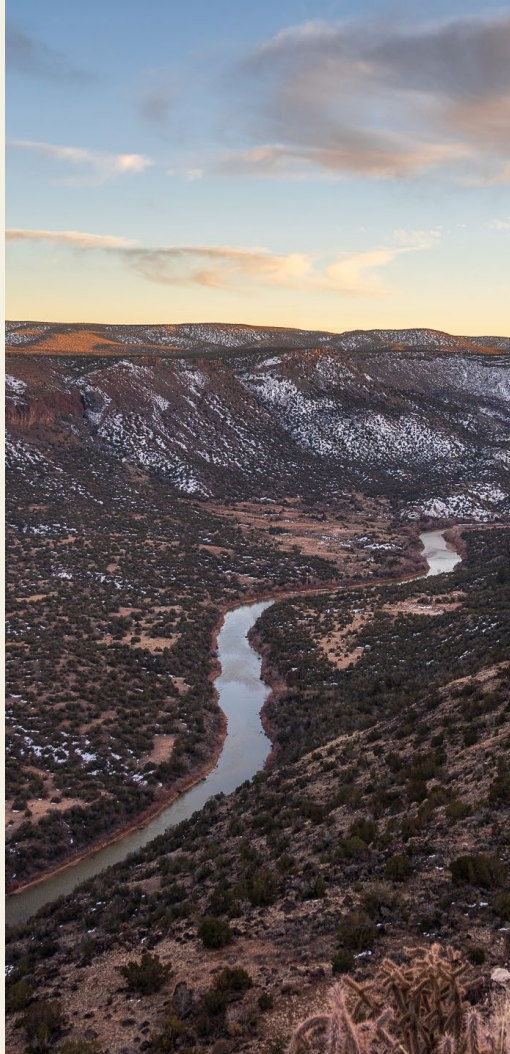


- ❑ Senate Bill 21 was passed during the 2025 Legislative Session.
- ❑ Signed into law by Governor Lujan Grisham on April 8, 2025.
- ❑ Protects the state's surface and ground water resources.
- ❑ Gives New Mexico control over its water resources in two ways:
  1. Amends the Water Quality Act
  2. Creates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





