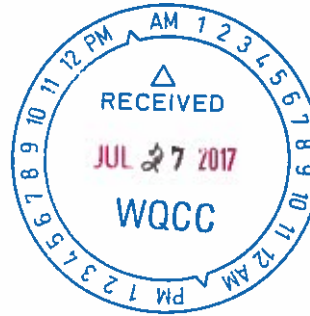


**STATE OF NEW MEXICO
BEFORE THE WATER QUALITY CONTROL COMMISSION**



**IN THE MATTER OF PROPOSED)
AMENDMENTS TO GROUND)
AND SURFACE WATER)
PROTECTION REGULATIONS,)
20.6.2 NMAC)**

No. WQCC 17-03(R)

**WILLIAM C. OLSON
STATEMENT OF POSITION, PROPOSED AMENDMENTS AND
STATEMENT OF REASONS FOR PROPOSED AMENDMENTS TO
NMED'S PROPOSED REVISIONS TO 20.6.2 NMAC**

Pursuant to the Hearing Officer's June 2, 2017 Revised Procedural Order in this proceeding, William C. Olson (WCO) hereby submits this combined statement of position, proposed amendments and statement of reasons regarding the New Mexico Environment Department's ("NMED") May 1, 2017 Petition to Amend the Ground and Surface Water Protection Regulations (20.6.2 NMAC) ("Petition").

I. STATEMENT OF POSITION

I am a hydrologist and citizen of New Mexico and have had a long-term involvement in New Mexico Water Quality Control Commission (WQCC) rulemaking and in the implementation and enforcement of WQCC rules. In general, I support NMED's effort to update the New Mexico Water Quality Control Commission's (WQCC) Ground and Surface Water Protection Rules at 20.6.2 NMAC. In particular, I support the majority of NMED's proposed revisions as modified and amended in the attached Exhibit A titled "William C. Olson July 27, 2017 Proposed Amendments to NMED's May 1, 2017 Proposed Revisions to 20.6.2 NMAC" and as discussed in the below Statement of Reasons. I defer taking a position in certain areas of

NMED's proposed revisions to 20.6.2 NMAC until such time that NMED provides their technical and legal rationale for the revisions in their written testimony. Consequently, at this time, I take no position on the following NMED proposed revisions:

- 1) Elimination of the 5 year term for approved variances in 20.6.2.1210 NMAC;
- 2) Numerical health-based standards that were revised to be less stringent than existing standards in 20.6.2.3103.A(1) NMAC; and
- 3) The "note" containing a grandfathering clause for water quality standards in 20.6.2.3103 NMAC.

II. WCO PROPOSED AMENDMENTS

The accompanying Exhibit A, attached to this document, contains WCO's July 27, 2017 "Proposed Amendments to NMED's May 1, 2017 Proposed Revisions to 20.6.2 NMAC". The amendments I have proposed contain edits for clarity and additional language that are logical outgrowths of NMED's May 1, 2017 Petition and NMED's "20.6.2 Proposed Revisions" (Attachment 2 of the Petition). The reasons for adoption of my proposed amendments are discussed below.

III. STATEMENT OF REASONS FOR WCO PROPOSED AMENMDMENTS

The WCO amendments to NMED's May 1, 2017 proposed rule revisions in attached Exhibit A are proposed for the following reasons:

- 1) In 20.6.2.7.D(4)(b) NMAC, in the definition of "discharge permit amendment" an edit is needed to clarify the intent of the definition regarding volume limitations.
- 2) In 20.6.2.7.H NMAC, in the definition of "hazard to public health" an edit is needed to clarify that all of the standards, including the narrative standard for toxic pollutants, must be considered in determining a "hazard to public health".
- 3) In 20.6.2.1210.A(5) NMAC, the information submitted for evaluation of a variance needs to be expanded to include an analysis of the present and future uses of any water

that may be affected by the variance. This is necessary to minimize potential impacts on uses of water and meet the statutory requirements of the Water Quality Act.

