



NEW MEXICO ENVIRONMENT DEPARTMENT
Surface Water Quality Bureau

Limited English Proficiency (LEP) Analysis
for Pajarito Plateau Copper Site-Specific
Water Quality Criteria

September 2024
APPROVAL PAGE

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Date

Limited English Proficiency (LEP) Analysis for the Pajarito Plateau Copper Site-Specific Water Quality Criteria

Newport News Nuclear BWXT-Los Alamos, Triad National Security, and the U.S. Department of Energy, (collectively referred to as “the Petitioners”), petitioned the New Mexico Water Quality Control Commission (WQCC) for a rulemaking hearing to amend Water Quality Standards for Copper site specific criteria on the Pajarito Plateau (WQCC 24-31, <https://www.env.nm.gov/opf/docketed-matters/>). The WQCC granted and scheduled a public rulemaking hearing on this matter for October 2024, subsequently rescheduling for January 14, 2025 (see PIP for additional details). The Surface Water Quality Bureau (SWQB or Bureau) of the New Mexico Environment Department (NMED or Department) prepared this analysis on behalf of the WQCC and the Petitioners.

The purpose of this analysis is to determine the extent to which LEP services are necessary for the WQCC rulemaking and is based on relevant information for the following four factors defined by NMED policy:

- Factor 1: The Number and Proportion of LEP Individuals Eligible to be Served or Likely to be Encountered in the Community of Concern.
- Factor 2: The Frequency with Which LEP Individuals Come into Contact with the Program.
- Factor 3: The Nature and Importance of the Activity or Service Provided by the Program.
- Factor 4: The Resources Available to NMED (and Petitioners) and the Associated Costs.

1. Number and proportion of LEP persons estimated to be served or encountered in the community of concern.

Demographic indicators were obtained from EPA EJSCREEN, an environmental justice screening and mapping tool, available on-line at <https://www.epa.gov/ejscreen>. EJSCREEN is based on nationally consistent data and an approach that combines environmental and demographic indicators in maps and reports. Users choose the geographic area of interest by indicating a point, line or polygon on the map; users may also choose to select a “buffer” area around the point, line or polygon to better capture the affected community. EJSCREEN then provides a report that describes demographic and environmental information for that area, with or without an assigned buffer.

The **2018-2022 ACS Report** link in EJSCREEN provides a report with U.S. Census Bureau American Community Survey (ACS) data in PDF format. The U.S. Census Bureau collects data through the ACS to assess language characteristics within a geographic area. These data identify a person’s ability to speak English “very well” or “less than very well” and the language predominately spoken at home for those populations age 5 and older. The 2018-2022 ACS, through EJSCREEN, provided quantitative information regarding LEP populations for this analysis.

Summary of Site-Specific EJSCREEN Inputs

- Community of Concern = Los Alamos, White Rock, and San Ildefonso Pueblo.
- Buffer = 12-mile radius around Los Alamos, New Mexico (see Figure 1).

The buffer is wide enough to capture Los Alamos, White Rock, San Ildefonso Pueblo and communities surrounding the affected area.

The 2018-2022 ACS Report indicates that the total population of the area of concern is 20,300 . In addition, 17% of the total population age 5 and older and speaks a language other than English at home. Of these

individuals, approximately 621 speak English “less than very well” representing 3% of the total population in the area of concern. The EJSCREEN analysis resulted in 250 of 8,518 (3%) linguistically isolated households. Approximately 29% of these households speak Spanish, 59% speak Asian-Pacific languages, 11% speak other Indo-European languages, and 1% speak other languages.

2. The frequency with which LEP individuals might come into contact with the program.

There are several potential areas where the Bureau may interact with LEP individuals. *The Bureau receives less than five notifications per year* from members of the public seeking information about Site Specific Water Quality Standards Criteria.

The Bureau reviewed its administrative records and found that, historically, there has been occasional LEP participation regarding past Water Quality Standards Rulemakings. There is no record of individuals needing specific accessibility accommodations when attempting to provide public comment at any time.

