STATE OF NEW MEXICO

STATEWIDE WATER QUALITY MANAGEMENT PLAN AND CONTINUING PLANNING PROCESS

NEW MEXICO
WATER QUALITY CONTROL COMMISSION

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Copies of this document and the incorporated documents are available through the State library, the New Mexico Environment Department Surface Water Quality Bureau, Harold Runnels Building, 1190 St. Francis Drive, Santa Fe, NM 87502 in Santa Fe, or online at https://www.env.nm.gov/surface-water-quality/.

Table of Contents

List of Acronyms and Abbreviations

BPJ	Best Professional Judgment
BLM	Bureau of Land Management
BMPs	Best Management Practices
BOR	United States Bureau of Reclamation
CFR	Code of Federal Regulations
CPB	Construction Programs Bureau of NMED
CPP	Continuing Planning Process
CWA	Clean Water Act (33 U.S.C. 1251 et seq.)
CWSRF	Clean Water State Revolving Fund
DMA	Designated Management Agency
EMNRD	Energy, Minerals and Natural Resources Department
EPA	United States Environmental Protection Agency
GWQB	Ground Water Quality Bureau of NMED
LA	Load Allocation
MOS	Margin of Safety
NM	New Mexico
NMAC	New Mexico Administrative Code
NMED	New Mexico Environment Department
NMIP	Procedures for Implementing NPDES Permits in New Mexico
NMSA	New Mexico Statutes Annotated
NPDES	National Pollutant Discharge Elimination System
NPS	United States National Park Service
NPSMP	Nonpoint Source Management Program
OCD	Oil Conservation Division of EMNRD
ONRW	Outstanding National Resource Water
PIP	Public Involvement Plan
POTWs	Publicly Owned Treatment Works
QAPP	Quality Assurance Project Plan
RIP	Rural Infrastructure Revolving Loan Program
SDWA	Safe Drinking Water Act
SOP	Standard Operating Procedure
SWQB	Surface Water Quality Bureau of NMED
TAS	Treatment in a Similar Manner
TBEL	Technology Based Effluent Limit
TMDL	Total Maximum Daily Load
UAA	Use Attainability Analysis
UIC	Underground Injection Control
USACE	United States Army Corps of Engineers
USC	United States Code
USDA	United States Department of Agriculture
USFS	United States Forest Service
USFWS	United States Fish and Wildlife Service
USGS	United States Geological Survey

WLA	Waste Load Allocation
WQA	New Mexico Water Quality Act (Chapter 74, Article 6 NMSA 1978)
WQBEL	Water Quality Based Effluent Limit
WQCC	New Mexico Water Quality Control Commission
WQMP	Water Quality Management Plan
WQS	Water Quality Standards

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I. INTRODUCTION

A. Purpose

NMED's Statewide Water Quality Management Plan and Continuing Planning Process (WQMP/CPP) provides a concise summary of the water quality management system in New Mexico (NM) and the roles of the major participants in that system, as required by Sections 208 and 303 of the federal Clean Water Act (CWA) and New Mexico Statutes Annotated (NMSA) 1978, Section 74-6-4(B) of the New Mexico Water Quality Act (WQA).

In accordance with Section 303(e) of the CWA and 40 CFR 130.5, states are required to have a CPP which describes the processes used to manage its water quality program. The state may determine the format of its CPP as long as it meets the minimum requirements, as described in Section 303(e)(3)(A)-(H) of the CWA and 40 CFR 130.5, but it may also include other processes at its discretion.

In accordance with 40 CFR 130.6(b), the WQMP is used to direct implementation and draw upon the water quality assessments to identify priority point and nonpoint water quality problems, consider alternative solutions and recommend control measures, including the financial and institutional measures necessary for implementing recommended solutions. The WQMP/CPP addresses nine (9) elements to implement water quality management planning, in accordance with 40 CFR 130.6(c) and as described under Section 205(j) of the CWA; areawide Waste Treatment Management under Section 208 of the CWA; and Water Quality Standards (WQS) and implementation plans as described under Section 303 of the CWA.

