

SURFACE WATER PERMITTING BILLS

Legislative Action is Needed in 2025 to Protect New Mexico Waters

The Problem

- In 2024, **New Mexico rivers** were named as the most endangered in the country. (see <https://mostendangereddrivers.org/>)
- An estimated **95% of New Mexico's rivers and streams** and **88% of the state's wetlands** are at risk because protections under the federal Clean Water Act have been severely reduced.
- The state lacks a permitting program to prevent pollution in waters that have lost federal protections.
- New Mexico is one of only **three states** that leaves permitting for those waters that are still federally protected up to the Environmental Protection Agency.

The Proposed Solution

During the 2025 New Mexico legislative session, leaders must pass two bills as a package to protect New Mexico's waters, together forming a complete surface water permitting framework administered by the New Mexico Environment Department (NMED):

SB 22: Protects waters no longer covered under the Clean Water Act

Authorizes key components of a state permitting program for waters no longer federally protected, including streams that do not flow year-round and most wetlands.

SB 21: Transfers permitting for waters still federally protected to New Mexico

Authorizes the state to take over pollution prevention permitting currently done by the EPA, as 47 other states have already done.



Background

Many of New Mexico's waterways are at risk due to severely reduced protections under the federal Clean Water Act. New Mexico's waters are more vulnerable than most states because we do not have a state surface water permitting program to protect waters that no longer have federal protection. **Due to New Mexico's arid climate, most streams no longer qualify for federal protection because they do not flow year-round and many wetlands lack the continuous surface connection to a stream.** Nonetheless, these waters play a critical role in:



- Ensuring safe and healthy drinking water for New Mexico communities,
- Ensuring farms and ranches have a clean water supply,
- Mitigating against flood and drought damage, and
- Protecting New Mexico's wildlife habitat and outdoor places.

Benefits of a State Permitting Program

- **Streamlined permitting:** Consolidates surface water permitting under NMED.
- **Local solutions:** Enables tailored approaches to New Mexico's unique water issues.
- **Regulatory certainty:** Provides greater clarity and efficiency for applicants while maintaining exemptions for traditional farming and ranching activities, acequia operations, and certain industrial activities.
- **Protects New Mexico agriculture:** Traditional farming and ranching activities have exemptions in the bills. A state-run surface water permitting program will preserve clean water and wetlands while creating a regulatory environment in which New Mexico agriculture succeeds.

Past Legislative Support for a State Permitting Program

Recent legislative appropriations support this effort:

- **\$250,000 in 2022** (*not exclusively for permitting*)
- **\$680,000 in 2023**
- **\$7.6 million in 2024** (*primarily for surface water permitting*)

