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May 4, 2026

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**RE: Docket ID No. EPA-R06-OW-2026-1289  
Notice of Draft Permit and Request for Public Comments; NPDES Municipal Separate Storm Sewer  
System General Permit in New Mexico (Permit No. NMR04B000)**

Dear Troy Hill,

The Cabinet Secretary of the New Mexico Environment Department (NMED) delegated signatory authority to the Surface Water Quality Bureau Chief to prepare and submit surface water quality documents and state certifications of Clean Water Act permits, including comments and conditions, to the U.S. Environmental Protection Agency (EPA)<sup>1</sup>. On behalf of NMED, I am submitting the enclosed comments on EPA's Draft Municipal Separate Storm Sewer System (MS4) General Permit in New Mexico, Docket ID No. EPA-R06-OW-2026-1289. See 91 Federal Register 10604 (March 04, 2026).

Please note that NMED will submit a separate Clean Water Act Section 401 Certification with New Mexico's certification conditions to EPA at a later date, after EPA formally requests the State of New Mexico Clean Water Act Section 401 certification.

Thank you for the opportunity to comment on the Draft MS4 General Permit in New Mexico.

Sincerely,

Shelly Lemon, Bureau Chief  
Surface Water Quality Bureau

Attachment: New Mexico Comments (May 4, 2026)

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<sup>1</sup> NMED Office of the Secretary Delegation Order, effective June 23, 2025.

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**ATTACHMENT:  
New Mexico Environment Department Comments  
Municipal Separate Storm Sewer System (MS4) General Permit in New Mexico (NMR04B000)**

**Overarching Comments:** The New Mexico Environment Department (NMED) appreciates the opportunity to comment on the U.S. Environmental Protection Agency's (EPA) proposed Municipal Separate Storm Sewer System (MS4) General Permit for New Mexico, including the draft permit, fact sheet, and appendices.

- 1) The consolidation of the Middle Rio Grande Watershed-Based MS4 Permit (NMR04A000) with the General Permit for Discharges from Small MS4s (NMR04000) represents a significant shift from previous permitting frameworks.
- 2) NMED supports the cooperative elements incorporated into the draft permit and acknowledges the additional time allowed for permittees electing to participate in cooperative approaches. Many permittees covered under the previous Small MS4 permit, as well as newly designated permittees, will be conducting compliance monitoring for the first time. The requirement to collect samples at each portion of the discharge hydrograph may present challenges for both new and Phase II communities. NMED requests that EPA consider allowing sampling at any representative portion of the hydrograph rather than requiring coverage of its entirety.
- 3) NMED requests to be copied on all notice of intent submittals, stormwater management plans, monitoring reports, and annual reports. Copies should be sent to NMED at [psrs.program.manager@env.nm.gov](mailto:psrs.program.manager@env.nm.gov) and [swq.reporting@env.nm.gov](mailto:swq.reporting@env.nm.gov).
- 4) NMED requests EPA provide guidance and training on the eReporting requirements of the MS4 permit.
- 5) Wet-weather monitoring is a challenge in the arid intermountain southwest. NMED requests EPA provide guidance and training on the monitoring requirements, specifically the requirements of sampling throughout the hydrograph.
- 6) NMED respectfully requests that EPA review and respond to all submitted public comments and incorporate appropriate and practical revisions into the final permit.

**Additional Comments.**

- 1) Part I. General Permit Conditions, Section A. Discharge Authorized Under this General Permit, Subpart 2. Eligible MS4s

NMED requests that the municipalities, agencies, and entities be organized by the name of the urban areas, for example Albuquerque/Middle Rio Grande, El Paso, Farmington, Las Cruces, Los Alamos, Los Lunas, Santa Fe would, which would make the permit easier to understand.

NMED also recommends identifying Phase I, Phase II, and Phase II (designated) permittees in the eligibility list. Please provide a definition or clarification to distinguish between Phase II and Phase II (designated).

NMED requests that EPA be consistent in naming municipalities. For example, Belen, Bosque Farms, and Los Lunas should be listed as the City of Belen, Village of Bosque Farms, and Village of Los Lunas.

- 2) Part I. General Permit Conditions, Section A. Discharge Authorized Under this General Permit, Subpart 2. Eligible MS4s

NMED requests that EPA provide a definition or clarification to distinguish between Phase II and Phase II (designated).

- 3) Part I. General Permit Conditions, Section A. Discharge Authorized Under this General Permit, Subpart 3. Eligibility

The National Historic Preservation Act (NHPA) eligibility provisions listed in Part 1.A.3 incorrectly directs permittees to use “Appendix C: Total Maximum Daily Loads” instead of “Appendix A: Historic Properties Eligibility Procedures.” Please correct the reference.

- 4) Part I. General Permit Conditions, Section A. Discharge Authorized Under this General Permit, Subpart 4. Authorized Non-Stormwater Discharges

NMED requests the first sentence be changed from prohibited to permitted. The sentence currently reads “The following non-stormwater discharges are **prohibited** *[emphasis added]* unless determined by the permittees, U.S. Environmental Protection Agency (EPA), or New Mexico Environment Department (NMED) to be significant contributors of pollutants to the municipal separate storm sewer system (MS4).”