The Statewide WQMP/CPP is used to direct implementation of New Mexico's water quality programs. The WQMP/CPP is intended to provide a consistent approach to preserve, protect, and improve water quality by ensuring that WQS are established to protect designated uses, the quality of water in the environment is periodically assessed, and point and nonpoint pollution sources that may adversely impact water quality are identified, prioritized, and controlled.

B. Cross-walk of Sections in the WQMP/CPP and the Federal Requirements

The nine (9) required elements of a WQMP are found in 40 CFR 130.6(c), and the nine (9) required elements of a CPP are found in 40 CFR 130.5(b). Table I-1 shows how this document is organized to incorporate requirements of both the WQMP and the CPP. Any reference to the State's CPP or WQMP in statutes, regulations, standards or other documents refers to this document.

Table I-1: Federal Requirements for WQMP and CPP

WQMP/CPP Section	40 CFR 130.6 WQMP Requirements	40 CFR 130.5 CPP Requirements
I. Introduction	Not required by 40 CFR 130.6	**40 CFR 130.5(b)(4)** *The process for updating and maintaining WQMPs, including schedules for revision;* **40 CFR 130.5(b)(5)** *The process for assuring adequate authority for intergovernmental cooperation in the implementation of the State's WQMP.*
II. Water Quality Standards	Not required by 40 CFR 130.6	**40 CFR 130.5 (b)(6)** *The process for establishing and assuring adequate implementation of new or revised water quality standards.*
III. Assessment, Monitoring and Reporting	Not required by 40 CFR 130.6	Not required under 40 CFR 130.5
IV. TMDLs	**40 CFR 130.6 (c)(1)** *A list of approved Total Maximum Daily Loads (TMDLs).*	**40 CFR 130.5(b)(3)** *The process for developing TMDLs and individual water quality-based effluent limitations for pollutants.*
V. Effluent Limitations	**40 CFR 130.6 (c)(2)** *Effluent limitations including water quality-based effluent limitations and schedules of compliance.*	**40 CFR 130.5 (b)(1)** *The process for developing effluent limitations and schedules of compliance;* **40 CFR 130.5(b)(9)** *The process for determining the priority of permit issuance.*
VI. Municipal and Industrial Waste Treatment	**40 CFR 130.6 (c)(3)** *Identification of anticipated municipal and industrial waste treatment works; programs to provide necessary financial arrangements for such works; establishment of construction priorities and schedules for initiation and completion of such treatment works including an identification of open space and recreation opportunities from improved water quality.*	**40 CFR 130.5(b)(7)** *The process for assuring adequate controls over the disposition of all residual waste from any water treatment processing;* **40 CFR 130.5(b)(8)** *The process for developing an inventory and ranking, in order of priority of needs for construction of waste treatment works.*
VII. Nonpoint Source Management and Control	**40 CFR 130.6 (c)(4)** *The regulatory and non-regulatory programs, activities, and Best Management Practices (BMPs) to control nonpoint source pollution where necessary to protect or achieve approved water uses.*	Not required by 40 CFR 130.5
VIII. Management Agencies	**40 CFR 130.6 (c)(5)** *Identification of agencies necessary to carry out the WQMP and provision for adequate authority for intergovernmental cooperation.*	Not required by 40 CFR 130.5

WQMP/CPP Section	40 CFR 130.6 WQMP Requirements	40 CFR 130.5 CPP Requirements
IX. Implementation Measures	**40 CFR 130.6(c)(6)** *Identification of implementation measures necessary to carry out the WQMP.*	Not required by 40 CFR 130.5
X. Dredge and Fill Program	**40 CFR 130.6(c)(7)** *Identification and development of programs for the control of dredge and fill material.*	Not required by 40 CFR 130.5.
XI. Basin Plans	**40 CFR 130.6(c)(8)** *Identification of any relationship to applicable basin plans developed under Section 209 of the CWA.*	**40 CFR 130.5(b)(2)** *The process for incorporating elements of any applicable areawide waste treatment plans under Section 208, and applicable basin plans under Section 209 of the CWA.*
XII. Ground Water	**40 CFR 130.6(c)(9)** *Identification and development of programs for control of ground-water pollution.*	Not required by 40 CFR 130.5
XIII. Determination of Compliance with WQS – Human Health Criteria	Not required by 40 CFR 130.6 (required by 20.6.4 NMAC)	Not required by 40 CFR 130.5
XIV. Public Participation	Not required by 40 CFR 130.6	**40 CFR 130.5(b)(4)** *The process for updating and maintaining the WQMP.*

