

Explanatory Paragraphs: This is an amendment to 20.6.4.7, 20.6.4.9, 20.6.4.15 and 20.6.4.900 NMAC, effective 07-17-05.

The Water Quality Control Commission (WQCC) identified typographical and other nonsubstantive errors that occurred in the version of the rule filed with the State Records Center on April 21, 2005 and published in the New Mexico Register on May 13 2005 (Volume XVI, Number 9).

The errors occur in Subsections E and ZZ of 20.6.4.7 NMAC, Paragraph (2) of Subsection B of 20.6.4.9 NMAC, Paragraph (4) of Subsection D of 20.6.4.15 NMAC, Subsection E of 20.6.4.15 NMAC and Subsection (J) of 20.6.4.900 NMAC.

The corrected language for 20.6.4.7, 20.6.4.9 and 20.6.4.15 NMAC provided below was approved by the WQCC during its deliberations and is contained within the final Statement of Reasons.

The deletion of the CAS number for “DDT and derivatives” in Subsection J of 20.6.4.900 NMAC was within the proposed rulemaking and approved by the WQCC, but inadvertently not stricken in the filed version of the rule or the Statement of Reasons.

The corrections to the criteria for livestock watering and wildlife habitat in Subsection J of 20.6.4.900 NMAC provided below are necessary because NMED staff inadvertently included the livestock watering criteria and habitat criteria in the final version for WQCC approval, however the revisions had been withdrawn from consideration before the public hearing was held and should not have been included.

The amendments to the affected subsections follow:

20.6.4.7 DEFINITIONS: Terms defined in the New Mexico Water Quality Act, but not defined in this part will have the meaning given in the Water Quality Act.

E. “Best management practices” or “BMPs”:

(1) for national pollutant discharge elimination system (NPDES) permitting purposes means schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce the pollution of “waters of the United States;” BMPs also include treatment requirements, [~~operation~~] operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal or drainage from raw material storage; or

(2) for nonpoint source pollution control purposes means methods, measures or practices selected by an agency to meet its nonpoint source control needs; BMPs include but are not limited to structural and nonstructural controls and operation and maintenance procedures; BMPs can be applied before, during and after pollution-producing activities to reduce or eliminate the introduction of pollutants into receiving waters; BMPs for nonpoint source pollution control purposes shall not be mandatory except as required by state or federal law.

ZZ. “Segment” means a classified surface water of the state described in 20.6.4.101 through 20.6.4.899 NMAC. The water within a segment should have the same uses, similar hydrologic characteristics or flow regimes, and natural physical, chemical and biological characteristics and exhibit similar reactions to external stresses, such as the discharge of pollutants.

20.6.4.9 OUTSTANDING NATIONAL RESOURCE WATERS:

B. Criteria for ONRWs: A surface water of the state, or a portion of a surface water of the state, may be designated as an ONRW where the commission determines that the designation is beneficial to the state of New Mexico, and:

(1) the water is a significant attribute of a state gold medal trout fishery, national or state park, national or state monument, national or state wildlife refuge or designated wilderness area, or is part of a designated wild river under the federal Wild and Scenic Rivers Act; or

(2) the water has exceptional recreational or ecological significance; or

(3) the existing water quality is equal to or better than the numeric criteria for protection of aquatic life uses, recreational uses and human health uses, and the water has not been significantly modified by human activities in a manner that substantially detracts from its value as a natural resource.

20.6.4.15 USE ATTAINABILITY ANALYSIS:

D. A use attainability analysis or equivalent study should include:

- (1) identification of existing uses of the surface water of the state to be reviewed that have existed since 1975;
- (2) an evaluation of the best water quality attained in the surface water of the state to be reviewed that has existed since 1975;
- (3) an analysis of appropriate factors demonstrating that attaining the designated use is not feasible because of the condition listed in 40 CFR Part 131.10(g);
- (4) a physical evaluation of the surface water of the state to be reviewed to identify factors that impair attainment of designated uses and to determine ~~that~~ which designated uses are feasible to attain in such surface water of the state;
- (5) an evaluation of the water chemistry of the surface water of the state to be reviewed to identify chemical constituents that impair the designated uses that are feasible to attain in such water; and
- (6) an evaluation of the aquatic and terrestrial biota utilizing the surface water of the state to determine resident species and which species could potentially exist in such water if physical and chemical factors impairing a designated use are corrected.

E. Any person may submit notice to the department stating that they intend to conduct a use attainability analysis or equivalent study. The proponent shall develop a work plan to conduct the use attainability analysis or equivalent study and shall submit the work plan to the department and the regional EPA staff for review and comment. The work plan should identify the scope of data currently available and proposed to be gathered, the factors affecting use attainment that will be analyzed and must contain provisions for public notice and consultation with appropriate state and federal agencies. A copy of the notice and the work plan must be submitted concurrently to the commission. Upon approval of the work plan by the department, the proponent shall conduct the use attainability analysis or equivalent study in accordance with the approved work plan. The cost of such analysis or equivalent study shall be the responsibility of the proponent. Upon completion of the use attainability analysis or equivalent study, the proponent shall submit the ~~date~~ data, findings and conclusions to the department and the commission.

