



NEW MEXICO ENVIRONMENT DEPARTMENT
Surface Water Quality Bureau

Public Involvement Plan (PIP)
for the State of New Mexico
Clean Water Act §401

Individual Water Quality Certification Template for
United States Army Corps of Engineers 13 Nationwide
Permits (Permit Numbers
12, 21, 29, 39, 40, 42, 43, 44, 50, 51, 52, 57,
and 58)

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APPROVAL PAGE

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Date

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Date

I. Public Involvement Plan (PIP) Overview

The New Mexico Environment Department (Department), Surface Water Quality Bureau (Bureau) developed this Public Involvement Plan (PIP) for the State of New Mexico Clean Water Act §401 **Individual Water Quality Certification (WQC) Template for 13 Nationwide Permits (NWP)s, with Permit Numbers 2, 21, 29, 39, 40, 42, 43, 44, 50, 51, 52, 57, and 58** issued by the US Army Corps of Engineers (USACE or Corps). Certification is required by CWA §401 to ensure that the 13 NWPs are consistent with state law, comply with the state Water Quality Standards (20.6.4 NMAC), the Water Quality Management Plan/Continuing Planning Process, including Total Maximum Daily Loads (TMDLs), and the Antidegradation Policy. Certification is also required to comply with General Condition 25 (Water Quality) and General Condition 27 (Regional and Case-By- Case Conditions) of the NWPs.

The Bureau encourages public comments for certifying the 13 NWPs (20.6.2.2002.F NMAC). The purpose of this PIP is to provide public participation opportunities and information that may be needed for the public to participate in the public comment period for certifying the 13 NWPs.

This PIP integrates information about the community and identifies resources needed by the Bureau to successfully incorporate community participation. The PIP identifies the Department staff and resources needed to accomplish these activities.

The Bureau will meet the public participation requirements for certifying the 13 NWPs by following this PIP, which includes all applicable policy, regulatory, and statutory public participation requirements.

In developing this PIP, state-wide community participation needs were assessed 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 above and beyond statutorily mandated requirements, and underscores the provision of adequate public access to information about the Individual WQC Template for the 13 NWPs.

As much as possible, public participation and informational activities related to the Individual WQC Template for the 13 NWPs will be held within the timelines outlined in the table below. The 30-day comment period shall begin on the date of the public notice provided under Subsection D and F of 20.6.2.2002 NMAC.

The Individual WQC Template for the 13 NWPs is a state-wide document pertinent to a relatively large community of Spanish speakers, and the Bureau 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. During public comment periods, hardcopies of relevant documents may be reviewed at the

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

information repositories listed in “Public Participation and Outreach Activities” – Section V.H.

More detailed information about planned Bureau outreach is available in this PIP.

Activity	Dates
Notice PIP (invite public input)	March 8, 2022
Public Notice for the CWA §401 Individual Certification Template for the 13 NWP	March 8, 2022
Public Comment Period	30 days
Public announcements (radio, brochures, signs, postcards, factsheets, etc.)	As needed
Bureau sends the CWA §401 Individual Certification Template to the USACE	When finalized
Bureau uses the CWA §401 Individual Certification Template to certify individual projects authorized by the Corps under NWPs 12, 21, 29, 39, 40, 42, 43, 44, 50, 51, 52, 57, and 58.	As needed

This PIP is a “living” document that may be amended after considering public comments and feedback. The Bureau Chief provides final approval of the PIP and amendments.

II. Contacts

Bureau contacts for questions regarding the State of New Mexico Individual WQC Template for the 13 NWPs, the Bureau’s website, or this PIP, are listed below:

Alan Klatt, Team Supervisor
Surface Water Quality Bureau
1190 South St. Francis Dr.
Santa Fe, NM 87505
Phone: (505) 819-9623
Email: Alan.Klatt@state.nm.us

The NMED SWQB offices are currently closed due to the COVID-19 public health emergency. If you need to contact the Bureau regarding the Proposed Individual Certification Template for the 13 NWPs, please call or email the bureau contacts listed above.

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 State of New Mexico Individual Certification Template for the 13 NWPs.

B. Department Websites

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

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

C. CWA §401 Water Quality Certification Website

The Bureau maintains a website location for information on 401 Certifications (see website address below). The website will be kept up to date and has information about the process and important documents.