- 4) In 20.6.2.3103.A(2) NMAC, additional language is needed to clarify that the narrative standards for toxic pollutants require that a toxic pollutant, as defined in 20.6.2.7.T(2) NMAC, shall not be present at the specified narrative standard consistent with the intent of the proposed changes and the prior application of the rules.
- 5) In 20.6.2.3105.A NMAC, an edit is needed to clarify that effluent or leachate must conform to all of the standards of 20.6.2.3103 NMAC, including the narrative standards for toxic pollutants, and not just the “listed” standards.
- 6) In 20.6.2.3106.A NMAC, an edit is needed to clarify that the discharge permit requirements apply to all of the standards of 20.6.2.3103 NMAC, including the narrative standards for toxic pollutants, and not just the “listed” standards.
- 7) In 20.6.2.3106.B NMAC, an edit is needed to clarify that the discharge permit requirements apply to all of the standards of 20.6.2.3103 NMAC, including the narrative standards for toxic pollutants, and not just the “listed” standards.
- 8) In 20.6.2.3106.C NMAC, an edit is needed to clarify that the discharge permit requirements apply to all of the standards of 20.6.2.3103 NMAC, including the narrative standards for toxic pollutants, and not just the “listed” standards.
- 9) In 20.6.2.3109.C NMAC, additional language is necessary to provide notice of secretary approvals or disapprovals of discharge permit actions to those persons on the facility-specific list that have requested to be informed of actions related to the facility.
- 10) In 20.6.2.3109.F(4) NMAC, additional language is necessary to provide notice of secretary termination of a discharge permit to those persons on the facility-specific list that have requested to be informed of actions related to the facility.
- 11) In 20.6.2.4103.F(1) NMAC, Subparagraph (a) should be deleted as it is already covered by the existing rule criteria in 20.6.2.4103.F(1)(b) and creates a less stringent criteria for seeking alternate standards.
- 12) In 20.6.2.4103.F(2)(c) NMAC, the information submitted for evaluation of alternate standards needs to be expanded to include information on present and future uses of any water that may be affected by the approval of alternate standards. This is necessary to minimize potential impacts on uses of water and meet the statutory requirements of the Water Quality Act.
- 13) In 20.6.2.4108 NMAC, the language of this section does not address initial public notice of the submission of alternate abatement standards petitions. Alternate standards can be petitioned at any time and could be submitted outside submission of a Stage 2 abatement plan. The requirements of 20.6.2.4103.F(5) NMAC specify that review of alternate

abatement standards petitions follow the WQCC adjudicatory procedures of 20.1.3 NMAC (Variance Hearings). The WQCC's variance hearing procedures of 20.1.3 NMAC only require a one-time newspaper publication and notification of the facility specific list of an actual hearing on a petition, if one occurs. There is no initial public notice of the submission of the petition as for a Stage 2 abatement plan proposal. The public, adjacent landowners, tribes, pueblos and the Natural Resource Trustee and other local, state or federal agencies would not receive initial notice of submission of the plan, as occurs for a Stage 2 abatement plan. These public parties would subsequently not have the opportunity to provide input on whether it may affect them prior to a hearing on the matter. Receiving information from the public upfront in the review process is useful to NMED in evaluating alternate standards petitions, especially knowledge of wells that may be in the area, present and future land uses that may be affected and other site specific information. The language of 20.6.2.4108 NMAC has been edited and new language inserted to provide initial public notice of submission of a proposal for alternate standards, similar to that required for a Stage 2 abatement plan. The proposed amendments to this section also make it clear to the public that hearings on alternate standards are before the Commission and not the Secretary of NMED.

IV. CONCLUSION

For the foregoing reasons, I respectfully request that the New Mexico Water Quality Control Commission modify certain portions of NMED's May 1, 2017 "20.6.2 Proposed Revisions" and make further amendments as explained and illustrated in the above WCO Proposed Amendments and Statement of Reasons for WCO Proposed Amendments. I appreciate the opportunity to provide my positions and proposed amendments regarding NMED's proposed revisions to the WQCC's rules. I reserve the right to modify or take new positions based upon testimony and legal arguments presented in pre-hearing filings and hearing testimony and filings.

