



NEW MEXICO ENVIRONMENT DEPARTMENT  
*Surface Water Quality Bureau*

Limited English Proficiency (LEP) Analysis  
for the New Mexico Surface Water Quality  
State Permitting Program:  
Ground and Surface Water Protection  
(20.6.2 NMAC) and  
New Mexico Pollutant Discharge  
Elimination System (20.6.5 NMAC)

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**APPROVAL PAGE**

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Date

## **Limited English Proficiency Analysis for the New Mexico Surface Water Quality State Permitting Program: Ground and Surface Water Protection (20.6.2 NMAC) and New Mexico Pollutant Discharge Elimination System (20.6.5 NMAC)**

The purpose of this analysis is to determine the extent to which Limited English Proficiency (LEP) services are necessary and is based on relevant information for the following four factors defined by New Mexico Environment Department (NMED or Department) 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 encounter 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 the associated costs.

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

As a result of President Trump rescinding the 1994 Executive Order on “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations”, the EPA’s EJScreen tool—referenced in NMED Policy 07-13 (Public Participation)—has been removed from service. In response, the Department’s Office of Information Technology’s (OIT) GIS Section, Environmental Justice and Community Engagement Coordinators, and agency leadership have developed interim compliance measures utilizing the in-house draft tool, the [Experience Builder Application](#), as well as the [Public Environmental Data Partners Tool](#).

Demographic indicators were obtained from the [Experience Builder Application](#), a demographic characteristics screening and mapping tool, available on-line. The Experience Builder uses ArcGIS Online Living atlas layers and NMED data to assist New Mexico with planning and assure no communities are missed in Department actions.

The data provided is sourced from the most current [U.S. Census Bureau American Community Survey](#) (ACS). 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.

### **Summary of Site-Specific EJSCREEN Inputs**

- Community of Concern = statewide

The ACS Report indicates that total population of the state of New Mexico is 2,114,768. In addition, 29.9% of the total population age 5 and older speaks a language other than English at home. Of these individuals, approximately 173,410 individuals speaking English “less than very well,” representing 8.2% of the total population. Approximately 81% of these LEP individuals speak Spanish and 19% speak various other languages (not identified).

The Bureau reviewed the administrative record and found that, historically, there has been no LEP participation regarding the State of New Mexico’s Ground and Surface Water Protection (20.6.2 NMAC). There is no record of individuals needing specific accessibility accommodations when attempting to provide public comment.

The New Mexico Pollutant Discharge Elimination System (20.6.5 NMAC) is a new proposed rule. Therefore, there is no administrative record or history of individuals needing specific accessibility accommodations when attempting to provide public comment.

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

There are several potential areas where the Surface Water Quality Bureau (Bureau) may interact with LEP individuals. The Bureau monitors and samples surface water quality throughout the state on a rotating basis; certifies NPDES permits for point source dischargers, conducts compliance evaluation inspections for regulated facilities, and responds to citizen complaints; collaborates with other agencies, municipalities, and stakeholders on restoration projects through the Nonpoint Source Program, the Wetlands Program and the River Stewardship Program; and certifies Clean Water Act Section 404 permits for dredge and fill activities. Oftentimes, when staff are in the field, they interact with landowners, anglers, boaters, or just curious individuals to either gain access to a sampling location, assist with or oversee a restoration project, or describe what we are doing and why we are doing it, and answer general questions. However, these interactions are rarely, if ever, with LEP individuals.

An identifier of “**occasional**” is being assigned because, although the actual interaction with LEP individuals is infrequent, there is potential given the 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.

It is the objective of the federal Clean Water Act (CWA) to restore and maintain the chemical, physical, and biological integrity of the nation’s waters, including those in New Mexico. New Mexico relies on federal CWA permits to control the discharge of pollutants into its surface waters. Recent federal rulemakings, Supreme Court decisions, and Executive Orders have scaled back federal jurisdiction, leaving many surface waters of New Mexico at risk of contamination and degradation.

To protect state waters not covered by the Clean Water Act, New Mexico is developing a state permitting program pursuant to Senate Bill 21, which was passed in the 2025 Regular Legislative Session, to ensure clean water for drinking, recreational, agricultural, cultural, and other uses. In the public review drafts, NMED proposes two (2) program components:

1. Regulations that allow NMED to implement the federal National Pollutant Discharge Elimination System (NPDES) program in New Mexico, which regulates the discharge of pollutants into waters of the United States protected under the federal Clean Water Act, in 20.6.5 NMAC – a new rule; and
2. Regulations that create a new State permitting program to regulate the discharge of pollutants, including dredged and fill materials, into surface waters of the state under the authority of the New Mexico Water Quality Act, in 20.6.2 NMAC – amendments to an existing rule.