An identifier of “**occasional**” is being assigned because, although the actual interaction with LEP individuals is infrequent, there is potential given the location and history of the facility, demographics of the state, and the connection that the people of New Mexico have with surface water.

3. The nature and importance of the activity or service provided by the subject material of the program.

Many LEP persons in New Mexico depend on surface waters of the state for not only recreational opportunities but also for their water supply. New Mexico has a rich and well-established history of acequias for agricultural and domestic uses. Tribal communities use surface waters for a variety of ceremonies and rituals. The connection to surface water is strong throughout New Mexico.

The proposed Copper Site-Specific Water Quality Criteria for the Pajarito Plateau, if approved by the New Mexico Water Quality Control Commission (WQCC), will be protective of and maintain the designated uses of surface water and otherwise comply with surface water quality standards (the State of New Mexico Standards for Interstate and Intrastate Surface Waters at 20.6.4 NMAC).

Considering the importance of protecting surface water quality to the Department and to the State and given the connection and importance of surface water to communities throughout New Mexico, an identifier of “**important**” is being assigned.

4. The resources available to NMED and the Petitioners and the associated costs.

The Petitioners will provide language assistance free of charge. From the Bureau’s assessment, there are adequate resources available to address LEP requirements. The Petitioners will employ a certified translator who can translate public notices and vital documents for the rulemaking process. If it is discovered that additional LEP services are needed, the Petitioners will contract with a translator or interpreter to communicate with those LEP individuals. Other expanded outreach activities that may be utilized, as identified and necessary, include:

- posting translated materials and information on the Petitioners’ website;
- contracting with a telephone interpreter service to facilitate phone interpretations with LEP individuals;

- airing announcements in Spanish or other languages as deemed appropriate on local radio stations; and,
- working with community leaders (church leaders, community centers, libraries, etc.) to disseminate the information to the affected population.

LEP Plan for Pajarito Plateau Copper Site-Specific Water Quality Criteria

Policy Overview

This LEP Four Factor Analysis has been prepared in accordance with NMED's Limited English Proficiency Accessibility and Outreach Policy 07-11 and NMED's Public Participation Policy 07-13 by the Bureau's Monitoring, Assessment, and Standards Section (MASS).

The Bureau anticipates that a Public Notice will be published in October of 2024 announcing a minimum thirty-day public comment period on the Copper Site-Specific Water Quality Criteria for the Pajarito Plateau Rulemaking. More information will be provided in the activity's Public Involvement Plan (PIP). This determination will be kept with the administrative record for this activity.

Determination

Summary of Site-Specific EJScreens Inputs

The 2018-2022 ACS Report indicates that the total population of the area of concern is 20,300 . In addition, 17% of the total population age 5 and older and speaks a language other than English at home. Of these individuals, approximately 621 speak English "less than very well" representing 3% of the total population in the area of concern. The EJScreens analysis resulted in 250 of 8,518 (3%) linguistically isolated households. Approximately 29% of these households speak Spanish, 59% speak Asian-Pacific languages, 11% speak other Indo-European languages, and 1% speak other languages.

Based on a balanced evaluation of the four factors described above, the assessment indicates that additional language assistance (interpretation or translation services) or outreach are not needed for this activity. However, actions regarding the Petitioners have the potential to generate broad interest and **all public notices should be published in English and Spanish and Spanish interpretation will be provided during the hearing** (see PIP). Any outreach materials will include information on how LEP persons or persons with disabilities can obtain assistance. Per item #19 of the second pre-hearing order, simultaneous Spanish-language interpretation will be provided at the hearing. The Petitioner will bear financial responsibility for this service. The Department and Petitioners determined that adequate resources are available to provide LEP services, as determined for Spanish or requested in other languages.