DATED this 27th day of July, 2017.

Respectfully submitted,

By: 

William C. Olson
14 Cosmic Way
Lamy, New Mexico
(505) 466-2969
billjeanie.olson@gmail.com

CERTIFICATE OF SERVICE

I hereby certify that on July 27, 2017, a true and correct copy of the foregoing "*William C. Olson Statement of Position, Proposed Amendments and Statement of Reasons for Proposed Amendments to NMED's Proposed Revisions to 20.6.2 NMAC*" was served via electronic mail to the following:

Pam Castaneda, Administrator*
Water Quality Control Commission
Room N-2168, Runnels Building
1190 St. Francis Dr.
Santa Fe, New Mexico 87505
pam.castaneda@state.nm.us
*Original and 12 hard copies also hand delivered

John Verheul
Lara Katz
Office of General Counsel
New Mexico Environment Department
P.O. Box 5469
Santa Fe, New Mexico 87502-5469
john.verheul@state.nm.us
lara.katz@state.nm.us

Dalva L. Moellenberg
Gallagher and Kennedy, P.A.
1239 Paseo de Peralta
Santa Fe, New Mexico 87501
DLM@gknet.com

Pete Domenici
Lorraine Hollingsworth
Domenici Law Firm, P.C.
320 Gold Ave. SW, Suite 1000
Albuquerque, New Mexico 87102
pdomenici@domenicilaw.com
lhollingsworth@domenicilaw.com

Michael Bowen
New Mexico Mining Association
1470 St. Francis Dr.
Santa Fe, New Mexico 87505
nmma@comcast.net

Jamie Park
Douglas Meiklejohn
Eric Jantz
Jonathan Block
New Mexico Environmental Law Center
1405 Luisa Street, Suite 5
Santa Fe, New Mexico 87505
jpark@nmelc.org
dmeiklejohn@nmelc.org
ejantz@nmelc.org
jblock@nmelc.org

Louis W. Rose
Kari Olson
Montgomery & Andrews, P.A.
P.O. Box 2307
Santa Fe, New Mexico 87504-2307
lrose@montand.com
kolson@montand.com

Timothy A. Dolan
Office of Laboratory Counsel
Los Alamos National Laboratory
P.O. Box 1663, MS A187
Los Alamos, New Mexico 87545
tdolan@lanl.gov

Michael L. Casillo
AFLOA/JACE
1500 West Perimeter Road, Suite 1500
Joint Base Andrews, MD 20762
michael.l.casillo2.civ@mail.mil

William Brancard
Cheryl Bada
New Mexico Energy, Minerals and Natural
Resources Department
1220 South St. Francis Dr.
Santa Fe, NM 87505
bill.brancard@state.nm.us
cheryl.bada@state.nm.us

Russel Church, President
NMML EQA Subsection
New Mexico Municipal League
P.O. Box 846
Santa Fe, NM 87504
rchurch@redriver.org



William C. Olson

EXHIBIT A

WILLIAM C. OLSON
JULY 27, 2017
PROPOSED AMENDMENTS
TO

NMED's May 1, 2017 PROPOSED REVISIONS TO 20.6.2 NMAC

This document contains the text of specific sections of the New Mexico Environment Department's (NMED) proposed revisions to 20.6.2 NMAC as contained in NMED's Petition to Amend the Ground and Surface Water Protection Regulations (20.6.2 NMAC) ("Petition") that was submitted to the New Mexico Water Quality Control Commission on May 1, 2017. NMED's initial revised language is indicated by strikethrough for deletions and NMED's new language in the text is indicated by underline, as NMED presented in Attachment 2 of the Petition. William C. Olson's proposed amendments to NMED's May 1, 2017 revised rule language are represented by red colored strike (deletions) and bold (new language) format changes highlighted in yellow.

CHAPTER 6 WATER QUALITY
PART 2 GROUND AND SURFACE WATER PROTECTION

20.6.2.7 DEFINITIONS:

~~[M.]~~[D.] Definitions that begin with the letter "D."