The program will not apply to discharges to tribal waters, but NMED will be responsive to tribal concerns and ensure that permitted discharges do not adversely affect tribal water quality programs.

As required in the state's approved [Water Quality Management Plan/Continuing Planning Process](#), any new surface water quality standards or requirements or revisions to existing surface water quality standards or requirements proposed by NMED or a third party, including those being proposed in the amendments to 20.6.2 NMAC and the creation of 20.6.5 NMAC, must include a minimum 30-day public review draft comment period prior to petitioning the New Mexico Water Quality Control Commission (WQCC) for a hearing. Proposed new rules and amendments to existing rules approved by the WQCC are then provided to the United States Environmental Protection Agency (U.S. EPA) for review and approval.

New Mexico's Ground and Surface Water Protection (20.6.2 NMAC) and New Mexico Pollutant Discharge Elimination System (20.6.5 NMAC) are important documents because they have both direct as well as indirect impacts to individuals throughout the State as well as the environment.

#### **4. The resources available to NMED and the associated costs.**

The Bureau will provide language assistance free of charge. From the Bureau's assessment, there are adequate resources available within the Department to address LEP requirements. NMED employs a certified translator or retains contractor services to translate public notices and vital documents for the Department. If it is discovered that additional LEP services are needed, the Bureau will contract 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 Bureau's website;
  - contracting with a telephone interpreter service for communication with LEP individuals;
  - airing announcements in other languages as deemed appropriate on local radio stations;
  - printing translated notices in newspapers that are distributed to the affected community; and,
  - working with community leaders (tribal chapter houses, church leaders, community centers, libraries, etc.) to disseminate the notice and related information to the affected population.
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## **Limited English Proficiency Plan for the New Mexico Surface Water Quality State Permitting Program: Ground and Surface Water Protection (20.6.2 NMAC) and New Mexico Pollutant Discharge Elimination System (20.6.5 NMAC)**

### **Policy Overview**

This LEP Four Factor Analysis has been prepared in accordance with the NMED Limited English Proficiency Accessibility and Outreach Policy 07-11 and NMED Public Participation Policy 07-13 by the Bureau's Point Source Regulation Section (PSRS).

The Bureau anticipates announcing a 60-day public review draft comment period by publishing the draft rules and amendments and public notice on [NMED public Notice webpage](#), the [NMED Events Calendar](#), and [the State Permit Program website](#) and sending out a the public notice of the draft rules and amendments to the Bureau's email listservs.

The Bureau anticipates publishing a WQCC hearing notice in the New Mexico Register, in at least three (3) newspapers of general circulation, and dispersing via the Bureau's listserv 60 days prior to hearing date. More detailed information on public participation will be provided in the related Public Involvement Plan (PIP) and may be modified by the Bureau to incorporate provisions of a WQCC scheduling order for the hearing.

This determination will be kept with the administrative record for this activity.

### **Determination**

#### **Summary of Site-Specific EJSCREEN Inputs**

The statewide area for the New Mexico Surface Water Quality State Permitting Program has a population of 2,114,768 people. The percent of persons that communicate in a language other than English (non-English) at home is 29.9%, and the number of Linguistically Isolated Households is 43,594 (5.1%) of which 81% speak Spanish.

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 needed for this activity. All public notices for the hearing will be published in both English and Spanish (see Public Involvement Plan). The outreach materials will include information on how LEP persons or persons with disabilities can obtain assistance. The Bureau has determined that there are adequate resources available within the Department to provide LEP services, if requested or determined necessary. (See SWQB SOP 1.5 – Providing Language Access Services).

### **Final Actions**

- The Bureau will send a notice in English and Spanish to the Bureau's email listserv announcing a pre-petition public review draft comment period on the scope and proposed rule amendments for the New Mexico Surface Water Quality State Permitting Program.
- After petitioning the Water Quality Control Commission (WQCC) for a hearing, the Bureau will publish public notices for the New Mexico Surface Water Quality State Permitting Program

hearing in the New Mexico Register and (at a minimum) in the Albuquerque Journal, Santa Fe New Mexican, and Las Cruces Sun newspapers.

- The Bureau website will contain notification of the public review draft public comment period, as well as the public notice of rulemaking and WQCC public comment period for the New Mexico Surface Water Quality State Permitting Program in both English and Spanish.
- If LEP individuals contact the Bureau to request information about NMED programs or the in New Mexico Surface Water Quality State Permitting Program, Bureau staff will work to provide language assistance, either through immediately available staff or through contracted translation or interpretation services. If individuals with accessibility needs contact the Bureau, Bureau staff will work with the Department's Office of General Counsel to address the request.
- If an LEP individual provides written comment during the public review draft comment period or WQCC public comment period for consideration during the public review draft comment period, the Bureau or WQCC administrator will communicate the response to the LEP individual in their preferred language.