



## **New Mexico Environment Department Radiation Control Bureau**

### **Public Involvement Plan (PIP)**

Project: Amendments to 20.3.4, 20.3.5, 20.3.12 & 20.3.15 NMAC to align with U.S. Nuclear Regulatory Commission's requirements  
Planning Timeframe: July 2023 – December 2023  
Project Planner: Michael Ortiz

Approval:

Santiago M. Rodriguez Digitally signed by Santiago M. Rodriguez  
Date: 2023.07.26 17:22:57 -06'00'

---

Santiago Rodriguez, Bureau Chief  
Radiation Control Bureau  
New Mexico Environment Department

---

Date

## Element 1 – Public Involvement Plan (PIP) Overview

The New Mexico Environment Department (NMED or Department), Radiation Control Bureau (Bureau) developed this Public Involvement Plan (PIP) to increase transparency regarding the decision-making and rulemaking process involved in amending the New Mexico Administrative Code (NMAC):

- 20.3.4.404 Radiation Protection Programs NMAC, within Title 20 Environmental Protection, Chapter 3 Radiation Protection, Part 4 Standards for Protection Against Radiation
- 20.3.4.455 Reports of Transactions involving Nationally Tracked Source NMAC, within Title 20 Environmental Protection, Chapter 3 Radiation Protection, Part 4 Standards for Protection Against Radiation
- 20.3.5.15 Personnel Monitoring NMAC, within Title 20 Environmental Protection, Chapter 3 Radiation Protection, Part 5 Radiation Safety Requirements for Industrial Radiographic Operations
- 20.3.12.13 Personnel Monitoring NMAC, within Title 20 Environmental Protection, Chapter 3 Radiation Protection, Part 12 Licenses and Radiation Safety Requirements for Well Logging
- 20.3.15.1519 Personnel Monitoring NMAC. Title 20 Environmental Protection, Chapter 3 Radiation Protection, Part 15 Licenses and Radiation Safety Requirements for Irradiators

The Nuclear Regulatory Commission (NRC) federal regulations require New Mexico to change its rules to remain compatible with the 10 Code of Federal Regulation. The revisions to 20.3.4, 20.3.5, 20.3.12, and 20.3.15 NMAC consist of updates and additions that are required to remain compatible with the NRC. The Bureau believes that the proposed amendments to the regulations, or “rulemaking”, will help continue to provide for the health and safety of the public, and meet the requirements agreed upon between the State of New Mexico and the U.S. Nuclear Regulatory Commission (NRC) in the April 4, 1974, Agreement signed by then Governor Bruce King.

The purpose of this PIP is to plan for providing public participation opportunities and information that may be needed for New Mexicans to participate in the rulemaking.

This PIP integrates information about the potentially affected communities and identifies resources needed by the Bureau to incorporate community participation activities into the decision-making process for rulemaking. The PIP identifies the Department staff and resources needed to accomplish these activities.

The rulemaking may require public participation throughout different stages. The Bureau will meet the public participation requirements for the rulemaking by following this PIP, which includes the applicable policy, regulatory and statutory public participation requirements.

In developing this PIP, community participation needs were assessed to ensure the 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. Hence, this assessment identifies community outreach opportunities for participation and provides for those opportunities.

As much as possible, public participation and informational activities related to the rulemaking will be held within the timelines outlined in the table below. This timeline is tentative and subject to change; activities subject to statutory or regulatory deadlines are noted.

In the timeline for this rulemaking, 30 days are allotted for public review and comments, and there will be at least a 7-day advanced notice for the public meeting and the public hearing, including posting the meeting and hearing information on the Department’s website.

During public comment periods, documents may be reviewed at the repositories listed. Details about planned Bureau outreach are provided in this PIP.

