



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 6  
1201 ELM STREET, SUITE 500  
DALLAS, TEXAS 75270

April 27, 2023

Shelly Lemon, Chief  
Surface Water Quality Bureau  
New Mexico Environment Department  
1190 Saint Francis Drive, Suite N4050  
Santa Fe, New Mexico 87505

RE: New Mexico's 2020 Triennial Revisions to 20.6.4 NMAC

Dear Ms. Lemon:

I am writing in regard to the U.S. Environmental Protection Agency's (EPA's) prior review of revisions to New Mexico's *Standards for Interstate and Intrastate Surface Waters* 20.6.4 New Mexico Administrative Code (NMAC), which were effective for state purposes on April 23, 2022, and submitted to the New Mexico Water Quality Control Commission (Commission) for EPA review on May 2, 2022 ("the 2020 Triennial Revisions").

On January 19, 2023, the EPA took action approving the majority of the new and/or revised provisions, including non-substantive provisions within its discretionary authority, pursuant to CWA § 303(c) and its implementing regulations at 40 CFR Part 131 as detailed in the accompanying Technical Support Document (TSD). However, the EPA determined it could not act on new and revised aquatic life criteria that were subject to the consultation requirements of Section 7(a)(2) of the Endangered Species Act (ESA), 16 U.S.C. §1536. Under Section 7(a)(2) of the ESA, the EPA has the obligation to ensure that its approval of revisions to New Mexico's *Standards for Interstate and Intrastate Surface Waters* 20.6.4 NMAC will not jeopardize the continued existence of threatened and endangered species and critical habitat in New Mexico. The EPA has since received concurrence on our not likely to adversely affect (NLAA) determination from the U.S. Fish and Wildlife Service (USFWS) through the New Mexico Ecological Services Field Office and is approving the aquatic life criteria for acrolein, cadmium, carbaryl, demeton, guthion, methoxychlor, mirex, parathion, and tributyltin. The EPA is reserving action on the remaining aquatic life criteria described in Section V of the TSD pending the completion of ESA formal consultation with the USFWS.

I would like to thank the Commission, the New Mexico Environment Department and its Surface Water Quality Bureau for their commitment and hard work in reviewing and revising the state's water quality standards. We appreciate your patience with the delay in action resulting from the extensive ESA consultation. If you have any questions or concerns, please contact me at (214) 665-8138, or have your staff contact Jasmin Diaz-Lopez at (214) 665-2733 or Russell Nelson at (214) 665-6646.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles W. Maguire", is positioned above the typed name.

Charles W. Maguire  
Director  
Water Division

cc: James C. Kenney, Cabinet Secretary  
Stephanie Stringer, Chair, WQCC ([Stephanie.Stringer@state.nm.us](mailto:Stephanie.Stringer@state.nm.us))  
Pamela Jones, Administrator, WQCC ([Pamela.Jones@state.nm.us](mailto:Pamela.Jones@state.nm.us))  
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Shawn Sartorius, Field Supervisor, ESFO, USFWS ([shawn\\_sartorius@fws.gov](mailto:shawn_sartorius@fws.gov))