~~[P.]~~ (4) "discharge permit amendment" means a minor change to the requirements of a discharge permit that does not result in:

(a) a change in the location of a discharge that would affect groundwater beyond that impacted by the existing discharge location.

(b) an increase in daily discharge volume of greater than ten percent of the daily discharge volume approved in the most recent discharge permit approval, renewal or modification for an individual discharge location, and where the sum of any volume increases via amendments during a permit term is not greater than ten percent of the approved, renewed or modified discharge permit volume, or greater than 50,000 gallons/day, whichever is less.

(c) an increase in an effluent limit set forth in the most recent discharge permit approval, renewal or modification for an individual discharge location, or

(d) introduction of a new water contaminant

~~[A.]~~[H.] Definitions that begin with the letter "H."

"hazard to public health" exists when water which is used or is reasonably expected to be used in the future as a human drinking water supply exceeds at the time and place of such use, one or more of the ~~numerical~~ standards of Subsection A of 20.6.2.3103 NMAC, or the naturally occurring concentrations, whichever is higher, ~~or if any toxic pollutant affecting human health is present in the water;~~ in determining whether a discharge would cause a hazard to public health to exist, the secretary shall investigate and consider the purification and dilution reasonably expected to occur from the time and place of discharge to the time and place of withdrawal for use as human drinking water;

1 **20.6.2.1210 VARIANCE PETITIONS:**

2 A. Any person seeking a variance pursuant to NMSA 1978, Section 74-6-4(H)(G) shall do so by
3 filing a written petition with the commission. The petitioner may submit with his petition any relevant documents or
4 material which the petitioner believes would support his petition. Petitions shall:

- 5 (1) state the petitioner's name and address;
6 (2) state the date of the petition;
7 (3) describe the facility or activity for which the variance is sought;
8 (4) state the address or description of the property upon which the facility is located;
9 (5) describe the water body or watercourse affected by the discharge for which the variance
10 is sought and provide an analysis of present and foreseeable future uses of water that may affected by the variance;
11 (6) identify the regulation of the commission from which the variance is sought;
12 (7) state in detail the extent to which the petitioner wishes to vary from the regulation;
13 (8) state why the petitioner believes that compliance with the regulation will impose an
14 unreasonable burden upon his activity; and
15 (9) ~~state the period of time for which the variance is desired~~ state in detail how any water
16 pollution above standards will be abated; and
17 (10) state the period of time for which the variance is desired including all reasons, data,
18 reports and any other information demonstrating that such time period is justified and reasonable.
19
20

21 **20.6.2.3103 STANDARDS FOR GROUND WATER OF 10,000 mg/l TDS CONCENTRATION OR**
22 **LESS:**

23 A. **Human Health Standards**

24 (2) **Standards for Toxic Pollutants.** A toxic pollutant shall not be present at a concentration
25 shown by scientific information currently available to the public to have potential for causing one or more of the
26 following effects upon exposure, ingestion, or assimilation either directly from the environment or indirectly by
27 ingestion through food chains: (1) unreasonably threatens to injure human health, or the health of animals or plants
28 which are commonly hatched, bred, cultivated or protected for use by man for food or economic benefit; as used in
29 this definition injuries to health include death, histopathologic change, clinical symptoms of disease, behavioral
30 abnormalities, genetic mutation, physiological malfunctions or physical deformations in such organisms or their
31 offspring; or (2) creates a lifetime risk of more than one cancer per 100,000 exposed persons.
32
33

34 **20.6.2.3105 EXEMPTIONS FROM DISCHARGE PERMIT REQUIREMENT:** Sections 20.6.2.3104 and
35 20.6.2.3106 NMAC do not apply to the following:

36 A. Effluent or leachate which conforms to all the ~~listed~~ numerical standards of Section 20.6.2.3103
37 NMAC and has a total nitrogen concentration of 10 mg/l or less ~~and does not contain any toxic pollutant~~. If
38 treatment or blending is required to achieve these standards this exemption does not apply. To determine
39 conformance, samples may be taken by the agency before the effluent or leachate is discharged so that it may move
40 directly or indirectly into ground water; provided that if the discharge is by seepage through non-natural or altered
41 natural materials, the agency may take samples of the solution before or after seepage. If for any reason the agency
42 does not have access to obtain the appropriate samples, this exemption shall not apply;
43
44

45 **20.6.2.3106 APPLICATION FOR DISCHARGE PERMITS ~~(AND)~~ RENEWALS, MODIFICATIONS,**
46 **AND AMENDMENTS:**

47 A. Any person who, before or on June 18, 1977, is discharging any of the water contaminants ~~listed~~
48 in o 20.6.2.3103 NMAC ~~[or any toxic pollutant]~~ so that they may move directly or indirectly into ground water
49 shall, within 120 days of receipt of written notice from the secretary that a discharge permit is required, or such
50 longer time as the secretary shall for good cause allow, submit a discharge plan to the secretary for approval; such
51 person may discharge without a discharge permit until 240 days after written notification by the secretary that a
52 discharge permit is required or such longer time as the secretary shall for good cause allow.

53 B. Any person who intends to begin, after June 18, 1977, discharging any of the water contaminants
54 listed in o 20.6.2.3103 NMAC ~~[or any toxic pollutant]~~ so that they may move directly or indirectly into ground
55 water shall notify the secretary giving the information enumerated in Subsection B of 20.6.2.1201 NMAC; the
56 secretary shall, within 60 days, notify such person if a discharge permit is required; upon submission of a discharge

plan, the secretary shall review the discharge plan pursuant to 20.6.2.3108 and 20.6.2.3109 NMAC. For good cause shown the secretary may allow such person to discharge without a discharge permit for a period not to exceed 120 days.

C. Any person who intends to modify the discharge of any of the water contaminants listed in of 20.6.2.3103 NMAC in a manner that is a discharge permit modification as defined in this part shall submit a discharge plan for modification that contains the information required in Subsection D of 20.6.2.3106 NMAC; upon submission of a discharge plan for modification, the secretary shall review the discharge plan for modification pursuant to 20.6.2.3108 and 20.6.2.3109 NMAC.

20.6.2.3109 SECRETARY APPROVAL, DISAPPROVAL, MODIFICATION, AMENDMENT OR TERMINATION OF DISCHARGE PERMITS, AND REQUIREMENT FOR ABATEMENT PLANS:

C. The secretary shall, within 30 days after the administrative record is complete and all required information is available, approve, approve with conditions or disapprove the proposed discharge permit, modification or renewal based on the administrative record. The secretary shall [give written notice of the action taken] notify the applicant or permittee by certified mail of the action taken and [any other person] the reasons for such action. Notice shall also be given by mail to persons who participated in the permitting action [who requests a copy in writing] and those persons on the facility-specific mailing list.

F. If data submitted pursuant to any monitoring requirements specified in the discharge permit or other information available to the secretary indicates that this part is being or may be violated or that the standards of 20.6.2.3103 NMAC are being or will be exceeded [, or a toxic pollutant as defined in 20.6.2.7 NMAC is present,] in ground water at any place of withdrawal for present or reasonably foreseeable future use, or that the water quality standards for interstate and intrastate streams in New Mexico are being or may be violated in surface water, due to the discharge, except as provided in Subsection [D] E of 20.6.2.3109 NMAC.

(1) The secretary may require a discharge permit modification within the shortest reasonable time so as to achieve compliance with this part and to provide that any exceeding of standards in ground water at any place of withdrawal for present or reasonably foreseeable future use, or in surface water, due to the discharge except as provided in Subsection [D] E of 20.6.2.3109 NMAC will be abated or prevented. If the secretary requires a discharge permit modification to abate water pollution:

(a) the abatement shall be consistent with the requirements and provisions of 20.6.2.4101, 20.6.2.4103, Subsections C and E of 20.6.2.4106, 20.6.2.4107, 20.6.2.4108 and 20.6.2.4112 NMAC; and

(b) the discharger may request of the secretary approval to carry out the abatement under 20.6.2.4000 through 20.6.2.4115 NMAC, in lieu of modifying the discharge permit; the discharger shall make the request in writing and shall include the reasons for the request.

