



NEW MEXICO ENVIRONMENT DEPARTMENT

Public Involvement Plan (PIP) for Proposed Draft Regulations for Water Reuse 20.6.8 New Mexico Administrative Code (NMAC)

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APPROVAL PAGE

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Date

I. Proposed Draft Supplemental Regulations for Ground and Surface Water Reuse Regulations Public Involvement Plan Overview

The New Mexico Environment Department (Department or NMED) developed this Public Involvement Plan (PIP) for rulemaking activities related to NMED's proposed supplemental regulations for water reuse for ground and surface water protection. These regulations are being developed as partial fulfillment of the state's Produced Water Act (PWA) (NMSA 1978, 70-13) and the Water Quality Act (WQA) (NMSA 1978, 74-6-4), which require the Water Quality Control Commission (WQCC) to adopt regulations to be administered by the Department for protection of human health and the environment and "...for the discharge, handling, transport, storage, recycling or treatment for the disposition of treated produced water..."

This PIP outlines the Department's plan for providing the public with opportunities to participate in the reuse regulation rulemaking process. The PIP also identifies Department staff and resources needed to accomplish these activities. This PIP integrates information about the community and identifies resources needed by the Department to successfully incorporate community participation activities into the decision-making process. The Department will meet public participation requirements for the reuse regulation rulemaking process by following this PIP, which includes all applicable policy, regulatory, and statutory public participation requirements.

In developing this PIP, NMED assessed community participation needs to ensure appropriate promotion of public outreach by identifying whether there is a combination of environmental and demographic factors (i.e., low income community, minority community, limited English proficiency individuals, Linguistically Isolated Households, etc.) that may impact public participation.¹ This assessment identifies community outreach needs and provides for public access opportunities and adequate public access to information regarding this activity.

The proposed reuse regulations have state-wide impact to a relatively large community of Spanish speakers. Therefore, based on the information in the Demographic Summary of this PIP (see Section IV), the Department will provide pertinent information in both English and Spanish in public meeting notices, public comment notices, and other announcements (radio broadcasts, brochures, signs, postcards, fact sheets, etc.), as necessary. The proposed reuse regulations are applicable state-wide. As such, the Department will provide public meeting notices, public comment notices, and other pertinent information in English, and Spanish. Other language translation will be provided, as the Department can reasonably accommodate, in coordination with the Department's Tribal Liaison and/or Non-Discrimination Coordinator, and upon request, allowing two weeks advance notice. During public comment periods, relevant documents may be reviewed on the Department's website, provided upon request by email/hard copy, or reviewed during normal business hours in hard copy at the Harold Runnels Building, 1190 St. Francis Dr., Santa Fe.

This PIP is a "living" document that may be amended after considering public comments and feedback. The Division Director and NMED General Counsel provide final approval of the PIP and revisions.

¹ See IV. Location and Demographics – Demographic Summary below.

Activity	Dates**
PUBLIC ENGAGEMENT & COLLABORATION	
Notice PIP (NMED website and Harold Runnels Building)	October 2023
Public Comment Period for PIP	Ongoing
Public announcements (radio, television, brochures, signs, postcards, factsheets, etc.)	As needed or requested
Stakeholder Solicitation	September 2023
Tribal Outreach and Consultation	Ongoing
Public Comment Period for Proposed Reuse Regulations	November 2023
Petition WQCC for Public Rulemaking Hearing	December 2023
Publish Public Hearing Notice (at least 60 days prior to hearing) in accordance with 20.1.6 NMAC	TBD - in accordance with 20.1.6.201(A) and (B) NMAC
File entries of appearance with WQCC Office of Public Facilitation	TBD in accordance with 20.1.6 NMAC
File Notice of Intent to Present Technical Testimony	TBD in accordance with 20.1.6 NMAC
Public Rulemaking Hearing before the WQCC	TBD in accordance with 20.1.6 NMAC
Submit adopted regulations to Records for Publication and make Effective for state purposes	TBD in accordance with State Rules Act (NMSA 1978, 14-4)
Public announcements (radio, television, brochures, signs, postcards, factsheets, etc.)	TBD following effective date of rule in accordance with State Rules Act (NMSA 1978, 14-4)

** Dates are tentative and may be subject to change.

II. Contacts

Department contacts for questions regarding the proposed reuse regulations, the public review and rulemaking process, or this PIP are listed below:

John Rhoderick
 New Mexico Environment Department
 1190 St. Francis Dr.
 Santa Fe, NM 87505
 Phone: (505) 819-8284
 Phone: (505) 827-2855
 Email: John.Rhoderick@env.nm.gov

Andrew Knight
 New Mexico Environment Department
 1190 St. Francis Dr.
 Santa Fe, NM 87505
 Phone: (505) 470-8215
 Fax: (505) 383-2064
 Email: Andrew.Knight@env.nm.gov

A. Non-English Language Speaker Assistance and Accommodations

Non-English speakers may call the Bureau contact listed in this PIP and request language assistance services, such as an interpreter, so they can learn more about the proposed reuse rule regulations.

- The Department will send a notice in English and Spanish to the Ground Water, Surface Water and Produced Water's email listserves announcing the availability of the comment period for the draft reuse regulations.
- The Department will publish the comment period, in both English and Spanish.
- If LEP individuals contact the Bureau, Department staff will work with the Department's interpreter to provide language assistance, either through immediately available staff, or through

contracted translation services.

- If individuals with accessibility needs contact the Bureau, bureau staff will work with the Department's Non-Discrimination Coordinator to address the request.

B. Department Websites

Outreach materials and notices may include links to the following websites:

Proposed Reuse Regulation Webpage – <https://www.env.nm.gov/water-reuse/>

NMED's Ground Water Quality Bureau website - <https://www.env.nm.gov/gwqb/>

NMED's Surface Water Quality Bureau website - <https://www.env.nm.gov/surface-water-quality/>

NMED's Produced Water website - <https://www.env.nm.gov/new-mexico-produced-water/>

New Mexico Environment Department - <https://www.env.nm.gov/>

New Mexico Environment Department Public Notice - <https://www.env.nm.gov/public-notices/>

III. Background for Public Participation

The Department involves the public and other stakeholders in the development of surface water quality standards, codified in 20.6.4 NMAC, and ground and surface water protection regulations, codified in 20.6.2 NMAC. The Department will provide opportunity for public participation as required in the State's approved Water Quality management Plan and Continuing Planning Process (WQMP/ CPP) and applicable WQCC Rulemaking Procedures (20.1.6 NMAC).

A Public Involvement Plan (PIP) for the Implementation of House Bill 546, the Produced Water Act, was approved and made available to the public in October 2019. The Department is proposing a supplemental Ground and Surface Water Protection water reuse regulation, which, in part, includes the restricted use of Produced Water. Given the scope of this reuse regulation, the public engagement needs have been reviewed and updated as part of this PIP.

IV. Location and Demographics

Water reuse planning and implementation activities have statewide effects, and thus this document will address public engagement and outreach related to regulation development for the entire state as outlined below.

Demographic Summary

Using the US Census Bureau, 2016-2020 American Community Survey (ACS) report, New Mexico has an estimated population of 2,097,021; 49 percent identify as Hispanic; 9 percent identify exclusively as American Indian, with 63% of the total population being "minority²." In addition, an estimated 169,269 individuals (9%) over the age of 5 speak English "less than very well." Of the 40,736 linguistically isolated households³ in New Mexico, 81% speak Spanish, 2% speak other Indo-European languages, 4% speak Asian-Pacific languages, and 13% speak other or non-specified languages. The per capita income for New Mexico is \$27,945 as compared to the national per capita income of \$37,638, with 18.4% of New Mexico's population living in poverty.

These results indicate that for the state of New Mexico, the percentage of non-English speaking

² *Minority population* means a population that is identified or recognized by the U.S. Census Bureau as Hispanic, African-American or Black, Asian and Pacific Islander, American Indian or Alaskan Native.

³ *Linguistically isolated* means no one in the household 14 years or older speaks English "very well" or speaks English only.

communication is considerable (i.e., substantially greater than the national percentage) and there are demographic factors (i.e., low-income community, minority community, limited English proficiency individuals, Linguistically Isolated Households, etc.) that may impact public participation.

It is important for the Department to incorporate the linguistic and communication needs of communities in the State when conducting public outreach and participation activities for statewide issues. Therefore, based on the analysis summarized in the previous paragraphs, the Department will provide information in Spanish and in English for public comment notices, public meeting notices, public hearing notices, and other announcements (radio broadcasts, brochures, signs, postcards, etc.) as needed, and strive to make public participation efforts as inclusive as possible within Department's budget and time limitations. Specific repository addresses that may be used, depending on need, are provided in this PIP in Section VI, below.