C. History and updates to the WQMP/CPP

The New Mexico Water Quality Control Commission (WQCC) first adopted the WQMP and the CPP in 1979, under the statutory authority of Section 74-6-4(B) of the WQA. The chronological summary of the subsequent updates is as follows:

- March 1976 CPP initially adopted
- October 1978 WQMP initially adopted
- May 1979 WQMP
  - Work Elements 2.5 (Trout Hatcheries), 4.3 (Sediment Study) 8.0 (Industrial Waste Treatment System Needs: Toxic Substance Study) and 9.5 (Development of Statewide Ground Water Monitoring System) initially adopted
- October 1979 WQMP
  - Updated Work Element 3 (Population Projections)
- October 1980 WQMP
  - Work Element 13 (Designation of Management Agencies) initially adopted
  - Updated Work Element 3 (Population Projections)
- May 1982 WQMP
  - Updated Work Element 6 (Point Source Load Allocations)
- September 1983 WQMP
  - Updated Work Element 4.1 (Irrigated Agriculture)

- August 1984 WQMP
  - Work Element 14 (Implementation Schedules) initially adopted
  - Updated Work Elements 4.1 (Irrigated Agriculture), 4.2 (Silviculture), 4.3 (Sediment Study), 13 (Designation of Management Agencies)
- October 1985 WQMP
  - Updated Work Elements 6 (Point Source Load Allocations) and 13 (Designation of Management Agencies)
- April 1986 WQMP
  - Updated Work Element 3 (Population Projections)
- September 1988 WQMP
  - Updated Work Element 13 (Designation of Management Agencies)
- September 1989 WQMP
  - Updated Work Element 6 (Point Source Load Allocations)
- July 1998 CPP
- December 2002 WQMP
  - Approved December 17, 2002
  - Restructured for comprehensiveness, accessibility, and usability
  - Reorganized to track current federal requirements
  - Outdated or non-applicable elements removed
  - Partial updates consolidated
- May 2003 WQMP
  - Updated Introduction to provide background on how water quality is managed and Work Element 11 (Public Participation Program) (now Section XIV) to include outreach protocols and strategies
- December 2004 CPP
  - Updated to include Antidegradation Policy Implementation Procedure
- November 2010 WQMP
  - Updated the Antidegradation Policy (Appendix A)
- May 2011 WQMP/CPP
  - Consolidated WQMP and CPP
  - New elements initially adopted
    - Developed Wetlands Program
    - Adopted Underground Injection Control (UIC) regulations
    - Created Water Cabinet for Water and Wastewater Infrastructure
    - Added Hydrology Protocol for determining water body type (ephemeral, intermittent, perennial)
  - Updates and changes were made to:
    - References and citations
    - Program descriptions
    - WQS amendments
    - Completion of the Total Maximum Daily Load (TMDL) settlement agreement requirements
    - Process for establishing TMDLs

- Nonpoint Source Management Program
- Provide a format that supported opportunity for future growth of the WQMP

Prior to 2011, the WQMP and the CPP were maintained independently of each other. Beginning in 2011, NMED's Surface Water Quality Bureau (SWQB) consolidated WQMP/CPP.

The primary goals of this 2019 update include the following:

- Incorporate changes and new developments that have occurred since the last revision in 2011;
- Update the antidegradation policy implementation procedure (Appendix A);
- Incorporate the Wetland Program (Previously Section XV) into regulatory mandated portions of the WQMP/CPP primarily under the Nonpoint Source Management and Control (Section VII); and
- Update program descriptions and citations to referenced documents.

D. The process for updating and maintaining the WQMP/CPP including schedules for revision

[As required by 40 CFR 130.5(b)(4) for CPP]

To ensure that the WQMP/CPP continues to provide an effective framework for water quality management, updates may be developed for reasons such as: changes in population, economic development, changing water quality conditions, results of implementation activities, new and revised effluent limitations, and new requirements, including new laws, regulations, and standards.