# Scope of Permitting Program

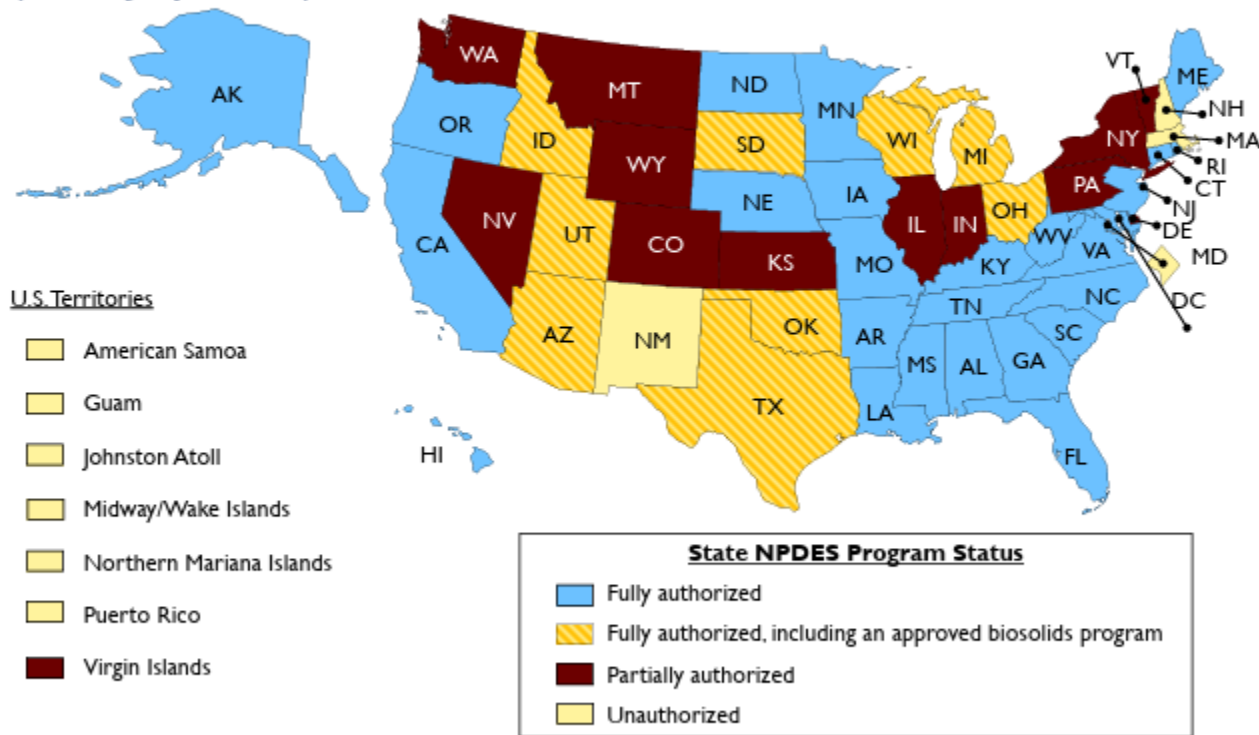


- Waters of the U.S. (Clean Water Act)
  - **Seek delegation from EPA for the NPDES program for point source discharges**
  - Do not seek authorization for the Section 404 discharge program: U.S. Army Corps of Engineers will continue to regulate discharges of dredged and fill materials to waters of the 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



# EPA State Program Authorizations

## NPDES Program Authorizations (as of July 2019)





# Surface Water Advisory Panel (SWAP)



- ❑ Provided technical information, practical considerations, and policy perspectives from a wide range of stakeholders.
- ❑ Moderator ensured all SWAP participants had an opportunity to provide input.
- ❑ NMED posted SWAP meeting agendas, presentations, and meeting notes on its [website](#).
- ❑ SWAP input & recommendations helped refine draft rule.





# 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

- Clean Water Act
- State Rules Act
- Water Quality Act
- 20.1.6 NMAC - Rulemaking procedures for the Water Quality Control Commission.
- Regulations specify requirements for pre-hearing procedures, petitions for regulatory changes, hearing notices, hearing participation, post-hearing actions, and appeals.
- Additional requirements in State's Water Quality Management Plan and Continuing Planning Process.



# Next Step – Rulemaking Timeline

- 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 to be held in the spring or early summer of 2026.



# 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://nmed.commentinput.com/comment/search>.
- Written comments will be accepted via mail, email, and NMED's smart comment portal: <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.





# 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



# 20.6.5 NMAC (draft) NMPDES Rule

## 20.6.5.101 NMAC – Permitting Prohibitions and Requirements

- A. No person shall discharge a pollutant to a water of the United States from a point source without a permit ...

## 20.6.5.102 Permit Not Required

- A. Return flows from irrigated agriculture;
- B. Certain stormwater discharges from mining operations and oil and gas; or
- C. Certain forestry activities conducted in accordance with standard industry practice.



# 20.6.5 NMAC (draft) NMPDES Rule

## 20.6.5.201 NMAC – Incorporation of Federal Regulations

EXAMPLE

**20.6.5.201 FEDERAL REGULATIONS INCORPORATED BY REFERENCE:** The following federal regulations adopted are incorporated by reference:

- A. 40 C.F.R. Part 122:
  - (1) Federal regulations cited in 20.6.5 NMAC;
  - (2) 40 C.F.R. §§ 122.2, 122.23, 122.24, 122.25, 122.26, 122.27, 122.28, 122.29(a), 122.29(b), 122.29(d), 122.30, and 122.32 through 122.37; and
  - (3) Appendices A, C, D, E, F, G, H, I, and J;
- B. 40 C.F.R. 125 Subparts A, B, D, H, I, J, and N;
- C. 40 C.F.R. Part 129;
- D. 40 C.F.R. Part 133;
- E. 40 C.F.R. Part 136;
- F. 40 C.F.R. Subchapter N;
- G. 40 C.F.R. Part 3 and Part 127; and
- H. 40 C.F.R. Part 503.