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.

| <b>Activity</b>   | <b>Dates</b>                                 |
|---|--|
| PIP posted on webpage at <a href="https://www.env.nm.gov/rcb/">https://www.env.nm.gov/rcb/</a>                  | July 27, 2023                                |
| Submit Petition for rulemaking, and request for hearing, to EIB   | July 28, 2023                                |
| Publish proposed rulemaking on webpage at <a href="https://www.env.nm.gov/rcb/">https://www.env.nm.gov/rcb/</a> | July 28, 2023                                |
| EIB meeting regarding Petition for rulemaking and request for hearing   | August 18, 2023                              |
| EIB determines necessity of public hearing  | w/in 60 days of EIB meeting                  |
| EIB issues a notice of public hearing for the proposed rulemaking   | At least 60 days prior to the hearing        |
| Publish notice of public hearing in “Legal Notices” section of the Albuquerque Journal                          | Upon receipt of notice from EIB              |
| Publish notice of public hearing in NM Register (English and Spanish)   | At least 30 days prior to the hearing        |
| Public comment period   | For 30 days after publication in NM Register |
| Submit notification of proposed regulatory change to the Radiation Technical Advisory Council (RTAC)            | Prior to the hearing                         |
| EIB hearing (proposed)  | December 2023                                |

|   |   |
|---|---|
| Submit rules for filing with State Records (proposed) | Upon receipt of final order from EIB    |
| Effective date of rules (proposed)                    | 30 days after filing with State Records |

## Element 2 – Bureau Contact Information

The Bureau contact for questions regarding this rulemaking, public meetings, the Department’s website, or this PIP is:

Michael Ortiz  
Radiation Control Bureau, NMED  
1100 St. Francis Dr., Suite 2022  
Santa Fe, New Mexico 87505  
(505) 699-0060  
[michael.ortiz1@env.nm.gov](mailto:michael.ortiz1@env.nm.gov)

## Non-English Language Speaker Assistance and Accommodations

The Bureau will include information about how persons may request non-English speaker language assistance and accommodations for persons with disabilities (i.e., deaf and/or non-English language interpreters) in public notices for meetings or hearings related to this rulemaking. Public notices will direct public requests for assistance to the Bureau contact, who will notify the Non-Discrimination Coordinator. Arrangements will be made by the Bureau for document translation, interpretation, or disability services related to the rulemaking as necessary. Following this process ensures the Bureau is directly informed about the request and allows the Department to track requests for disability assistance<sup>2</sup>. The following numbers will be provided in public notices so that hearing-impaired callers can contact the Bureau and ask questions about the activity or proceeding: Toll-free numbers are available for TDD or TTY users to access the New Mexico Relay network (for deaf or hearing-impaired callers), 1-800-659-1779; TTY users: 1-800-659-8331.

## Department Websites

Notices will include links to the following websites:

- The Department: <https://www.env.nm.gov>
- The Department’s Public Notices webpage: <https://www.env.nm.gov/public-notices>
- / The Radiation Control Bureau: <https://www.env.nm.gov/rcb/>

## Element 3 – Regulatory Background for Public Participation

The Department is responsible for environmental management and consumer protection programs. Regarding radiation control, the Department maintains, develops, and enforces rules and standards as provided in the Radiation Protection Act. See Section 74-1-7(A)(5) NMSA 1978 (2000). In addition, the Environmental Improvement Board (“EIB”) is responsible for environmental management and consumer protection. Regarding radiation control, the EIB promulgates rules and standards for radiation control. See Section 74-1-8(A)(5) NMSA 1978 (2020).

The Bureau may propose regulations to the EIB for promulgation. Within 60 days of the submission of the proposed regulations, EIB will determine whether to hold a hearing on the proposed regulations, however, no regulation will be adopted until after a public hearing by the EIB. See Section 74-1-9(A) and (B) NMSA 1978 (1985); see also, 20.1.1.300(A) NMAC (2006).