The WQMP/CPP is periodically reviewed and revised in accordance with 40 CFR 130.5 and 40 CFR 130.6(e) to ensure the processes are current and adequately reflect the State's water quality management system. Any updates and revisions to the WQMP/CPP must be approved by the WQCC and the United States Environmental Protection Agency (EPA).

Following an identification for the need to update the WQMP/CPP, NMED proceeds with outreach efforts to Tribal counterparts in accordance with NMED's 2009 Tribal Collaboration and Communication Policy. Identification of potential stakeholders is also conducted to engage individuals or entities that may be impacted by the actions under the WQMP/CPP. Following outreach to Tribes and Stakeholders, the public notice process is driven primarily by various Federal and State regulations as well as NMED policies as outlined in Section XIV of this WQMP/CPP. Once public comments have been received, NMED will review and incorporate necessary revisions, as applicable. NMED will then present the proposed revisions to the WQCC for consideration and approval. NMED may submit a proposed update to EPA for technical review before presentation to the WQCC. The WQCC considers the proposed update at one of its public meetings. At the WQCC meeting, the WQCC allows all interested persons reasonable opportunity to provide comment before deciding whether to approve the update.

After adopting an update, the WQMP/CPP is sent to the Governor or designee for review and certification that the update is consistent with all other parts of the plan. The approved WQMP/CPP, along with the Governor's certification, is then sent to EPA Region 6 for approval. Once approved by EPA Region 6, the approved WQMP/CPP is maintained within the Department and submitted for publication with the State Library.

Updates to the appendices of the WQMP/CPP, including the Antidegradation Policy Implementation Procedure and the Hydrology Protocol for the Determination of Uses Supported by Ephemeral, Intermittent and Perennial Waters (Appendix A and C, respectively), are done in accordance with the process to update the WQMP/CPP. Updates to the TMDL List (Appendix B) are made once a TMDL has been adopted or removed in accordance with the process described in Section IV of this plan.

Several documents that relate to components of this WQMP/CPP are incorporated by reference. Documents incorporated by reference may be revised and updated independently, but in accordance with the WQMP/CPP. The context of each reference should be used to determine if a specific version or the most current version of the document is being referenced. The regulations and documents incorporated by reference into the WQMP/CPP include the following:

Ground and Surface Water Protection regulations *(20.6.2 NMAC)*

New Mexico Nonpoint Source Management Plan

Standards for Interstate and Intrastate Surface Waters (20.6.4 NMAC)

State of New Mexico Integrated Clean Water Act §303(d)/§305(b) Report

Surface Water Quality Bureau Quality Management Plan (QMP)

Surface Water Quality Bureau Quality Assurance Project Plan for Water Quality Management Programs (QAPP)

E. Process for assuring adequate authority for intergovernmental cooperation in the implementation of the State's Water Quality Management Program

[As required by 40 CFR 130.5(b)(5) for CPP]

The creation of the WQCC as the control agency for all purposes of the WQA and, in turn, the federal CWA, are established under NMSA 1978, Section 74-6-3 of the WQA. The duties and powers of the WQCC under Section 74-6-4 of the WQA assure adequate authority for intergovernmental cooperation in the implementation of the WQMP/CPP.

Intergovernmental cooperation in the implementation of the WQMP/CPP programs is provided by four factors:

Factor 1: The composition of the WQCC.