**20.6.5.401 ADMINISTRATIVE COMPLETENESS:**

- A. The secretary shall review an application for administrative completeness.
- B. To be deemed administratively complete, an application and any required reports shall:
  - (1) be complete and in the format specified by the department;
  - (2) for a new or renewed permit, provide the information required by 40 C.F.R. § 122.21;
  - (3) for a modification, provide the supporting facts and reasons required by 40 C.F.R. § 124.5(a);
  - (4) meet the signatory and certification requirements of 40 C.F.R. § 122.22; and
  - (5) include the applicable fee.





# 20.6.5 NMAC (draft) NMPDES Rule

## 20.6.5.301 NMAC – Individual Permits

- A. Applications
- B. New Permits
- C. Permit Renewals
- D. Permit Modifications
- E. Permit Terminations
- F. Permit Transfers
- G. Special provisions for treatment works treating domestic sewage
- H. Variances
- I. Permit Denials



# 20.6.5 NMAC (draft) NMPDES Rule

## 20.6.5.302 NMAC – General Permits

- A. The secretary may issue or renew a general permit for one or more categories or subcategories of discharges... within a geographic area... for either:
- 1) storm water point sources; or
  - 2) other point sources or TWTDS if all of the sources in the category or subcategory satisfy 40 C.F.R. § 122.28(a)(2).



# 20.6.5 NMAC (draft) NMPDES Rule

## 20.6.5.303 NMAC – General Permit Coverage

- A. Notice of Intent for general permit coverage.
- B. The Department shall maintain a list of general permit coverages.
- C. Transfers of general permit coverage.
- D. Terminations.
- E. If a general permit is not renewed before it expires, the general permit shall continue and a permittee who has general permit coverage shall continue to comply with the general permit...
- F. Individual Permit Required





# 20.6.5 NMAC (draft) NMPDES Rule

## 20.6.5.401 NMAC – Administrative Completeness

- A. The secretary shall review an application for administrative completeness.
- B. *Requirements to be deemed administratively complete*
- C. Within 60 days of receipt of an application, the department will determine whether the application is administratively complete.



# 20.6.5 NMAC (draft) NMPDES Rule

## 20.6.5.402 NMAC – Processing

### 20.6.5.402 PROCESSING:

- A. The secretary shall process an administratively complete application...
- B. The secretary may request additional information...
- C. The department may conduct an inspection of the site...
- D. In appropriate cases the department may consult with any state or federal agency or tribal government with jurisdiction over water, fish, wildlife, or public health, before issuing a draft permit and may reflect their views in the statement of basis, the fact sheet, or the draft permit, in accordance with 40 C.F.R. 124.59(c).



# 20.6.5 NMAC (draft) NMPDES Rule

## 20.6.5.403 NMAC – Draft Permits, Notices of Intent to Deny the Application, and Notices of Intent to Terminate the Permit

## 20.6.5.404 NMAC – Public Notice & Participation

- A. Within 90 days after the... administrative completeness determination... the department shall make available a draft permit or a notice of intent to deny an application...
- B. The **department** ...shall provide to the public notice of the draft permit or the notice of intent to deny the application, fact sheet, statement of basis, or new source or new discharger determination...
- C. The **applicant** shall provide notice to the public of the draft permit...
- D. *Notice requirements*
- E. The applicant shall provide proof of their notice to the department.



# 20.6.5 NMAC (draft) NMPDES Rule

## 20.6.5.405 NMAC – Public Comments and Requests for Public Hearing

### 20.6.5.406 NMAC – Public Hearings

- A. Requests for a hearing shall be in writing and shall state the nature of the issues to be raised in the hearing.
- B. A public hearing shall be held if the secretary determines there is a significant degree of public interest, a tribal government has raised a significant issue, or the department, in its discretion, determines that a hearing may clarify a relevant issue...