V. Public Participation and Outreach Activities

The Department will conduct the following outreach activities:

- Providing the public with the information and assistance necessary for meaningful involvement;
- Providing a central location of reports, studies, plans, and other documents;
- Maintaining a list of affected or interested parties and stakeholders;
- Notifying stakeholders in a timely fashion prior to consideration of major decisions (generally at least 30 days);
- Providing, at a minimum, a 30-day public comment period for proposed draft language;
- Petitioning the WQCC at a public meeting to request a public rulemaking hearing;
- Publishing the public hearing notice in the New Mexico Register, in two newspapers of general circulation, and mailed (or emailed) to the stakeholder list at least 60 days prior to the hearing date;
- Posting rulemaking information on NMED's website;
- Posting rulemaking information on State's Sunshine Portal;
- Providing email notification of the public hearing with links to supporting documentation to NMED's district managers to make available at NMED field offices;
- Providing email notification of the public hearing with links to supporting documentation to the Small Business Administration;
- Providing email notification (if provided) of the public hearing with links to supporting documentation to persons who have identified as a stakeholder, participated in the rulemaking, or specifically made a request for notice;
- Sending written notice that includes at a minimum, an internet and street address where the information may be found to persons who provide a postal address;
- Providing notice of hearing to the New Mexico legislative council for distribution to appropriate legislative committees;
- Holding a public hearing before the WQCC;
- Publishing the approved regulation in the New Mexico Register with the effective date of the regulations; and
- Posting WQCC approved regulations on NMED's website.

A. Postal Mailing or Emailing of Notices to Persons on the Stakeholder List

The Department is maintaining a stakeholder list for this rulemaking action that includes individuals that have self-identified as directly impacted by, have a legal obligation to, or have some other particularized

interest in reclaimed water reuse regulations. This list was created in September 2023 as a combination of all previously interested persons who requested the Department provide them with information about regulatory development of water reuse regulations. The Department regularly maintains contact information, which is updated or supplemented if additional information is found. The list also includes pre-identified local, state, and federal governments. Interested persons that have provided both an address and email may receive physical mail and an email. Additional individuals, organizations, and other stakeholders are added to the mailing list as requested.

B. E-Mail Updates

The Department maintains several email listservs through GovDelivery that include individuals interested in water quality issues and activities. This list contains email addresses for all persons who requested the Department provide them with information about water quality issues via these listservs. The Department adds additional individuals, organizations, and other interested parties to the list as requested. The Department regularly maintains contact information which is updated or supplemented as appropriate. Individuals may subscribe at any time to be included in notices via GovDelivery using the following links:

Ground Water Quality Bureau listserv

(<https://public.govdelivery.com/accounts/NMED/subscriber/new>);

Surface Water Quality Bureau listserv

(https://public.govdelivery.com/accounts/NMED/subscriber/new?topic_id=NMED_4); or

Produced Water listserv

(https://public.govdelivery.com/accounts/NMED/subscriber/new?topic_id=NMED_4)

C. Mailing to the Governor or President of Indian Tribes, Pueblos or Nations

All communication with Tribes, Pueblos, or Nations will be sent through the Department's Tribal Liaison.

D. Public Meeting Notices, Public Comment Notices, and Other Notices

All public notices will contain a statement that individuals may contact the Department's NMED Non-Discrimination Coordinator to request disability assistance to participate in activities associated with the rulemaking process. The Department will make arrangements for disability services in accordance with the Department's Non-Employee Disability Accessibility and Outreach Policy (07-10).

The Department's Non-Discrimination Coordinator contact information is:

Kate Cardenas

PO Box 5469

Santa Fe, NM 87502

Telephone: (505) 469-0732

Email: nd.coordinator@env.nm.gov

NMED will also provide the following information in notices for public meetings, public comment period(s) and public hearing notices in both English and Spanish so that deaf or hearing-impaired callers can contact the Department and ask questions about noted activities:

TDD or TTY users please access the number via the New Mexico Relay Network, 1-800-659- 1779 (voice); TTY users: 1-800-659-8331.

Los usuarios de TDD o TTY deben acceder al número a través de la New Mexico Relay Network, 1-800-659- 1779 (voz); usuarios de TTY: 1-800-659-8331.