<https://www.env.nm.gov/surface-water-quality/dredgeandfillactivities/>

<https://www.env.nm.gov/surface-water-quality/public-notices/>

D. The Document the Bureau is Reviewing under CWA §401

Additional information regarding the 13 Nationwide Permits is available from the USACE's Albuquerque District's website at <https://www.spa.usace.army.mil/Missions/Regulatory-Program-and-Permits/NWP/>.

III. Regulatory Framework

The USACE administers a regulatory program to implement Section 10 of the Rivers and Harbors Appropriation Act and Section 404 of the Clean Water Act (CWA). Nationwide permits (NWP) are general permits issued under CWA §404 on a nationwide basis to streamline the authorization of activities that result in no more than minimal individual and cumulative adverse environmental effects. The USACE typically reissues the NWP every five years and certifying authorities have the opportunity to recertify the NWP; However, 13 NWP applicable to New Mexico were reissued early in 2021 rather than 2022. On February 12, 2021 the Corps declined to rely on NMED's general Certification for the NWP and notified NMED that an individual Certification or a waiver would be required for activities authorized by these NWP. The Corps reissued 13 NWP applicable to New Mexico which became effective on March 15, 2021. When the Corps determines that a project qualifies for one of the 13 NWP, NMED will issue an Individual Certification to each applicant following review of the project application.

The Bureau's CWA §401 certification ensures that the federal permit or action is consistent with State law and otherwise complies with Water Quality Standards (20.6.4 NMAC), the Water Quality Management Plan/Continuing Planning Process (WQMP/CPP) including Total Maximum Daily Loads (TMDLs), and the current Antidegradation Policy. The Department's permit certification process is outlined in CWA §401, and New Mexico's Administrative Code at 20.6.2.2002 NMAC.

The public comment period for the Individual WQC Template is 30-days (20.6.2.2002 NMAC) and will begin on March 8, 2022 and end on April 7, 2022 (<https://www.env.nm.gov/public-notices/>). A final copy of the Individual WQC Template for the 13 NWP will be sent to the USACE and those who submitted comments for consideration in the public comment period.

The public participation requirements of specific water quality programs are specified in 40 CFR Section 25.4 and described in New Mexico's Statewide Water Quality Management Plan and Continuing Planning Process (WQMP/CPP). At a minimum, the public participation process for

New Mexico's water quality programs consists of the following:

- 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; and
- Notifying stakeholders in a timely fashion prior to consideration of major decisions (generally at least 30 days).

To fulfill this requirement, the Bureau invites the public to submit comments on the Individual WQC Template for the 13 NWP's to the Bureau for consideration and inclusion in the certification. If you would like to comment directly to the Bureau, please send written comments to the Bureau contacts listed above in Section II.

IV. Location and Demographics

The Individual WQC Template for the 13 NWP's is a statewide document and applies only to areas where the State of New Mexico is the certifying authority. Native American Tribes and Pueblos with water quality certifying authority from Environmental Protection Agency (EPA) have the authority to make WQC decisions on their lands.

Demographic Summary

Using U.S. Census Bureau 2014-2018 American Community Survey (ACS) Report for the state of New Mexico, New Mexico has an estimated population of 2,092,434; 49% identify as Hispanic or Latino (which may be of mixed race) and 9% identify exclusively as American Indian. The percent of persons that communicate in a language other than English (non-English) at home is 35%, compared to 21.5% for the United States. The per capita income for New Mexico is \$26,085 as compared to the national per capita income of \$32,621, with 16.8% of New Mexico's population living in poverty. These results indicate that for the state of New Mexico, the percentage of Spanish-speaking communication is considerable (i.e., substantially greater than the state or 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.

Therefore, the Bureau will provide information in Spanish and in English for public comment notices, public meeting notices, and other announcements (radio broadcasts, brochures, signs, postcards, etc.), and strive to make public participation efforts as inclusive as possible within Bureau budget and time limitations. Specific information repositories that may be used depending on the need are provided in Section V.H. of this PIP.

V. Public Participation & Outreach Activities

The public may ask questions about the Individual Certification Template for the 13 NWP's, at any time. However, the Bureau emphasizes that to be included in the administrative record, comments solicited by public notices about the Individual WQC Template must be submitted during the noticed comment period, and in accordance with the public notice.

