



Environment Department

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CORRECTIONS

September 20, 2016

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The Environment Department's mission is to protect and restore the environment and to foster a healthy and prosperous New Mexico for present and future generations.

New Mexico Environment Department Corrections to: “State proposes changes to regulations on water pollutants”

Posted: Monday, September 19, 2016 10:15 pm and Updated: 9:40 am, Tue Sep 20, 2016 | By Rebecca Moss, The Santa Fe New Mexican

SFNM Article	NMED Corrections
<p>New Mexico laws for years have permitted far higher levels of toxic pollutants to contaminate ground and surface water than federal standards allow. But revisions to a state water-quality act would bring the state into compliance with federal standards to protect people and the environment, potentially in less than a month.</p>	<p>New Mexico has primacy over groundwater. There is no “compliance” with federal standards required. Groundwater protection rules, not the state’s Water Quality Act, are being reviewed for future (possibly April of 2017) hearing by New Mexico’s Water Quality Control Commission.</p>
<p>The New Mexico Environment Department is seeking public comment on proposed revisions to regulations for surface and groundwater that dictate the levels of pollutants from businesses such as dry cleaners and auto repair shops. Many of the chemicals have been linked to environmental hazards and even cancer.</p>	<p>See additions made to last paragraph for scheduled meetings.</p>
<p>The U.S. Environmental Protection Agency has said that, if no legitimate calls for a public hearing occur, the new rules will be adopted Oct. 17.</p>	<p>The U.S. EPA has no authority on the current groundwater rules review underway. Reporter seems to be referring to a drinking water standard, the Total Coliform Rule, which is a different and separate matter.</p>

<p>In 2013, the EPA updated its standards for the total coliform bacteria allowed in water. It sets limits on how much contamination can exist in bodies of water or soil contaminated by human or animal waste. States had two years to adopt these rules.</p>	<p>The updated coliform standard refers to sources that feed drinking water systems. Such water is then treated and produced by a drinking water system. The groundwater protection rules are currently under review; not the drinking water rules. Regulatory primacy and procedures governing the two are separate.</p>
<p>New Mexico, after seeking an extension beyond the April 2016 deadline, might reach compliance next month, according to Joe Hubbard, a spokesman for the regional office of the federal EPA that includes New Mexico.</p>	<p>New Mexico has regulatory primacy for groundwater. Mr. Hubbard is referring to a federal drinking water rule change, the Total Coliform Rule, which New Mexico has been implementing among the state's 1,300-plus drinking water systems for the last several months. This is a separate issue than groundwater rules review which are either approved or rejected by the state's Water Quality Control Commission.</p>
<p>The state has faced criticism in recent months for allowing contaminants to leak into water systems and failing to adequately monitor or resolve the problems.</p>	<p>Drinking water systems and the sanitary treatment and quality of drinking water is a separate and different issue from groundwater protection rules review with different regulatory oversight and rules.</p>
<p>In April, <i>The New Mexican</i> found that drinking water samples at Christus St. Vincent Regional Medical Center had exceeded the amount of lead allowed for the past five years. In Taos, smaller water systems exceeded safe limits for naturally occurring uranium and fluoride. And 7,000 residents in Farmington said earlier this month that an aging water treatment system tainted their water with dirt and bacteria, requiring them to boil all water for months before drinking, cooking or bathing in it.</p>	<p>Drinking water systems and the sanitary treatment and quality of drinking water is a separate and different issue from groundwater protection rules review with different regulatory oversight and rules. With NMED's oversight, Christus St. Vincent is now in compliance. The Farmington</p>

	area case (AV Water) remains under NMED's active enforcement and investigation.
The revisions also propose increasing permitting fees for water discharges, removing a five-year limit on variances for water-quality regulations, and increasing the authority of the state Environment Department secretary. This would remove some decision-making powers from the Water Quality Control Commission.	Groundwater discharges, not drinking water system discharges may have increased permitting fees. The state's Water Quality Act dictates that the Water Quality Control Commission sets the term of any variance. The current groundwater protection rules review does not. Authority of the Environment Secretary is actually being decreased in relation to potential Technical Infeasibility waivers (variances).
The amount of several toxic chemicals allowed to exist in water, including benzene, polychlorinated biphenyl and trichloroethylene, would be reduced to meet federal standards. Nearly all of these contaminants have carcinogenic effects, and the permissible levels of some are twice the federal limit under New Mexico state law than they would be under the proposed changes. Levels of arsenic allowed in water also would be brought in line with federal standards.	Groundwater levels for these contaminants would now align with federal drinking water standards. There is no federal requirement to be "met," as New Mexico has primacy over groundwater.
But caps for chromium, fluoride, lead and barium would be slightly relaxed in the new guidelines.	Lead standards are being tightened, not relaxed. In all cases the proposed groundwater standards would be consistent with EPA criteria to protect public health.
Michelle Hunter, groundwater bureau chief for the state Environment Department, said at a public meeting in May that the existing regulations failed to protect the public. Officials said at that time that stronger regulations could help prevent pollution, such as a plume of dry-cleaning chemicals contaminating groundwater in Albuquerque for two decades.	Hunter was paraphrased while discussing a single contaminant, not the regulations as a whole.
Some groups critical of the proposal say the new regulations include language that limits public participation and lessens enforcement.	Public participation channels and opportunities are being increased in the rule revision. For example, any Technical

	<p>Infeasibility petition would now be subject to a public hearing based on the Department's public draft revisions. Currently scheduled listening sessions and online drafts are intended to create dialogue and discussion, eventually resulting in better crafted rules when NMED eventually petitions the state's Water Quality control Commission. This is why the rule revision documents are called public comment drafts.</p>
<p>Members of the advocacy group Amigos Bravos said people who live downstream from industries that pollute waterways should have more input into which companies are permitted by the Environment Department. Amigos Bravos also said the revised regulations limit public participation.</p>	<p>Public participation channels and opportunities are being increased in the rule revision. Groundwater, not surface water (as in "waterways") are the subject of the current rules review. [Same examples as above.]</p>
<p>Jaimie Park, an attorney for the New Mexico Environmental Law Center, said the revised draft ignored the public comments submitted during the first round of responses.</p>	<p>In fact, ELC's comments were used to strengthen the public participation process for the Technical Infeasibility process. A number of other draft rule revisions were modified based on the public comments received.</p>
<p>The New Mexico Environment Department will hold a public meeting Tuesday, Sept. 20, in Las Cruces on the proposed changes. Meetings in Albuquerque and Farmington will follow during the next week.</p>	<p>Albuquerque, Sept. 22. Farmington, Sept. 28.</p>

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By Rebecca Moss
The New Mexican

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