E. Informational Pamphlets

The Department may develop informational pamphlets that briefly explain what is happening relative to the rulemaking process. To the extent such informational pamphlets are created, the Department may determine whether they will be available in additional languages, online (e.g., Department website), and in print (hardcopy) at the document repositories listed in the PIP. They may also be distributed via email to interested organizations and individuals, including those who subscribe to email notices through the website.

F. Public Comment Period

The 30-day public comment period for the proposed draft Ground and Surface Water Reuse Regulations, required in accordance with the State's approved Water Quality Management Plan and Continuing Planning Process is tentatively scheduled for the Fall of 2023.

The Department will post updates, notices, and relevant information on its Water Reuse website found at: <https://www.env.nm.gov/water-reuse/>

G. Planned Public Meetings – Dates, Times, and Locations

The Department may hold a public meeting on the proposed draft water reuse regulations during the public comment period. Notice of this meeting will be provided via the Department's website, email to interested parties, posted in a prominent location(s) to which the public has access.

H. Other Outreach

After consideration of public interest and input, the Department, at its discretion, may post other means of outreach, such as flyers announcing public comment periods, in more locations throughout the State (e.g., local businesses, schools, libraries, NMED field offices, Navajo Nation Local Government Chapterhouses) and on the Department's website.

I. Information Repositories

Public notices and outreach materials will include a statement that copies of the draft rule and supporting documents may be obtained via the Department's website at <https://www.env.nm.gov/water-reuse/> or by contacting Kathleen Murphy at (505) 660-7567, Kathleen.murphy@env.nm.gov, 1190 Saint Francis Drive, Santa Fe, New Mexico.

Members of the public may obtain copies of the proposed draft water reuse regulations (once drafted) and any of the above-mentioned supporting documents and information via download from the Department's website at <https://www.env.nm.gov/water-reuse/> or by contacting:

Kathleen Murphy
New Mexico Environment Department
Ground Water Quality Bureau
P.O. Box 5469
Santa Fe, New Mexico 87502-5469
Phone: (505) 819-8284
Email: Kathleen.murphy@env.nm.gov

Members of the public can also obtain hard copies of the proposed draft water reuse regulations (once drafted) from the following NMED offices:

Ground Water Quality Bureau
1190 St. Francis Dr.
Santa Fe, NM 87505
Phone (505) 827-2900

Carlsbad Field Office
406 N. Guadalupe, Suite C
Carlsbad, NM 88220
Phone (575) 885-9023

Albuquerque District I Office
121 Tijeras Ave. NE, Suite 1000
Albuquerque, NM 87102-3400
Phone (505) 222-9500

Hobbs Field Office
2120 N. Alto
Hobbs, NM 88240
Phone (575) 397-6910

Farmington Field Office
1800 E. 30th St. Suite B
Farmington, NM 87401
Phone (505) 566-9741

Roswell Field Office
1914 W. Second
Roswell, NM 88201
Phone (575) 624-6046

Las Cruces District III Office
2301 Entrada Del Sol
Las Cruces, NM 88001
Phone (575) 288-2050

G. Water Reuse Regulation Rulemaking, Outcomes, and Responses to Comments

To address stakeholder and community members who submitted formal comments on the proposed reuse rules, the Department will prepare the final draft regulation as amended, including a Response to Comments document, following the close of the public comment period. The WQCC's rulemaking regulations (20.1.6 NMAC) require the Department petition the WQCC for a public rulemaking hearing. NMED's proposed draft regulations and supporting documentation will be available to the public on the WQCC's website at <https://www.env.nm.gov/opf/docketed-matters/>. Upon approval and adoption by the WQCC, the rule will be published, with an effective date in the New Mexico Register.

H. PIP Contingency Plan

During a public health emergency or other unforeseen event outside the control of the Department, the Department will make every effort to ensure the public remains involved in and informed of the decision making and rule development processes. The purpose of this PIP Contingency Plan is in part to address circumstances when public spaces are closed because of potential human exposure risks. The Department will attempt to identify and utilize alternate methods of document delivery to the public and public viewing when conventional methods and locations are unavailable. When it is unsafe to utilize the physical PIP and document repositories, the Department will consider utilizing electronic delivery methods deemed appropriate for the permitting action. During the times of potential human exposure risks and the resultant implementation of this PIP Contingency Plan, the Department will only hold public meetings when or through means by which the Department can ensure the public's health and safety and this PIP can be fully adhered to.