# 20.6.5 NMAC (draft) NMPDES Rule

## 20.6.5.407 NMAC – Final [Secretary] Actions

B. Within 45 days after the draft permit is provided for the secretary's review... the secretary shall take final action...

## 20.6.5.408 NMAC – Commission Review of Secretary Decisions

## 20.6.5.409 NMAC – Review of Commission Decisions

## 20.6.5.501 NMAC – Enforcement

A. Compliance Orders...

B. Citizen Participation. The department shall:

- 1) Investigate and respond to citizen complaints
- 2) Not oppose intervention by any citizen
- 3) Publish notice and allow at least 30 days for public comment on any proposed settlement of an enforcement action.





## 20.6.2 NMAC (overview of 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



# 20.6.2 NMAC - Proposed Amendments

## 20.6.2.7 NMAC - Definitions

- Aquatic resources
- Avoidance
- Best management practices
- Compensatory mitigation
- Discharge permit
- Dredged material
- Facility
- Fill material
- General permit
- General permit coverage
- Incidental fallback
- Minimization
- New source
- Pathogen
- Point source
- POTW
- Practicable
- Sludge
- Source
- Surface water discharge
- Surface waters
- Toxic pollutant
- Wetlands



# 20.6.2 NMAC - Proposed Amendments

## 20.6.2.2303 NMAC – Exemptions

- A. Point source discharge exemptions – same as 20.6.5 NMAC, with the addition of:
  - 4) Discharges and water contaminants that are subject to effective and enforceable surface water quality requirements in a state or federally issued permit...
- B. Dredge or fill discharge exemptions – identical to the Clean Water Act exemptions, with the addition of:
  - 6) Discharges and water contaminants that are subject to effective and enforceable surface water quality requirements in a state or federally issued permit...



# 20.6.2 NMAC - Proposed Amendments

## 20.6.2.2304 NMAC – Individual Permits

**A – C.** Application requirements.

**D.** Existing permits (permit renewals).

**E.** The department may conduct an inspection of the facility, discharge site, or project site, including the collection and analysis of samples, data, and other information, for the purpose of evaluating the application.



# 20.6.2 NMAC - Proposed Amendments

## 20.6.2.2305 NMAC – General Permits (GP)

- A. The secretary may issue, modify, renew, or terminate a GP...
- B. Categories of GPs...
- C. Requirements to be included in a GP...
- D. If a GP is not renewed before it expires, the GP shall continue...

## 20.6.2.2306 NMAC – General Permit (GP) Coverage

- A. Notice of Intent for GP coverage.
- B. Pre-Construction Notification for dredge/fill GP coverage.
- C. A person who fails to submit an NOI/PCN is not authorized to discharge.
- D. The Department shall maintain a list of GP coverages.
- E. Transfers of GP coverage.
- F. Terminations.
- G. Individual Permit required or requested.
- H. Emergency GPs for dredge/fill (e.g., floods, wildfires, etc.)





# 20.6.2 NMAC - Proposed Amendments

## 20.6.2.2307 NMAC – Permit Conditions

- E. The following conditions apply to all surface water discharge permits...
- F. The following conditions apply to point source discharges...
- G. The following conditions apply to discharges of dredge or fill material...
- H. Compensatory mitigation...



# 20.6.2 NMAC - Proposed Amendments

## 20.6.2.2308 NMAC – Public Notice & Participation

- A.** Within 60 days of receipt of an application... the department shall review the application for administrative completeness...
- B.** Within 90 days... the department shall make available a draft permit or a notice of intent to deny an application... The draft permit shall include all proposed effluent limitations or other conditions, and all proposed monitoring, recordkeeping, and reporting requirements.
- D.** The **department**... shall provide to the public notice of the draft permit or the notice of intent to deny...
- E.** Concurrent with the department's notice... the **applicant**... shall provide notice to the public of the draft permit...
- H.** Following the public notice... and prior to a final decision... there shall be a period of at least 30 days during which... a public hearing may be requested... Requests for a hearing... shall set forth the reasons why a hearing should be held. A public hearing shall be held if the secretary determines there is substantial public interest or a tribal government has raised a significant issue.