The sentence should read: “The following non-stormwater discharges are **permitted** *[emphasis added]* unless determined by the permittees, U.S. Environmental Protection Agency (EPA), or New Mexico Environment Department (NMED) to be significant contributors of pollutants to the municipal separate storm sewer system (MS4).”

- 5) Part I. General Permit Conditions, Section A. Discharge Authorized Under this General Permit, Subsection 6 Authorization Under this General Permit, Paragraph a. Obtaining Permit Coverage. Subparagraph (ii) Second Step

The draft permit lists deadlines of “no later than May 1, 2026 or October 1, 2026” for the second step of the application process. These dates should be updated prior to issuance of the final permit.

NMED requests that EPA use days from permit issue date rather than specific dates (e.g., 45 days after the effective date of this permit; 60 days after permit issuance; etc.).

- 6) Part I. General Permit Conditions, Section B. Notice of Intent Requirements

NMED requests that EPA correct the numbering within the permit. The numbering in Part I.B of the permit jumps from I.B.2 to I.B.4.

- 7) Part I. General Permit Conditions, Section B. Notice of Intent Requirements, Subsection 2. Contents of Notice(s) of Intent, Paragraph (a). Information Required in the NOI – First Step, Subparagraph (iv)

NMED requests that EPA include/require in the notice of intent the GIS layer(s) of the MS4 coverage area that includes the conveyance system outfall(s).

- 8) Part I. General Permit Conditions, Section B. Notice of Intent Requirements, Subsection 2. Contents of Notice(s) of Intent, Subsection 2. Contents of Notice(s) of Intent, Subparagraph (vi)

The Notice of Intent requires applicants to include the approximate center of the MS4. NMED requests the EPA provide a recommended method or guidance for determining the center of an MS4.

- 9) Part I. General Permit Conditions, Section B. Notice of Intent Requirements, Subsection 2. Contents of Notice(s) of Intent, Subsection 4. Where to Submit

The permit states: “Note: only those MS4s with discharges upstream of or to waters under the jurisdictional of the Pueblo of Sandia or Isleta should provide copy of their NOIs to the Pueblos.”

There are multiple MS4s that discharge upstream of tribal waters. As examples, the Albuquerque/Middle Rio Grande MS4 discharges upstream of waters of the Pueblos of Isleta, Sandia, and Santa Ana; the Farmington MS4 discharges upstream of waters of the Navajo Nation; the Los Alamos MS4 discharges upstream of waters of the Pueblos of Cochiti and San Ildefonso; and the Santa Fe MS4 discharges upstream of waters of the Pueblos of Cochiti. There may be additional MS4 discharges to Pueblos, Tribes, and Nations in New Mexico.

NMED requests that EPA change the language to “MS4s with discharges upstream of or to waters under the jurisdictional of any Nation, Tribe, or Pueblo in New Mexico provide a copy of their NOIs to the affected Nations, Tribes, or Pueblos.

- 10) Part I. General Permit Conditions, Section C. Special Conditions, Paragraph 2. Discharges to Impaired Waters with and without approved TMDLs

NMED requests clarification on Monitoring or Assessment Progress. The assessment progress lists two options each with multiple criteria for assessing progress, but the options are separated by an “and” not “or”. Are permittees required to comply with both options listed?

- 11) Part I. General Permit Conditions, Section C. Special Conditions, Paragraph 3. Endangered Species Act (ESA) Requirements

NMED requests that EPA reformat this section using indents so that it is easier to read and locate subparagraphs.

- 12) Part I. General Permit Conditions, Section C. Special Conditions, Paragraph 3. Endangered Species Act (ESA) Requirements, Subparagraph (iv)

NMED requests clarification. The Annual Incidental Take Report required in this paragraph instructs permittees to use “table 2 in the BO”. NMED requests that EPA specify the referenced BO by including such information as full title, author, publication date, and version. This section also refers to the “Service”. NMED requests that EPA define the “Service” as the U.S. Fish and Wildlife Service, so as not to be confused with or misidentified as the U.S. Forest Service or the National Park Service.

- 13) Part I. General Permit Conditions, Section C. Special Conditions, Paragraph 3. Endangered Species Act (ESA) Requirements, Subparagraph (iv)

The “Sediment Reduction Load Strategy” requires a reevaluation of the program under the previous permits for Los Lunas and Farmington. Los Alamos and Los Lunas are new MS4s and do not have a program to reevaluate. Farmington did not have this permit requirement under the previous Stormwater General Permit for Small MS4s in New Mexico (NMR040000). NMED requests that EPA revise this wording.

14) Part I. General Permit Conditions, Section D. Stormwater Management Plan

There is a typographical error – the Section Header “D” is missing.

15) Part I. General Permit Conditions, Section D. Stormwater Management Plan. Paragraph 4. Control Measures

NMED requests that EPA enhance consideration of wildlife habitats by including terms such as pollinator friendly native plants (c.ii.g.2), riparian vegetation and other native vegetation (e.i.b), and sustainable practice of planting of native plants (e.iv.b).