(2) The secretary may terminate a discharge permit when a discharger fails to modify the permit in accordance with Paragraph (1) of Subsection [E] F of 20.6.2.3109 NMAC.

(3) The secretary may require modification, or may terminate a discharge permit for a Class I well, a Class III well or other type of well specified in Subsection A of 20.6.2.5101 NMAC, pursuant to the requirements of Subsection I of 20.6.2.5101 NMAC.

(4) If a discharge permit is terminated, the secretary shall notify the permittee by certified mail of the action taken and the reasons for that action. Notice of the termination shall also be given by mail or electronic mail to persons who participated in the permitting action and those persons on the facility-specific mailing list.

20.6.2.4103 ABATEMENT STANDARDS AND REQUIREMENTS:

F. Alternative Abatement Standards: If a responsible person abating water pollution pursuant to an approved abatement plan is unable to fully meet the abatement standards set forth in Subsections A, B and C of this section the responsible person may propose alternative abatement standards.

(1) At any time after the submission of a Stage 2 abatement plan, a responsible person may file a petition with the commission seeking approval of an alternative abatement standard based on at least one of the following criteria:

(a) compliance with the standard set forth in Subsections A, B and BC of this section is not feasible by the maximum use of commercially accepted abatement technology;

~~(ba)~~ compliance with the standard set forth in Subsections A, B and C of this section is not feasible by the maximum use of technology within the economic capability of the responsible person;

~~(eb)~~ there is no reasonable relationship between the economic and social costs and benefits of attainment of the standard set forth in Subsections A, B and C of this section; or

~~(ec)~~ compliance with the standard set forth in Subsections A, B and C of this section is technically infeasible, as demonstrated by a statistically valid extrapolation of the decrease in concentration of any water contaminant over the remainder of a twenty (20) year period, such that projected future reductions during that time would be less than 20 percent of the concentration at the time technical infeasibility is proposed. A statistically valid decrease cannot be demonstrated by fewer than eight (8) consecutive sampling events. Sampling events demonstrating a statistically valid decrease shall be collected with a minimum of ninety (90) days between sampling events, and shall not span a time period greater than four (4) years.

(2) A petition for alternative abatement standards shall specify, in addition to the information required by Subsection A of 20.6.2.1210 NMAC the following:

(a) the water contaminant for which the alternative abatement standard is proposed;

(b) the alternative abatement standard proposed;

(c) the three-dimensional body of water pollution for which approval is sought and present and foreseeable future uses of water that may be affected;

(d) a summary of all actions taken to abate water pollution to standards; and

(f) other information as deemed necessary, which may include a transport, fate and risk assessment in accordance with accepted methods.

20.6.2.4108 PUBLIC NOTICE AND PARTICIPATION:

B. ~~[Within thirty (30) days of filing of]~~ Any person proposing a Stage 2 abatement plan ~~[proposal, or proposed]~~ or a significant modification ~~[of]~~ to a Stage 2 ~~[of the]~~ abatement plan, or alternate abatement standards ~~[any responsible person]~~ shall provide ~~[to the secretary proof of public]~~ notice of the ~~[abatement plan]~~ proposal to the following persons:

(1) the public, who shall be notified through publication of a notice in newspapers of general circulation in this state and in the county where the abatement will occur and, in areas with large percentages of non-English speaking people, through the mailing of the public notice in English to a bilingual radio station serving the area where the abatement will occur with a request that it be aired as a public service announcement in the predominant non-English language of the area;

(2) those persons, as identified by the secretary, who have requested notification, who shall be notified by mail;

(3) the New Mexico Trustee for Natural Resources, and any other local, state or federal governmental agency affected, as identified by the secretary, which shall be notified by certified mail;

(4) owners and residents of surface property located inside, and within one (1) mile from, the perimeter of the geographic area where the standards and requirements set forth in Section 20.6.2.4103 NMAC are exceeded who shall be notified by a means approved by the secretary; and

(5) the Governor or President of each Indian Tribe, Pueblo or Nation within the state of New Mexico, as identified by the secretary, who shall be notified by mail.