20.6.4.900 CRITERIA APPLICABLE TO ATTAINABLE OR DESIGNATED USES UNLESS OTHERWISE SPECIFIED IN 20.6.4.97 THROUGH 20.6.4.899 NMAC.

J. Numeric criteria. The following table sets forth the numeric criteria adopted by the commission to protect existing, designated and attainable uses. Additional criteria that are not compatible with this table are found in Subsections A through I of this section.

Pollutant total, unless indicated	CAS Number	Domestic Water Supply µg/L unless indicated	Irrigation µg/L unless indicated	Livestock Watering µg/L unless indicated	Wildlife Habitat µg/L unless indicated	Aquatic Life		Human Health µg/L	Cancer Causing (C) or Persistent (P)
						Acute µg/L	Chronic µg/L		
Aluminum, dissolved	7429-90-5		5,000	[5,000]		750	87		
[Aluminum]	[7429-90-5]			[500]					
Antimony, dissolved	7440-36-0	5.6						640	P
Arsenic, dissolved	7440-38-2	2.3	100	200		340	150	9.0	C,P
[Arsenic]	[7440-38-2]			[20]					
Asbestos	1332-21-4	7,000,000 fibers/L							
Barium, dissolved	7440-39-3	2,000							

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						Acute µg/L	Chronic µg/L		
[Barium]	[7440-39-3]			[10 mg/L]					
Beryllium, dissolved	7440-41-7	4							
Boron, dissolved	7440-42-8		750	5,000					
Cadmium, dissolved	7440-43-9	5	10	50		see 20.6.4 .900.I	see 20.6.4.900. I		
[Cadmium]	[7440-43-9]			[5]					
Chlorine residual	7782-50-5				11	19	11		
Chromium, dissolved	18540-29-9	100	100	1,000		see 20.6.4 .900.I	see 20.6.4.900. I		
Cobalt, dissolved	7440-48-4		50	1,000					
Copper, dissolved	7440-50-8	1300	200	500		see 20.6.4 .900.I	see 20.6.4.900. I		
Cyanide, dissolved	57-12-5	200							
Cyanide, weak acid dissociable	57-12-5	700			5.2	22.0	5.2	220,000	
[Fluoride]				[2 mg/L]					
Lead, dissolved	7439-92-1	50	5,000	100		see 20.6.4 .900.I	see 20.6.4.900. I		
[Lead]	[7439-92-1]			[15]					
Mercury	7439-97-6	2		10	0.77				
Mercury, dissolved	7439-97-6				[0.77]	1.4	0.77		
Methylmercury	22967-92-6							0.3 mg/kg in fish tissue	P
Molybdenum, dissolved	7439-98-7		1,000						
Nickel, dissolved	7440-02-0	100				see 20.6.4 .900.I	see 20.6.4.900. I	4,600	P
[Nickel]	[7440-02-0]			[250]					
Nitrate as N		10 mg/L							
Nitrite + Nitrate				132 mg/L					
Selenium, dissolved	7782-49-2	50	see 20.6.4.900. C	50				4,200	P
Selenium, total recoverable	7782-49-2				5.0	20.0	5.0		
Silver, dissolved	7440-22-4					see 20.6.4 .900.I			

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Thallium, dissolved	7440-28-0	1.7						6.3	P
Uranium, dissolved	7440-61-1	5,000							
Vanadium, dissolved	7440-62-2		100	100					
Zinc, dissolved	7440-66-6	7,400	2,000	25,000		see 20.6.4 .900.I	see 20.6.4.900. I	26,000	P
[Zinc]	[7440-66-6]			[5 mg/L]					
Adjusted gross alpha (see 20.6.4.900.B and .F)		15 pCi/L		15 pCi/L					
Radium 226 + Radium 228		5 pCi/L		30.0 pCi/L					
Strontium 90		8 pCi/L							
Tritium		20,000 pCi/L		20,000 pCi/L					
Acenaphthene	83-32-9	670						990	
Acrolein	107-02-8	190						290	
Acrylonitrile	107-13-1	0.51						2.5	C
Aldrin	309-00-2	0.00049				3.0		0.00050	C,P
Anthracene	120-12-7	8,300						40,000	
Benzene	71-43-2	22						510	C
Benzidine	92-87-5	0.00086						0.0020	C
Benzo(a)anthracene	56-55-3	0.038						0.18	C
Benzo(a)pyrene	50-32-8	0.038						0.18	C,P
Benzo(b)fluoranthene	205-99-2	0.038						0.18	C
Benzo(k)fluoranthene	207-08-9	0.038						0.18	C
alpha-BHC	319-84-6	0.026						0.049	C
beta-BHC	319-85-7	0.091						0.17	C
Gamma-BHC (Lindane)	58-89-9	0.19				0.95		0.63	C
Bis(2-chloroethyl) ether	111-44-4	0.30						5.3	C
Bis(2- chloroisopropyl) ether	108-60-1	1,400						65,000	
Bis(2-ethylhexyl) phthalate	117817	12						22	C
Bromoform	75-25-2	43						1,400	C
Butylbenzyl phthalate	85-68-7	1,500						1,900	
Carbon tetrachloride	56-23-5	2.3						16	C
Chlordane	57-74-9	0.0080				2.4	0.0043	0.0081	C,P
Chlorobenzene	108-90-7	680						21,000	