The WQCC is the water pollution control agency for New Mexico. It is responsible for developing specific water quality policy in NM, in a manner that implements the broader policies set forth by the NM Legislature in the WQA. In accordance with Section 74-6-3 of the WQA, the WQCC is comprised of fourteen (14) members; nine (9) of which are representatives of State agencies involved in some aspect of water quality management; one (1) member is a representative of county or municipal government; and the other four (4) members are representatives of the public that are appointed by the Governor. Thus, the WQCC itself serves as a forum for exchange of information, coordination, and cooperation. The fourteen members of the WQCC include:

- Secretary of the Environment Department*
- Secretary of the Department of Health*
- Director of the Department of Game and Fish*
- State Engineer*
- Chair of the Oil Conservation Commission*
- Director of the State Park and Recreation Division of the Energy, Minerals and Natural Resources Department (EMNRD)*
- Director of the New Mexico Department of Agriculture*
- Chair of the Soil and Water Conservation Commission or a Soil and Water Conservation District Supervisor designated by him/her
- Director of the Bureau of Geology and Mineral Resources at the New Mexico Institute of Mining and Technology*
- Representative of County or Municipal Government
- Four representatives of the public to be appointed by the governor for terms of four years

(*indicates that a Commissioner can appoint a staff member designee.)

The WQCC is the entity with authority to approve the WQMP/CPP, adopt WQS to protect waters of the State, as well as various regulations aimed at achieving compliance with those standards. In addition to its formal rulemaking role, the WQCC serves as a forum to facilitate and advance a statewide policy dialogue on a variety of important water quality topics. In accordance with NMSA 1978, Section 74-6-4(F), the WQCC shall also hear and decide disputes between constituent agencies as to jurisdiction concerning any matters within the purpose of the Water Quality Act. Additional duties and powers of the WQCC are defined in the WQA at NMSA 1978, Section 74-6-4.

Factor 2: The delegation of responsibilities to constituent agencies by the WQCC.

Under Section 74-6-4(F) of the WQA the WQCC has the authority to delegate responsibility for administering its regulations to constituent agencies to assure adequate coverage and prevent duplication of effort. The WQCC reviews, adopts, and records such delegations at its regular open meetings. As the WQCC has no staff of its own, responsibilities for administering its regulations are assigned among eight (8) constituent agencies identified in the WQA at NMSA 1978, Section 74-6-2(K). Those agencies, along with any applicable responsibilities pertaining to this WQMP/CPP, are as follows:

New Mexico Environment Department (NMED)

The Secretary of NMED is delegated as a member of the Water Quality Control Commission. Under the WQCC's delegation of Responsibilities to Environmental Improvement Division (now NMED) and Oil Conservation Division (OCD) dated July 21, 1989, NMED is the primary constituent agency responsible for administering and enforcing all programs implemented by the state under the CWA. Such actions include implementing the WQMP/CPP, as well as administering regulations adopted by the WQCC for discharges to surface and ground water. NMED is the principal source of technical expertise available to the WQCC in its rulemaking and other policy-setting activities. NMED, in accordance with NMSA 1978, Section 74-6-3(K), is administratively attached to the WQCC in non-adjudicatory or appellate proceedings to which NMED is a party.

The WQCC has designated NMED as the constituent agency to carry out the following duties:

- Maintaining, restoring and improving the quality of the State's waters;
- Regulating discharges for compliance with regulations and standards;
- Developing water quality classifications and standards;
- Performing site application and design and specification reviews of new or expanding domestic wastewater treatment facilities;
- Undertaking monitoring and enforcement of the statutes and permits;
- Coordinating water quality management planning;
- Managing state and federal construction grant and loan assistance programs which provide financial support to municipalities for construction or improvement of wastewater treatment facilities;
- Managing the ground water quality protection program with the goal of protecting the public health and beneficial ground water uses; and
- Providing technical assistance to local governments regarding water and wastewater treatment.

Section 74-6-4(F) of the WQA also specifically assigns the following duties to NMED:

- Provide technical services, including certification of permits pursuant to the federal CWA, and
- Maintain a repository of the scientific data required by the WQA.

The following describes specific NMED bureaus and their responsibilities relating to the implementation of the WQMP/CPP. For additional information visit: https://www.env.nm.gov/.

Construction Programs Bureau (CPB): The CPB is involved in implementing portions of the WQMP as they pertain to prioritizing water, wastewater, and solid waste planning, design, and construction funding through the administration of the following programs: New Mexico Clean Water State Revolving Fund (CWSRF), also known as the Wastewater Facility Construction Loan Fund; Rural Infrastructure Program (RIP); and Capital Outlay Special Appropriations Program (SAP). As part of these programs, the CPB:

- Administers low interest loan and grant programs for water, wastewater and other environmental infrastructure projects that protect surface and ground water;
- Manages the timely construction and administrative completion of publicly funded water, wastewater, and solid waste projects; and
- Ensures that projects are environmentally sound, of high quality, and free of waste, fraud, and abuse.