EIB will issue a notice of public hearing on the proposed rulemaking at least 60 days prior to the hearing date. The notice of public hearing will state: (1) the subject of the proposed rule, including a summary of the full text of the proposed rule and a short explanation of the purpose of the proposed rule; (2) a citation to the specific legal authority authorizing the proposed rule and a short explanation of the purpose of the proposed rule; (3) a citation to technical information, if any, that served as a basis for the proposed rule, and information on how the full text of the technical information may be obtained; (4) the statutes, regulations and procedural rules governing the conduct of the hearing; (5) the manner in which persons may present their views or evidence to the board, including the time, place, and information on participating in the public hearing; (6) the location where persons may secure copies of the full text of the proposed regulatory change; (7) an internet link providing free access to the full text of the proposed rule; and, (8) if applicable, that the board may make a decision on the proposed regulatory change at the conclusion of the hearing. See 20.1.1.301(B) NMAC (2006); see also, Section 14-4-5.2(A) NMSA 1978 (2017); and see, Section 74-1-9(D) NMSA 1978 (1985).

Any member of the public may submit written comments on the proposed rulemaking during the public comment period which will run for 30 days after publication in the New Mexico Register. See Section 14-4-5.3(A) NMSA 1978 (2017). Any member of the public may also testify at the public hearing or submit written statements for the record, in lieu of providing oral testimony. See 20.1.1.304 NMAC (2018).

## **Element 4 - Location and Demographics of the Community and Stakeholder Groups**

To provide for adequate public participation opportunities and meaningful involvement of persons in this rulemaking, the affected communities must first be identified, informed about proposed environmental actions affecting the community, and invited to share their comments and concerns. The EJSCREEN tool developed by the U.S. Environmental Protection Agency (EPA)

helps identify communities that are low-income and minority populations that may benefit from a variety of approaches for notification and outreach communication. This information is used to help plan for the community’s involvement in the public process for environmental activities or actions.

Demographic indicators were obtained from EPA EJSCREEN, an environmental justice screening and mapping tool, available online at <https://www.epa.gov/ejscreen>. This rulemaking impacts the entire, non-tribal government portion of the state, which includes a community of 9% Spanish-speakers whose English-speaking ability is “less than very well”<sup>1</sup>. The Bureau will provide pertinent information in both English and Spanish in public meeting notices, public comment notices, and other announcements.

### **EJSCREEN Results for the State of New Mexico**

|   |   |
|---|---|
| Total population  | 2,092,454   |
| Total number of households  | 780,249   |
| Percentage People of Color Population   | 63%   |
| Percentage Hispanic Population  | 49%   |
| Percentage of the population by race  | Population reporting one race:<br>White: ..... 75%<br>Black: ..... 2%<br>American Indian: ..... 10%<br>Asian: ..... 2%<br>Pacific Islander: ..... 0%<br>Some Other Race: ..... 9% |
| Total number of persons greater than the age of five who speak English “less than very well”  | 171,528   |
| Percentage of persons greater than the age of five who speak English “less than very well”  | 9%  |
| Total number of linguistically isolated households  | 40,831  |
| Percentage of linguistically isolated households<br>(Total number of linguistically isolated households ÷ total number of households X 100) | 5.2%  |
| Languages by percentage in linguistically isolated households   | Spanish: ..... 83%<br>Other Indo-European languages: ..... 2%<br>Asian-Pacific Island languages: ..... 4%<br>Other languages: ..... 11%   |
| Percent linguistically isolated population, New Mexico*   | 5.4%  |

<sup>1</sup> US Environmental Protection Agency EJScreen ACS Summary Report for New Mexico, August 3, 2022.

|                          |          |
|--------------------------|----------|
| Per capita income        | \$27,230 |
| Per capita income, USA** | \$29,979 |