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Chlorodibromomethane	124-48-1	4.0						130	C
Chloroform	67-66-3	57						4,700	C
2-Chloronaphthalene	91-58-7	1,000						1,600	
2-Chlorophenol	95-57-8	81						150	
Chrysene	218-01-9	0.038						0.18	C
4,4'-DDT and derivatives	[50-29-3]	0.0022			0.001	1.1	0.001	0.0022	C,P
Dibenzo(a,h)anthracene	53-70-3	0.038						0.18	C
Dibutyl phthalate	84-74-2	2,000						4,500	
1,2-Dichlorobenzene	95-50-1	2,700						17,000	
1,3-Dichlorobenzene	541-73-1	320						960	
1,4-Dichlorobenzene	106-46-7	400						2,600	
3,3'-Dichlorobenzidine	91-94-1	0.21						0.28	C
Dichlorobromomethane	75-27-4	5.5						170	C
1,2-Dichloroethane	107-06-2	3.8						370	C
1,1-Dichloroethylene	75-35-4	0.57						32	C
2,4-Dichlorophenol	120-83-2	77						290	
1,2-Dichloropropane	78-87-5	5.0						150	C
1,3-Dichloropropene	542-75-6	10						1,700	
Dieldrin	60-57-1	0.00052				0.24	0.056	0.00054	C,P
Diethyl phthalate	84-66-2	17,000						44,000	
Dimethyl phthalate	131-11-3	270,000						1,100,000	
2,4-Dimethylphenol	105-67-9	380						850	
2,4-Dinitrophenol	51-28-5	69						5,300	
2,4-Dinitrotoluene	121-14-2	1.1						34	C
2,3,7,8-TCDD Dioxin	1746-01-6	5.0E-08						5.1E-08	C,P
1,2-Diphenylhydrazine	122-66-7	0.36						2.0	C
alpha-Endosulfan	959-98-8	62				0.22	0.056	89	
beta-Endosulfan	33213-65-9	62				0.22	0.056	89	
Endosulfan sulfate	1031-07-8	62						89	
Endrin	72-20-8	0.76				0.086	0.036	0.81	
Endrin aldehyde	7421-93-4	0.29						0.30	
Ethylbenzene	100-41-4	3,100						29,000	
Fluoranthene	206-44-0	130						140	
Fluorene	86-73-7	1,100						5,300	
Heptachlor	76-44-8	0.00079				0.52	0.0038	0.00079	C

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Heptachlor epoxide	1024-57-3	0.00039				0.52	0.0038	0.00039	C
Hexachlorobenzene	118-74-1	0.0028						0.0029	C,P
Hexachlorobutadiene	87-68-3	4.4						180	C
Hexachlorocyclopentadiene	77-47-4	240						17,000	
Hexachloroethane	67-72-1	14						33	C
Ideno(1,2,3-cd)pyrene	193-39-5	0.038						0.18	C
Isophorone	78-59-1	350						9,600	C
Methyl bromide	74-83-9	47						1,500	
2-Methyl-4,6-dinitrophenol	534-52-1	13						280	
Methylene chloride	75-09-2	46						5,900	C
Nitrobenzene	98-95-3	17						690	
N-Nitrosodimethylamine	62-75-9	0.0069						30	C
N-Nitrosodipropylamine	621-64-7	0.050						5.1	C
N-Nitrosodiphenylamine	86-30-6	33						60	C
PCBs	1336-36-3	0.00064			0.014		0.014	0.00064	C,P
Pentachlorophenol	87-86-5	2.7				19	15	30	C
Phenol	108-95-2	21,000						1,700,000	
Pyrene	129-00-0	830						4,000	
1,1,2,2-Tetrachloroethane	79-34-5	1.7						40	C
Tetrachloroethylene	127-18-4	6.9						33	C,P
Toluene	108-88-3	6,800						200,000	
Toxaphene	8001-35-2	0.0028				0.73	0.0002	0.0028	C
1,2-Trans-dichloroethylene	156-60-5	700						140,000	
1,2,4-Trichlorobenzene	120-82-1	260						940	
1,1,2-Trichloroethane	79-00-5	5.9						160	C
Trichloroethylene	79-01-6	25						300	C
2,4,6-Trichlorophenol	88-06-2	14						24	C
Vinyl chloride	75-01-4	20						5,300	C