Ground Water Quality Bureau (GWQB): The GWQB protects the quality of NM's ground water resources in accordance with the WQMP/CPP and as mandated by the WQA, the federal Safe Drinking Water Act (SDWA), Ground and Surface Water Protection Regulations (20.6.2 NMAC), Ground Water Protection-Supplemental Permitting Requirements for Dairy Facilities (20.6.6 NMAC), and Ground Water Protection-Supplemental Permitting for Copper Mine Facilities (20.6.7 NMAC). The GWQB:

- Develops standards and regulations pertaining to ground water quality;
- Issues ground water pollution prevention discharge permits;
- Implements the Department's responsibilities under the New Mexico Mining Act to ensure that environmental issues are addressed, and standards are met;
- Implements NM's underground injection control (UIC) programs;
- Oversees ground water investigation and remediation activities; and
- Identifies, investigates and remediates contaminated sites that pose significant risks to human health and the environment through implementation of the Bureau's Voluntary Remediation Program, Brownfields Program, and the federal Superfund program.

GWQB also strives to increase industry and public understanding and awareness of the importance of safe ground water supplies in sustaining the quality of life in New Mexico for this and future generations, and the importance of protecting ground water quality through pollution prevention initiatives.

Surface Water Quality Bureau (SWQB): The SWQB protects and improves NM's surface water quality by controlling pollution from both discrete point sources and dispersed nonpoint sources. The SWQB maintains and revises the WQMP/CPP and is the primary bureau within NMED that is responsible for implementing the majority of the programs defined in the WQMP/CPP. Operating under the CWA, the SDWA, the WQA, the Standards for Interstate and Intrastate Surface Waters (20.6.4 NMAC), and Ground and Surface Water Protection regulations (20.6.2 NMAC) the SWQB:

- Administers the Nonpoint Source (NPS) Program through the federally-funded Program under Section 319 of the CWA and the state-funded River Stewardship Program;
- Administers the Wetlands Program;
- Certifies federal permits issued under Section 402 of the CWA pertaining to National Pollutant Discharge Elimination System (NPDES) and Section 404 of the CWA pertaining to Dredge and Fill;
- Assists the WQCC in developing surface WQS and regulations for the State;

- Conducts monitoring and assessment activities to report on water quality status and identify impairments of NM's surface waters; and
- Develops water quality planning documents identifying pollutant load reductions necessary to attain standards in a surface water.

Other NMED Bureaus and Programs: Other Bureaus and Programs also contribute to water quality protection and may work indirectly under the WQMP/CPP from time to time. Some of which are listed as follows:

- Utility Operator Certification Program ensures adequate training and certification for drinking water and wastewater operators.
- The Liquid Waste Program regulates individual on-site liquid waste systems to protect public health and to prevent contamination of ground and surface water.
- The Petroleum Storage Tank Bureau reduces, mitigates and eliminates the threats to the environment posed by petroleum products or released from underground and above ground storage tank systems.
- The Solid Waste Bureau assures that solid waste is managed in such a way as to minimize impact on the environment and public health.
- The Drinking Water Bureau assists communities in protecting the sources of their drinking water supplies from contamination.
- The Hazardous Waste Bureau regulates hazardous waste treatment, storage and disposal facilities, oversees cleanup of contaminated sites, and implements Federal Facility Compliance Orders at Los Alamos and Sandia National Laboratories.

State Engineer and Interstate Stream Commission

The State Engineer is delegated as a member of the Water Quality Control Commission. No other applicable responsibilities pertaining to this WQMP/CPP have been identified.

Department of Game and Fish

The Director of the Department of Game and Fish is delegated as a member of the Water Quality Control Commission. The Department of Game and Fish has also been delegated authority through the WQCC to enforce the regulation for disposal of refuse in a watercourse. No other applicable responsibilities pertaining to this WQMP/CPP have been identified.