\* U.S. Census Bureau. 2011-2015 American Community Survey 5-Year Estimates, Table S1602. Limited English-speaking Households. [https://factfinder.census.gov/bkmk/table/1.0/en/ACS/15\\_5YR/S1602/0400000US35](https://factfinder.census.gov/bkmk/table/1.0/en/ACS/15_5YR/S1602/0400000US35) (date of access: 7/26/2018) \*\* U.S. Census Bureau. 2015 American Community Survey 1-Year Estimates, Table S0201. Selected Population Profile in the United States. [https://factfinder.census.gov/bkmk/table/1.0/en/ACS/15\\_1YR/S0201/0100000US](https://factfinder.census.gov/bkmk/table/1.0/en/ACS/15_1YR/S0201/0100000US) (date of access: 7/26/2018)

## Element 5 - Public Participation and Outreach Activities

The rule revisions to 20.3.4, 20.3.5, 20.3.12, and 20.3.15 NMAC are applicable statewide, thus this PIP addresses public engagement and outreach, rule development, and hearing participation for the entire state. Based on the LEP report discussed herein, the Department will seek to provide basic information about public involvement opportunities in both English and Spanish. This information will include how to request materials in Spanish or another language, or to speak with Department staff through an interpreter.

The Bureau solicits interested parties' names and contact information with all public notices. The Bureau maintains those names when provided by interested parties on a Mailing List and provides those individuals with information about regulatory activities. Individuals, organizations, and other interested parties are added to the mailing list as requested. All public notices will contain a statement directing interested individuals to reach out to the Bureau Contact listed herein, to be added to the mailing list.

The Bureau will conduct the following participation and outreach activities during this rulemaking process:

- For online viewing – Publication of this PIP and the notice of public hearing on proposed rulemaking on the Bureau's website
- For in-person viewing – Placement of this PIP at the Bureau's offices in Santa Fe and Albuquerque
- Mailing and/or emailing the notice of public hearing on proposed rulemaking to interested parties on the Bureau's Mailing List
- For statewide circulation – Publication of the notice of public hearing on proposed rulemaking in the Legal Notices section of the Albuquerque Journal

The Bureau will contact land grants about this rulemaking through the New Mexico Land Grant Council at:

NM Land Grant Council  
 1829 Sigma Chi Rd SE  
 Albuquerque NM 87106  
 nmlandgrantcouncil@unm.edu

The Bureau will contact pueblos and tribes via the email addresses listed below:

- Pueblo of Acoma: [fmartinez@poamail.org](mailto:fmartinez@poamail.org)

- Pueblo of Cochiti: Jayson.romero@cochiti.org
- Pueblo of Isleta: Joseph.Lujan@isletapueblo.com
- Pueblo of Jemez: Clarice.Madalena@jemezpueblo.org
- Pueblo of Laguna: gjojola@lagunapueblo-nsn.gov
- Pueblo of Nambe: srydeen@nambepueblo.org
- Pueblo of Ohkay Owingeh: larry.phillips@ohkay.org
- Pueblo of Picuris: environment@picurispueblo.org
- Pueblo of Pojoaque: aduran@pojoaque.org
- Pueblo of San Felipe: pstout@sfpueblo.com
- Pueblo of San Ildefonso: rmartinez@sanipueblo.org
- Pueblo of Sandia: gkaufman@sandiapueblo.nsn.us
- Pueblo of Santa Ana: alan.hatch@santaana-nsn.gov
- Pueblo of Santa Clara: dinoc@santaclarapueblo.org
- Pueblo of Santo Domingo: woodrow.crumbo@kewa-nsn.us
- Pueblo of Taos: mvigil@taospueblo.com
- Pueblo of Tesuque: sagem@pueblooftesuque.org
- Pueblo of Zia: ybenton@ziapueblo.org
- Pueblo of Zuni: tammy.parker@ashiwi.org
- Pueblo of Ysleta Del Sur (Tigua): ecruz@ydsp-nsn.gov
- Navajo Nation: s.etsitty@navajo-nsn.gov
- Jicarilla Apache Nation: cltecube@yahoo.com
- Mescalero Apache Tribe: thora@mescaleroairport.org
- Fort Sill Apache Tribe: jennifer.heminokeky@fortsillapache-nsn.gov
- Southern Ute Tribe: dpowers@southernutensn.gov
- Ute Mountain Tribe: jarchuleta@utemountain.org
- TO'HAJIILEE Navajo Chapter: tohajiilee@navajochapters.org
- Eight Northern Indian Pueblos Council: boyd.nystedt@enipc.org