# 20.6.2 NMAC - Proposed Amendments

## 20.6.2.2309 NMAC – Secretary Review and Approval

- B. The secretary shall, within 45 days after the draft permit is provided for review... approve or deny the draft discharge permit, modification, or renewal based on the administrative record.
- E. The secretary shall deny a surface water discharge permit if:
  - (1) the discharge would not comply with applicable effluent limitations or standards;
  - (2) the discharge does not include all appropriate and practicable measures to avoid and minimize potential harm to the aquatic resources;
  - (3) the discharge would cause or contribute to an exceedance of a water quality standard in or violate any requirement of 20.6.4 NMAC – Standards for Interstate and Intrastate Surface Waters;
  - (4) the discharge would cause or contribute to an exceedance of a downstream state or tribal water quality standard; or
  - (5) The discharge would violate any requirement of state or federal law;



# 20.6.2 NMAC - Proposed Amendments

**20.6.2.2310 NMAC – Public Hearing and Participation**

**20.6.2.2311 NMAC – Commission Review of Secretary's Decisions**

**20.6.2.2312 NMAC – Judicial Review of Commission Decisions**



# 20.6.2 NMAC & 20.6.5 NMAC – Fees

## Fee Calculations (Individual Permits)

### Domestic Wastewater

#### 1. Application Fee:

base fee + (design flow x size factor)

**Ex #1:** “Major” facility with design flow of 5,500,000 Gal/Day

**Fee** = \$5,000 + (500,000 x 0.0025) + \$21,160 (cap) = **\$27,410**

**Ex #2:** “Minor” facility with design flow of 350,000 Gal/Day

**Fee** = \$2,000 + (100,000 x 0.008) + \$2,410 = **\$5,210**

Discharge (in Gallons)	Size Factor	Category Cap (\$)
10,000	0.0125	125
10,001-25,000	0.0115	297.5
25,001-50,000	0.0105	560
50,001-100,000	0.01	1,060
100,001-250,000	0.009	2,410
250,001-500,000	0.008	4,410
500,001-1,000,000	0.0065	7,660
1,000,001-2,500,000	0.004	13,660
2,500,001-5,000,000	0.003	21,160
5,000,001-7,500,000	0.0025	27,410
7,500,001-10,000,000	0.001	29,910
10,000,001-15,000,000	0.0005	32,410
15,000,001-20,000,000	0.00025	33,660
20,000,001-30,000,000	0.0002	35,660
30,000,001-40,000,000	0.00015	37,160
40,000,001-50,000,000	0.000125	38,410
>50,000,000	0.0001	N/A





# 20.6.2 NMAC & 20.6.5 NMAC – Fees

## Fee Calculations (Individual Permits)

### Domestic Wastewater

#### 2. Annual Fee:

base fee + [(design flow x size factor) x 4.2]

**Ex #1:** “Major” facility with design flow of 5,500,000 Gal/Day

**Fee** = \$5,000 + [(500,000 x 0.0025) + \$21,160 (cap)] x 4.2) = **\$99,122**

**Ex #2:** “Minor” facility with design flow of 350,000 Gal/Day

**Fee** = \$2,000 + [(100,000 x 0.008) + \$2,410] x 4.2) = **\$15,482**

Discharge (in Gallons)	Size Factor	Category Cap (\$)
10,000	0.0125	125
10,001-25,000	0.0115	297.5
25,001-50,000	0.0105	560
50,001-100,000	0.01	1,060
100,001-250,000	0.009	2,410
250,001-500,000	0.008	4,410
500,001-1,000,000	0.0065	7,660
1,000,001-2,500,000	0.004	13,660
2,500,001-5,000,000	0.003	21,160
5,000,001-7,500,000	0.0025	27,410
7,500,001-10,000,000	0.001	29,910
10,000,001-15,000,000	0.0005	32,410
15,000,001-20,000,000	0.00025	33,660
20,000,001-30,000,000	0.0002	35,660
30,000,001-40,000,000	0.00015	37,160
40,000,001-50,000,000	0.000125	38,410
>50,000,000	0.0001	N/A