Oil Conservation Commission

The chair of the Oil Conservation Commission is delegated as a member of the Water Quality Control Commission. In accordance with 70-2-4 NMSA 1978, the chair of the Oil Conservation Commission is elected from one of the three Commission members; the commissioner of public lands, the state geologist and the director of the Oil Conservation Division.

Since, in accordance with 70-2-6 NMSA 1978, the Oil Conservation Commission has concurrent jurisdiction and authority with the Oil Conservation Division (OCD) it is appropriate to identify that the WQCC's delegation of Responsibilities to Environmental Improvement Division (now NMED) and Oil Conservation Division (OCD) dated July 21, 1989 outlines that OCD has the

responsibility of administering WQCC regulations to protect water quality and abate water pollution (*see generally* 20.6.2 NMAC). The OCD administers these regulations as they pertain to "discharges from facilities for the production, refinement, pipeline transmission of oil and gas or products thereof, the oil field service industry, oil field brine production wells, geothermal installations and carbon dioxide facilities" (*see* Subsection A(1) of 20.6.2.1201 NMAC).

The disposition by use of produced water not for drilling, completion, producing, secondary recovery, pressure maintenance or plugging of wells pursuant to 19.15.34 NMAC requires prior approval from the OCD (see Subsection A *of* 19.15.34.8 NMAC), and also requires the submission of a Notice of Intent to NMED or EPA if the use includes a potential discharge to ground or surface waters (20.6.2.1201 NMAC and Section 402 of the CWA), respectively. Discharges from other types of facilities that could affect groundwater quality are regulated by the NMED's Ground Water Quality Bureau. No other applicable responsibilities pertaining to this WQMP/CPP have been identified.

State Parks Division of the Energy, Minerals and Natural Resources Department

The Director of the State Parks Division of the Energy, Minerals and Natural Resources Department is delegated as a member of the Water Quality Control Commission. The State Parks Division of the Energy, Minerals and Natural Resources Department has been delegated authority to enforce the WQCC regulation for disposal of refuse in a watercourse. No other applicable responsibilities pertaining to this WQMP/CPP have been identified.

New Mexico Department of Agriculture

The Director of the New Mexico Department of Agriculture is delegated as a member of the Water Quality Control Commission. No other applicable responsibilities pertaining to this WQMP/CPP have been identified.

Soil and Water Conservation Commission

No applicable responsibilities pertaining to this WQMP/CPP have been identified.

Bureau of Geology and Mineral Resources at the New Mexico Institute of Mining and Technology

No applicable responsibilities pertaining to this WQMP/CPP have been identified.

Factor 3: The authority of the WQCC to enter into or to authorize its constituent agencies to enter into agreements with federal or state agencies for purposes consistent with the WQA.

Under the WQA at NMSA 1978 Section 74-6-4(G), the WQCC has the authority to enter into or authorize constituent agencies to enter into, agreements with the federal government or other state governments. This provides the WQCC with a means of formally coordinating with agencies outside of the WQCC and allows the WQCC to use the expertise of those agencies in fulfilling its responsibilities.

Factor 4: The designation of management agencies to carry out specific responsibilities under the WQMP/CPP.

The WQCC designates management agencies to carry out specific responsibilities. Management agencies are generally municipal or public entities that must satisfy the requirements of 40 CFR 130.6(c)(5), including demonstration that the agencies have the legal, institutional, managerial, and financial capability, as well as programmatic capacity, to carry out the designated responsibilities. The designation must be formally accepted by the management agency and adopted by the WQCC before it is certified by the Governor.

Pursuant to Section 208 of the CWA, the governor of a state must identify areas of the state which, as a result of urban or industrial concentration or other significant factors, have substantial water quality problems. The governor may designate regional planning agencies for these areas, after consultation with local governmental officials having jurisdiction over the area, to conduct the planning required by Section 208. Designated Management Agencies (DMAs) must demonstrate legal, institutional, managerial, and financial capability, and specific activities necessary to carry out their responsibilities. As specified at 40 CFR 130.12(b), Section 201 of the CWA funding can only be awarded to DMAs that are in conformance with the statewide WQMP/CPP. A list of approved DMAs can be found in Section VIII of this WQMP/CPP.