The Bureau will submit the notice of public hearing to be published on the State's Sunshine Portal at: [statem.my.salesforce-sites.com/public/SSP\\_RuleHearingSearchPublic](https://statem.my.salesforce-sites.com/public/SSP_RuleHearingSearchPublic). The Bureau will also contact the Economic Development Department to provide information regarding this rulemaking to the New Mexico Small Business Regulatory Advisory Commission.

Outreach materials will include links to the following websites, in addition to other websites of interest and QR codes for quick access to specific information:



The Department's website is here:  
<https://www.env.nm.gov/>





The Department's Events Calendar webpage:  
<https://www.env.nm.gov/events-calendar/>



The Department's Public Notices webpage:  
<https://www.env.nm.gov/public-notice/>

### **Current Regulations**



20.3.4 NMAC. Title 20 Environmental Protection Chapter 3 Radiation Protection Part 4 Standards for Protection Against Radiation  
<https://www.srca.nm.gov/-parts/title20/-20.003.0004.pdf>



20.3.5 NMAC. Title 20 Environmental Protection Chapter 3 Radiation Protection Part 5 Radiation Safety Requirements for Industrial Radiographic Operations  
<https://www.srca.nm.gov/parts/title20/20.003.0005.pdf>



20.3.12 NMAC. Title 20 Environmental Protection Chapter 3 Radiation Protection Part 12 Licenses and Radiation Safety Requirements for Well Logging  
<https://www.srca.nm.gov/-parts/title20/20.003.0012.pdf>



20.3.15 NMAC. Title 20 Environmental Protection Chapter 3 Radiation Protection Part 15 Licenses and Radiation Safety Requirements for Irradiators  
<https://www.srca.nm.gov/-parts/title20/20.003.0015.pdf>

### **Site Repositories**

Copies of this PIP, any notice of public hearing on the proposed rulemaking, and the proposed rulemaking will be available for viewing at the Santa Fe and Albuquerque offices of the Radiation Control Bureau:

Radiation Control Bureau  
Montoya Building  
1100 St. Francis Drive, Suite 2022  
Santa Fe New Mexico 87505

Radiation Control Bureau  
8801 Horizon Blvd NE  
Albuquerque, New Mexico 87113

### **Hybrid Public Hearings**

It is anticipated that any public hearings will be conducted in a hybrid format, as follows: virtually via Webex and in person at a physical location. Details for attendance will be posted on the Department's online Calendar ([www.env.nm.gov/events-calendar/](http://www.env.nm.gov/events-calendar/)).

### **PIP Contingency Plan**

During a public health emergency or other unforeseen events 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 rulemaking processes. The purpose of this PIP Contingency Plan is 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 use the physical PIP and document repositories, the Department will consider utilizing electronic delivery methods deemed appropriate for the rulemaking. While operating under the PIP Contingency Plan, instead of placing a copy of the PIP for this rulemaking in a public location, the Department will make the PIP available to the community by sending the PIP by email or First-Class mail to any community member requesting a copy. An individual may request a copy of the PIP utilizing the Bureau's contact information listed herein. Please specify how you would like the document delivered when making such a request. If you request a copy of a PIP, you will receive a revised PIP should the PIP be updated in the future. During the times of potential human exposure risks and the resultant implementation of this PIP Contingency Plan, public meetings and hearings will only be held when or through means by which the Department can ensure the public's health and safety and this PIP can be fully followed.

### **Attachments**

- LEP Assessment
- A copy of the EJSCREEN ACS Summary Report and map.