Final Actions

- NMED will send an English and Spanish notice to the Bureau's email listserv announcing the availability of rulemaking material, the public comment period, and how to participate in the hearing for the Copper Site-Specific Water Quality Criteria for the Pajarito Plateau Rulemaking.
- Petitioners will publish a notice of rulemaking in English and Spanish in the New Mexico Register and at least one newspaper of general circulation. Petitioner's and NMED's websites will have the public notices of rulemaking posted in English and Spanish with the instructions for

submitting public comment, and how to provide technical testimony, or otherwise participate in the rulemaking hearing.

- The Petitioners will arrange and pay for simultaneous Spanish-language interpretation at the hearing per the pre-hearing order.
- If LEP individuals contact the Petitioners or NMED to request information about the rulemaking, staff will attempt to find appropriate response staff (e.g., LANL’s interpreter, or see NMED staff below) to assist the LEP individual, or will take the LEP person’s name and number for follow-up communication.
- If the LEP individual speaks a language other than Spanish, the responding staff will coordinate interpretation services with the Department’s or Petitioner’s interpreter. The Petitioners or NMED may arrange for on-call telephone interpretation services.
- If individuals with accessibility needs contact NMED or Petitioners, staff will work with NMED to address the request. NMED will work to accommodate requests received two weeks prior to the hearing.
- If an LEP individual provides written comment during the public comment period for consideration during the public comment period, Petitioners will communicate the response to the LEP individual in their preferred language.

NMED Employees who may be used to field phone calls and in-person interactions, and languages spoken.

NMED Employee	Language Spoken	Phone Number
Julie Roybal (GWQB)	Spanish	505-372-9058
Andrew Romero (GWQB)	Spanish	505-629-8864

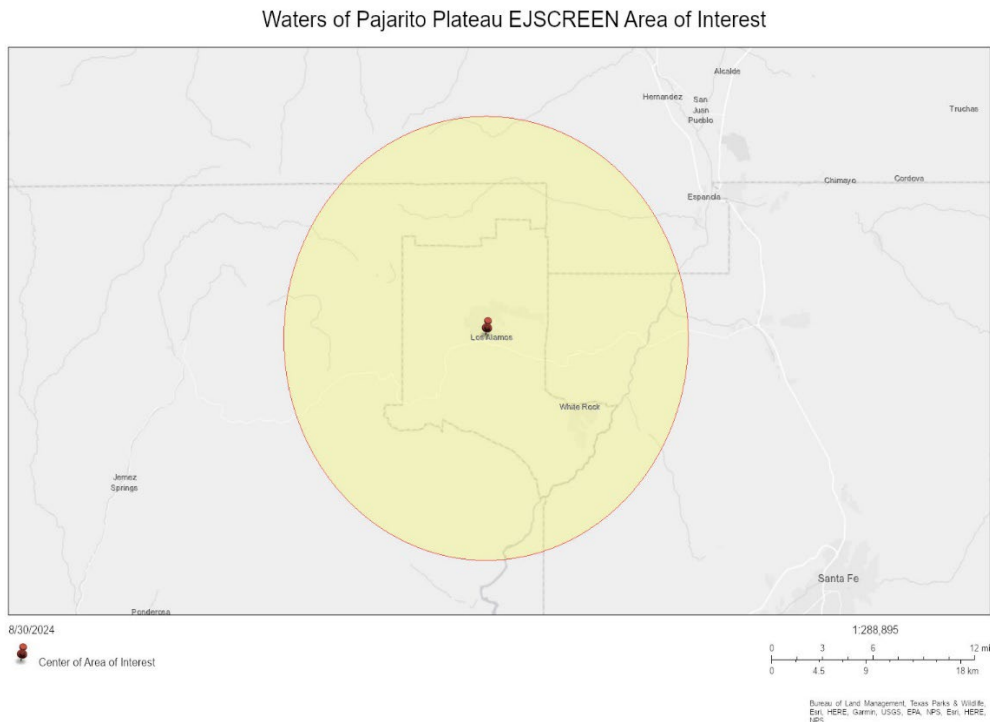


Figure 1: EJSscreen Pajarito Plateau Demographic Area