

LFC Requester:

Austin Davidson

**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

[AgencyAnalysis.nmlegis.gov](https://www.nmlegis.gov/AgencyAnalysis) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.gov)*(Analysis must be uploaded as a PDF)***SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

Date Prepared: 1/24/2025

Check all that apply:

Bill Number: SB 21

Original  Correction Amendment  Substitute 

**Sponsor:** Sen. Peter Wirth  
Rep. Kristina Ortez

**Agency Name  
and Code**

Office of the State Engineer  
550

**Number:**

**Short  
Title:** Pollutant Discharge Elimination  
System Act

**Person Writing**

Michelle Hunter

**Phone:** 505-795-4474**Email:** michelle.hunter@ose.nm.gov**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
NA	NA	NA	NA

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
NA	NA	NA	NA	NA

(Parenthesis ( ) indicate revenue decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	NA	NA	NA	NA	NA	NA

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: Relates to SB22  
Duplicates/Relates to Appropriation in the General Appropriation Act

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

##### Synopsis:

This bill creates the law needed for New Mexico to petition the EPA to receive primacy to issue surface water discharge permits for Waters of the United States.

The bill includes all the required elements including definitions, procedures for permitting, procedures for appeals, and processes for enforcement.

#### **FISCAL IMPLICATIONS**

No fiscal implications for OSE.

#### **SIGNIFICANT ISSUES**

The EPA requires and must accept the legislation for New Mexico to assume authority over the federal permitting program. This legislation complies with Clean Water Act requirements for the assumption of the National Pollutant Discharge Elimination System (NPDES) program and, coupled with subsequent regulations, is crucial for EPA authorization of New Mexico to assume authority over the federal NPDES program. After legislation is enacted and regulations adopted, the Environment Department will prepare and submit a program application to EPA to request authorization of the NPDES program and prove the state has the capacity, funding, and framework necessary to implement the NPDES program successfully. To date, 47 states have completed this process and received U.S EPA approval to implement the NPDES program within their jurisdictions.

Some water rights owners who are regulated by OSE will also be subject to surface water discharge permits under the program that would be set up under this bill. The OSE will participate in the rulemaking process as necessary to ensure that surface discharge permits under this program are harmonious with existing OSE permits.

#### **PERFORMANCE IMPLICATIONS**

None

#### **ADMINISTRATIVE IMPLICATIONS**

None

#### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Companion to SB 22

#### **TECHNICAL ISSUES**

none

**OTHER SUBSTANTIVE ISSUES**

none

**ALTERNATIVES**

none

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The EPA, not New Mexico, will continue to design, administer, and enforce the NPDES program to protect surface water quality in the State.

.

**AMENDMENTS**

None