Specific outreach activities related to the draft Individual Certification Template for the 13 NWPs include:

- Creating and maintaining a specific web page with attachments and links to all pertinent documents (see part II.B and II.C above),
- Developing a public notice announcing the opening of the 30-day public comment period on the Individual WQC Template,
- Posting this notice to the SWQB website,
- Emailing this public notice to SWQB's extensive email list through the GovDelivery e-mail delivery service (1,898 email addresses as of February 6, 2022),
- Sending this public notice to NMED's public relations officer for a press release, and
- Publishing the notice in at least one newspaper of general circulation.

The most direct way to learn about and be involved in the decision-making process for this Individual WQC Template is to submit a comment to the Bureau.

Based on the demographics report discussed in the PIP, basic information about public involvement opportunities will be in both English and Spanish. This information will include how to request materials in Spanish or to speak with Bureau staff through an interpreter. Further details about public participation for this activity are outlined below.

A. Postal Mailing or E-Mailing of Notices to Persons on the Surface Water Quality Bureau's Email List

The Bureau maintains an extensive email list (1,898 email addresses as of February 6, 2022) that includes individuals interested in surface water quality issues and activities. This list is a combination of all previously interested persons who requested the Bureau provide them with information about surface water quality in New Mexico. The Bureau regularly maintains contact information, which is updated or supplemented if additional information is found. Interested persons providing both an address and email may receive physical mail and an email. Additional individuals, organizations, and other interested parties are added to the email list as requested.

B. Email Updates

If you would like to be added to the Bureau's email list for information and updates, visit the Bureau's website at: <https://www.env.nm.gov/surface-water-quality/> and click on the "Subscribe to SWQB News" button on the bottom of the home page. For help, you can contact the Bureau's website liaison, Heidi Henderson at (505) 819-9986 or email Heidi.Henderson@state.nm.us.

C. Notices in State Newspaper and Local Newspaper

The notice will be published in at least one newspaper of general circulation pursuant to 20.6.2.2002.D NMAC.

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

Based on the Bureau's evaluation of the community, notices will be translated into Spanish. In

addition, the Bureau will post notices on the Department's Events Calendar at:
<https://www.env.nm.gov/events/>

E. Informational Pamphlets

The Bureau does not develop informational pamphlets for draft Water Quality Certifications. Generally, information about how USACE permits were developed or have changed is documented in the fact sheet or statement of basis accompanying the NWP, which are located along with the permits on USACE's public website

<https://www.spa.usace.army.mil/Missions/Regulatory-Program-and-Permits/Public-Notices/Article/2358975/2020-nationwide-permits-and-new-mexico-regional-conditions-request-for-comments/>.

F. Public Comment Period

The 30-day public comment period on the CWA §401 Individual Water Quality Certification Template for the 13 Nationwide Permits is planned to start March 8, 2022, and end April 7, 2022, at 5:00 p.m.

G. Other Outreach

Due to the COVID-19 pandemic and health emergency, other means of outreach such as flyers or other hard copy postings will not be used. However, any updates will be posted on the Department's website.

H. Information Repositories

Copies of the final 13 Nationwide Permits and any of the above-mentioned supporting documents may be obtained via download from the USACE's website at <https://www.spa.usace.army.mil/Missions/Regulatory-Program-and-Permits/NWP/>, or the Department's website at <https://www.env.nm.gov/public-notices/> or by contacting Bureau contacts listed above in Section II.

Due to the COVID-19 pandemic and health emergency, the Bureau will not provide hardcopies and other information at post offices, community centers, public libraries, or other repositories. The Bureau requests that individuals access to Water Quality Certification documents and information online at the links noted above. If absolutely needed, the Bureau will work with individuals to provide safe access to hardcopies. If you would like to request hard copies of important documents or information about how to comment on the proposed NWP, please contact Alan Klatt at (505) 819-9623 or email: alan.klatt@state.nm.us.

I. CWA §401 Certification Proceedings, Outcomes and Responses to Comments

To address stakeholder and community members comments, the Bureau will prepare a "Response to Comments" following the close of the public comment period. The final Individual Certification Template and Response to Comments will be sent to the Corps, and the interested

stakeholder and/or community members who commented directly to the Bureau. Comments received will also be summarized in the CWA §401 Individual WQC Template for the 13 NWP's.