

SUPPORT SB-296

INCREASED PENALTIES

Adjusts civil penalties against polluters for inflation

Sponsor: Sen. Brenda McKenna
2021 New Mexico Legislative Session

What problem does SB-296 address?

Civil penalties for violations of environmental laws have **not been adjusted for inflation for nearly 30 years**. Inflation has steadily eroded the value of the maximum penalties by roughly 50 percent. The deterrent effect of civil penalties has thus been eroded over time.

How will SB-296 fix this problem?

- SB-296 will amend the Air Quality Control Act, the Water Quality Act, the Hazardous Waste Act, the Solid Waste Act and the Mining Act to adjust the maximum civil penalties that can be collected to account for inflation that has occurred since the penalty provisions were enacted in the early 1990s.
- SB-296 would align the penalty amounts with the original intent of the Legislature.
- SB-296 would **double** each penalty amount.

Statute	Original Amount(s)	Adjusted Amount(s)
Air Quality Control Act 74-2-1 to 18 NMSA 1978	<ul style="list-style-type: none">• \$15,000• \$25,000	<ul style="list-style-type: none">• \$30,000• \$50,000
Water Quality Act 74-6-1 to 17 NMSA 1978	<ul style="list-style-type: none">• \$5,000• \$10,000• \$15,000• \$25,000	<ul style="list-style-type: none">• \$10,000• \$20,000• \$30,000• \$50,000
Hazardous Waste Act 74-4-1 to 14 NMSA 1978	<ul style="list-style-type: none">• \$5,000• \$10,000• \$25,000	<ul style="list-style-type: none">• \$10,000• \$20,000• \$50,000
Solid Waste Act 74-9-7 to 43 1978	<ul style="list-style-type: none">• \$5,000• \$10,000	<ul style="list-style-type: none">• \$10,000• \$20,000
Mining Act 69-36-1 to 20 NMSA 1978	<ul style="list-style-type: none">• \$10,000	<ul style="list-style-type: none">• \$20,000

Which agencies assess civil penalties on polluters?

- Penalties can be assessed by the Environment Department or (under the Mining Act) the Energy, Minerals & Natural Resources Department in administrative compliance orders. Penalties can also be assessed by courts in judicial enforcement actions. Each of the statute's penalty provisions contain maximum penalty amounts that may be assessed, usually \$10,000 or \$15,000 per day of violation.
- Notably, the U.S. Congress has enacted similar legislation to adjust federal civil penalty amounts for inflation. Under the Federal Civil Penalties Inflation Adjustment Act of 1990, the penalty amounts in federal environmental (and other) laws have been adjusted for inflation several times, and they are now adjusted annually.
- This bill will not require any appropriations, and will not negatively affect the State's budget. It may enhance the State's budget by allowing State agencies to collect higher penalty amounts.

How does SB-296 advance environmental justice?

- The primary purpose of civil penalties is to deter polluters from violating the law or permit conditions.
- Increasing the maximum penalty amounts to account for inflation will increase the amount of money in reclamation, remediation and general funds for New Mexico's environmental agencies and better align the penalty amounts with the original intent of the legislature.
- Increased deterrence will provide more protections for New Mexico's air, water, and land.

Supporters of the bill include: Health Action NM, Tewa Women United, National Parks Conservation Association, 350 NM, New Mexico Social Justice and Equity Institute, Mountain View Neighborhood Association, Moms Clean Air Force, WildEarth Guardians, Interfaith Power & Light, Earthcare/YUCCA, Center for Social Sustainable Systems, South Valley Regional Association of Acequias, Sierra Club - Rio Grande Chapter

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