C. The public notice proposal for a Stage 2 abatement plan proposal or significant modification of a Stage 2 abatement plan shall ~~[include, as approved in advance by]~~ be submitted to the secretary for approval with a proposed stage 2 abatement plan proposal, or significant modification of a Stage 2 abatement plan, and shall include:

(1) name and address of the responsible person;

(2) location of the proposed abatement;

(3) brief description of the nature of the water pollution and of the proposed abatement action;

(4) brief description of the procedures followed by the secretary in making a final determination;

(5) statement on the comment period;

(6) statement that a copy of the abatement plan can be viewed by the public at the department's main office or at the department field office for the area in which the discharge occurred;

(7) statement that written comments on the abatement plan, and requests for a public meeting or hearing that include the reasons why a meeting or hearing should be held, will be accepted for consideration if

1 sent to the secretary within sixty (60) days after the ~~[determination of administrative completeness; and]~~ date of
2 public notice; and

3 (8) address and phone number at which interested persons may obtain further information.

4 **D.** The public notice proposal for proposed alternate abatement standards shall be submitted to the
5 secretary for approval with a petition for alternate abatement standards, and shall include:

6 (1) name and address of the responsible person;

7 (2) location of the proposed alternate abatement standards;

8 (3) brief description of the nature of the water pollution and of the proposed alternate
9 abatement standards;

10 (4) brief description of the procedures followed by the commission in making a final
11 determination;

12 (5) statement that a copy of the alternate abatement standards petition can be viewed by the
13 public at the department's main office or at the department field office for the area in which the abatement is
14 occurring;

15 (6) statement on how the public can request to be placed on a facility-specific mailing list for
16 notification of any hearing conducted pursuant to 20.1.3 NMAC; and

17 (7) address and phone number at which interested persons may obtain further information.

18 **DE.** within thirty (30) days of the secretary's approval of a Stage 2 abatement plan public notice
19 proposal for a Stage 2 abatement plan proposal, significant modification of a Stage 2 abatement plan or proposed
20 alternate abatement standards, any responsible person shall provide to the secretary proof of public notice to the
21 persons listed in Subsection B of 20.6.2.4108 NMAC.

22 **EF.** A public meeting or hearing may be held on a proposed Stage 2 abatement plan or significant
23 modification of a Stage 2 abatement plan if the secretary determines there is significant public interest. Notice of
24 the time and place of the meeting or hearing shall be given at least thirty (30) days prior to the meeting or hearing
25 pursuant to Subsections A and B above. The secretary may appoint a meeting facilitator or hearing officer. The
26 secretary may require the responsible person to prepare for approval by the secretary a fact sheet, to be distributed at
27 the public meeting or hearing and afterwards upon request, written in English and Spanish, describing site history,
28 the nature and extent of water pollution, and the proposed abatement. The record of the meeting or hearing,
29 requested under this Section, consists of a tape recorded or transcribed session, provided that the cost of a court
30 recorder shall be paid by the person requesting the transcript. If requested by the secretary, the responsible person
31 will provide a translator approved by the secretary at a public meeting or hearing conducted in a locale where
32 testimony from non-English speaking people can reasonably be expected. At the meeting or hearing, all interested
33 persons shall be given a reasonable chance to submit data, views or arguments orally or in writing, and to ask
34 questions of the secretary or the secretary's designee and of the responsible person, or their authorized
35 representatives.

36 **G.** An alternative abatement standard shall only be granted after a public hearing before the
37 commission, as required by NMSA 1978, Section 74-6-4(H) of the Water Quality Act. The commission shall
38 review petitions for alternative abatement standards in accordance with the procedures for review of variance
39 petitions provided in the commission's adjudicatory procedures, 20.1.3 NMAC.
40
41