

LFC Requestor: Self Assigned

**2025 LEGISLATIVE SESSION
AGENCY BILL ANALYSIS**

Section I: General

Chamber: Senate **Category:** Bill
Number: 21 **Type:** Introduced

Date (of THIS analysis): 1/28/2025
Sponsor(s): Peter Wirth and Kristina Ortez and Roberto "Bobby" J. Gonzales
Short Title: Pollutant Discharge Elimination System Act

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Section II: Fiscal Impact

APPROPRIATION (dollars in thousands)

Appropriation Contained		Recurring or Nonrecurring	Fund Affected
FY 25	FY 26		
\$0	\$0	N/A	N/A

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY 25	FY 26	FY 27		
\$0	\$0	\$0	N/A	N/A

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY 25	FY 26	FY 27	3 Year Total Cost	Recurring or Non-recurring	Fund Affected
Total	\$0	\$0	\$0	\$0	N/A	N/A

Section III: Relationship to other legislation

Duplicates: None

Conflicts with: None

Companion to: SB22

Relates to: None

Duplicates/Relates to an Appropriation in the General Appropriation Act: None

Section IV: Narrative

1. BILL SUMMARY

a. Synopsis

Senate Bill 21 (SB21) proposes to enact the Pollutant Discharge Elimination System Act. This would require permits for discharges into waters of the United States; require the Water Quality Control Commission to adopt rules to implement the discharge program; provide powers and duties of the Department of the Environment; provide for enforcement of the program; provide for appeal to the Water Quality Control Commission and the Court of Appeals; create a private right of action; and provide for publicly accessible records.

Is this an amendment or substitution? Yes No

Is there an emergency clause? Yes No

b) Significant Issues

The National Pollutant Discharge Elimination System (NPDES) is a key component of the Clean Water Act of 1972. The NPDES helps regulate and reduce pollution from point sources (such as factories, sewage treatment plants, and stormwater runoff) that discharge pollutants into rivers, lakes, and other bodies of water. By controlling the release of harmful chemicals, toxins, and pathogens into water sources, the system helps safeguard drinking water supplies, recreational water areas, and overall public health. Per- and polyfluoroalkyl substances (PFAS) are of significant concern to human health and may enter the environment through wastewater and stormwater systems. PFAS are a large group of chemicals that are used in consumer products and industrial processes and may persist in the environment and the human body. There is toxicological evidence that some PFAS have adverse reproductive, developmental, and immunological effects in animals and humans. [Understanding PFAS in the Environment | US EPA](#)

In New Mexico, the NPDES program is administered by the U.S. Environmental Protection Agency (EPA), and currently, the state does not manage the program independently. This bill proposes to transfer administrative authority to the New Mexico Environment Department

(NMED), which may grant the state primacy over the program. In addition, NMED currently relies on the EPA for NPDES permitting. Adopting a state-managed program, as proposed in SB21, would give the state more control over water quality standards, enforcement priorities, and regulatory nuances. As of now, 47 states have assumed authority over their NPDES programs with the EPA. It is unclear if this bill would create a separate state Pollution Discharge Elimination System or if this bill enhances New Mexico's ability to enforce the NPDES.

2. PERFORMANCE IMPLICATIONS

- Does this bill impact the current delivery of NMDOH services or operations?
 Yes No
- Is this proposal related to the NMDOH Strategic Plan? Yes No
- Goal 1:** We expand equitable access to services for all New Mexicans
- Goal 2:** We ensure safety in New Mexico healthcare environments
- Goal 3:** We improve health status for all New Mexicans
- Goal 4:** We support each other by promoting an environment of mutual respect, trust, open communication, and needed resources for staff to serve New Mexicans and to grow and reach their professional goals

3. FISCAL IMPLICATIONS

- If there is an appropriation, is it included in the Executive Budget Request?
 Yes No N/A
- If there is an appropriation, is it included in the LFC Budget Request?
 Yes No N/A
- Does this bill have a fiscal impact on NMDOH? Yes No

4. ADMINISTRATIVE IMPLICATIONS

Will this bill have an administrative impact on NMDOH? Yes No

5. DUPLICATION, CONFLICT, COMPANIONSHIP OR RELATIONSHIP

SB21 is related to SB22 which aims to establish a permitting program to protect state waters that are no longer under federal protection due to changes in the Clean Water Act. SB22 seeks to address the vulnerability of approximately 95% of New Mexico's rivers and streams, as well as 88% of the state's wetlands, which are at risk of pollution due to the reduced federal protections.

6. TECHNICAL ISSUES

Are there technical issues with the bill? Yes No

7. LEGAL/REGULATORY ISSUES (OTHER SUBSTANTIVE ISSUES)

- Will administrative rules need to be updated or new rules written? Yes No
- Have there been changes in federal/state/local laws and regulations that make this legislation necessary (or unnecessary)? Yes No
- Does this bill conflict with federal grant requirements or associated regulations?
 Yes No
- Are there any legal problems or conflicts with existing laws, regulations, policies, or programs? Yes No

Legal and regulatory impacts resulting from this legislation may include financial and regulatory and compliance burdens on industries like agriculture, oil and gas.

8. DISPARITIES ISSUES

This bill would serve all New Mexicans. Given that the bill is proposing to transfer authority to the state from EPA, NMDOH does not see a change in rules or regulations being enforced and therefore does not see an impact on health equity or health disparities provided there is a smooth transition of authority.

9. HEALTH IMPACT(S)

All residents of New Mexico will be impacted by this bill, although rural communities, Tribes, Pueblos and Nations, agricultural workers and farmers, and low-income populations will likely see the most benefit, as they live in areas most impacted by poor water quality.

Poor water quality can be a result of many contaminants, including arsenic and PFAS. Potential health risks associated with PFAS include increased cholesterol levels, reduced birth weight, kidney and testicular cancer, pregnancy-induced hypertension, and changes in liver enzymes. (<https://nmtracking.doh.nm.gov/environment/contaminants/PFCS.html>) As there is no approved treatment for removing PFAS, the best option is to limit people's exposure to PFAS (in water and from other sources). This bill is designed to allow the state to control what is in our waters.

SB21 may result in significant continued and enhanced positive impacts on public health, with long-term benefits ranging from cleaner water to reduced environmental and health risks.

10. ALTERNATIVES

The EPA currently administers the NPDES program in New Mexico. The only way for this authority to transfer to the state would be through legislation.

11. WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

If SB21 is not enacted, then EPA will continue administering the NPDES program in New Mexico.

12. AMENDMENTS

None.