# 20.6.2 NMAC & 20.6.5 NMAC – Fees

## Fee Calculations (Individual Permits)

### Industrial Wastewater

**1. Application Fee:** (base fee x complexity factor) + [(number of outfalls – 1) x base fee x complexity factor x constant]

**Ex #1:** Simple “major” with 2 outfalls

$$\text{Fee} = [\$6,500 \times \text{Complexity Factor (1.0)}] + (1 \times \$6,500 \times 1.0 \times 1.3) = \text{\$14,950}$$

**Ex #2:** Complex “minor” with 5 outfalls

$$\text{Fee} = [\$3,500 \times \text{Complexity Factor (2.5)}] + (4 \times \$3,500 \times 2.5 \times 1.3) = \text{\$54,250}$$

**Ex #3:** Complex “major” with 11 outfalls

$$\text{Fee} = [\$6,500 \times \text{Complexity Factor (5.0)}] + (10 \times \$6,500 \times 5.0 \times 1.3) = \text{\$455,000}$$



# 20.6.2 NMAC & 20.6.5 NMAC – Fees

## Fee Calculations (Individual Permits)

### Industrial Wastewater

**2. Annual Fee:** (number of outfalls +1) x base fee

**Ex #1:** Simple “major” with 2 outfalls

**Fee** = 3 x \$7,000 = **\$21,000**

**Ex #2:** Complex “minor” with 5 outfalls

**Fee** = 6 x \$3,500 = **\$21,000**

**Ex #3:** Complex “major” with 11 outfalls

**Fee** = 12 x \$7,000 = **\$84,000**



# How You Can Participate

- ❑ **Provide Public Comment to SWQB**
  - ▣ August 29, 2025 – October 28, 2025
  - ▣ Smart Comment Portal or email
- ❑ **Attend WQCC meetings**
- ❑ **Anticipated hearing notice in newspaper and *NM Register***
  - ▣ Winter/Spring 2026
- ❑ **Provide written or oral comment at WQCC meetings**
  - ▣ Rulemaking Petition expected late 2025
  - ▣ Requesting a 2026 hearing
- ❑ **Provide expert testimony at WQCC hearing**
  - ▣ Instructions provided in the public notice of rulemaking
- ❑ **Provide written comment to WQCC**
  - ▣ Notice will provide more detail



# Smart Comment Demonstration

You can submit written comments on the draft rules using NMED's Smart Comment Portal:

<https://nmed.commentinput.com/comment/search>

Type = Rulemaking

County = All

Status = Open Projects

Division = Water Protection Division

CLICK **"Apply Filter"**







# Submit Comments & More Info

Surface Water Quality  
State Permitting  
Program Website:



## Submit Written Comments

**by Tuesday, October 28, 2025**

NMED Smart  
Comment Portal  
Website:



to the Surface Water Quality Bureau

(1) Via EMAIL:

**[swq.pp@env.nm.gov](mailto:swq.pp@env.nm.gov)**

**OR**

(2) Via NMED's SMART COMMENT portal:

**<https://nmed.commentinput.com/comment/search>**

*More information can be found on the SWQB website:*

**<https://www.env.nm.gov/surface-water-quality/spp>**

**Thank You to the NMED Team!**

Many people at NMED provided help in preparing and reviewing the proposed regulations: Susan Lucas Kamat, Beatriz Salazar-Archuleta, Trent Botkin, Maryann McGraw, Andrew Knight, Brecken Scott, Christal Weatherly, Kate Lacey-Younger, Alan Klatt, Lynette Guevara, Jocelyn Harimon, and Pam Homer. **38**