16) Part I. General Permit Conditions, Section D. Stormwater Management Plan. Paragraph 4. Control Measures, Subparagraph (b). Post-Construction Stormwater Management in New Development and Redevelopment, (ii)b.

NMED requests that EPA consider allowing the required retention volumes to be based on the 90th percentile storm for new development and the 80th percentile storm for redevelopment.

- “Option A” should specify that values must be taken from Table 2 of *Estimating Predevelopment Hydrology in the Urbanized Areas in New Mexico*.
- “Option B” should include a defined process for validating site-specific calculations using pre-development hydrology and associated storm event discharge volumes, consistent with EPA technical guidance, to prevent use of erroneous values.

17) Part I. General Permit Conditions, Section D. Stormwater Management Plan. Paragraph 4. Control Measures, (b). Post-Construction Stormwater Management in New Development and Redevelopment, (v)

To protect wildlife and aquatic life and avoid residual contamination, NMED encourages applicators to use the lowest concentration of pesticides, herbicides, and fertilizers needed to accomplish the desired outcome. A statement supporting the minimization of pesticides, herbicides, and fertilizers should be included in this section.

18) Part I. General Permit Conditions, Section D. Stormwater Management Plan. Paragraph 4. Control Measures, (b). Post-Construction Stormwater Management in New Development and Redevelopment, (viii)c

NMED requests that EPA add a sentence stating: “Permittees should consider incorporation of green infrastructure in determining the potential for retrofitting to control the frequency, volume, and peak intensity of stormwater discharges.”

19) Part I. General Permit Conditions, Section D. Stormwater Management Plan. Paragraph 4. Control Measures, (b). Post-Construction Stormwater Management in New Development and Redevelopment, (ix)c and (xv)a

NMED requests that EPA include clarification regarding environmentally and ecologically sensitive areas, which should encompass areas with threatened and endangered species, species of greatest conservation concern, and sensitive wetlands (e.g., fens, slope wetlands, springs, playas, etc.).

20) Part VII. Definitions

NMED requests that WPA spell out and define acronyms for clarification throughout the document.

- Middle Rio Grande (MRG)
- Green Infrastructure (GI) and Low Impact Development (LID)
- Biochemical Oxygen Demand over 5 days (BOD5) and Total Suspended Solids (TSS)
- Total Dissolved Solids (TDS), Chemical Oxygen Demand (COD), and Dissolved Oxygen (DO)
- Method Quantification Limit (MQL), Minimum Level (ML), and Method Detection Limit (MDL)

21) Table of Contents

NMED requests that EPA reformat the Table of Contents so that sections, subsections, paragraphs, etc. have consistent indents.

22) Appendix A. Historic Properties Eligibility Procedures. Section III State Historic Preservation Officers

Please update the email address to [michelle.ensey@dca.nm.gov](mailto:michelle.ensey@dca.nm.gov). Please also include the NM SHPO general email box [nm.shpo@dca.nm.gov](mailto:nm.shpo@dca.nm.gov).

23) Appendix A. Historic Properties Eligibility Procedures, Section IV. Tribal Historic Preservation Officers

The link [http://www.epa.gov/region06/6dra/oejta/tribalaffairs/pdfs/tribalconact\\_04\\_26\\_13.pdf](http://www.epa.gov/region06/6dra/oejta/tribalaffairs/pdfs/tribalconact_04_26_13.pdf) is no longer valid. NMED requests that EPA provide a link to a current list of Tribal Historic Preservation officers. The current New Mexico list of Tribal Historic Preservation Officers can be downloaded from the New Mexico Department of Cultural Affairs, New Mexico Historic Preservation Division at: <https://www.nmhistoricpreservation.org/tribal-consultation/native-american-consultations2.html>.

NMED requests that EPA update the list of Tribal Historic Preservation Officers to include all Tribes, Pueblos, and Nations in New Mexico and update their website links.

Please provide a link for the National Association of Tribal Historic Preservation Officers: <https://www.nathpo.org/>.

24) Appendix B - Minimum Quantification Levels (MQLs)

NMED requests that EPA include the analyte list and MQLs for PFAS.

25) Appendix C. Total Maximum Daily Loads (TMDLs) Containing MS4 Requirements

NMED requests that EPA update the TMDL list to include Los Alamos and Los Lunas urban areas.

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New Mexico Environment Department Comments  
2026 Draft MS4 General Permit in New Mexico  
NPDES Permit No. NMR04B000  
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NMED also requests that EPA add a statement instructing permittees to refer to the New Mexico Environment Department for the most current TMDLs.

Please add the statement: “Current TMDLs can be downloaded from the NMED website at <https://www.env.nm.gov/surface-water-quality/tmdl/>. The TMDL list is also available in the Statewide Water Quality Management Plan and Continuing Planning Process (WQMP/CPP), Appendix B Approved Total Maximum Daily Loads for New Mexico, available for download at: <https://www.env.nm.gov/surface-water-quality/wqmp-cpp/>.”