F. Other Entities participating in water quality management

A multi-agency approach is implemented to carry out the directives of the CWA, the State's WQA and the mission of NMED. Numerous entities at the local, state and federal level participate in water quality management. The following describes the entities and their identified roles and responsibilities as they pertain to water quality management and planning in New Mexico.

Other State Agencies

Several other state agencies conduct activities that impact water quality and are considered in the coordination and implementation of this WQMP/CPP as appropriate. These include, but are not limited to:

- Department of Transportation
- Department of Health
- State Forestry Division
- State Land Office
- Energy, Minerals and Natural Resources Department (specifically, Mining and Minerals Division)

Other Watershed-Based Water Quality Authorities/Associations/Forums

Increasing interest in a watershed-based approach to water quality management has led to the development of a number of local and regional initiatives in NM. These initiatives reflect a great diversity of organizational models and functional roles. The various initiatives focus on a number

of different priorities such as: implementation of site-specific control regulations adopted by the WQCC, information sharing (outreach and education), or implementation of remediation and restoration projects. The number and nature of these local and regional watershed initiatives in New Mexico is evolving rapidly. No effort is made in this WQMP/CPP to comprehensively catalogue or describe such initiatives.

U.S. Environmental Protection Agency (EPA)

In addition to providing a significant amount of programmatic funding through CWA grant programs, EPA has several roles with respect to NM's water quality control programs:

- WQS - The CWA requires EPA to review state water quality standards and either approve them as being compliant with the federal act, or to disapprove and promulgate classifications and standards for NM.

- TMDLs - EPA reviews TMDL management programs for any impaired waterbodies that the states are required to develop (Per Section 303(d) of the CWA, 33 U.S.C. §13131). TMDLs that are first adopted by the WQCC are then reviewed and approved by EPA.

- Discharge Permits - EPA issues NPDES discharge permits in New Mexico which are certified by SWQB.

- EPA is responsible for approving Section 208 of the CWA plans (regional WQMPs) submitted by states, as well as state CPPs prepared in accordance with Section 303(e) of the CWA.

- Guidance - In addition to adopting regulations establishing water quality program requirements that must be met by states, EPA frequently issues guidance documents or policy statements on a variety of water quality topics.

Other Federal Agencies

Several other federal agencies are involved in water quality management in NM:
Federal land management agencies, such as the Forest Service (USFS), Bureau of Land Management (BLM), and National Park Service (NPS), consider water quality protection in their management programs. The U.S. Army Corps of Engineers (USACE) administers the permit program under Section 404 of the CWA, which regulates the discharge of dredged and fill material that may adversely impact waters of the United States, including wetlands. The Bureau of Reclamation (BOR) has increasingly included environmental protection considerations into its management of federal water projects. The U.S. Department of Agriculture (USDA) administers an Environmental Quality Incentive Program under the federal Farm Bill. The U.S. Fish and Wildlife Service (USFWS) consults with other federal agencies under Section 7 of the Endangered Species Act regarding activities that may adversely impact threatened or endangered species. USFWS has entered into a Memorandum of Agreement with EPA regarding consultation with respect to water quality program activities. The U.S. Geological Survey (USGS) undertakes a

variety of studies regarding water quality, including the National Water Quality Assessment program.

Tribes

Although the State's water quality regulations are not applicable to tribal waters within the exterior boundaries of a tribe or those lands to which the Tribe has incorporated into federal trust; many waters cross boundaries and jurisdictional protections, and as such there is a shared interest in the protection of water quality between the Tribes and the State of New Mexico. The State recognizes the importance of communication and collaboration with Tribes to ensure water quality across boundaries.

The State has memorialized this sentiment through Executive Order 2005-004, The State-Tribal Collaboration Act, NMSA 1978, Section 11-18-1, and subsequently NMED's Tribal *Communication and Collaboration Policy* (NMED Office of the Secretary 2009). It is through the *Tribal Communication and Collaboration Policy* that NMED engages Tribes during any action(s) that may impact the natural, cultural and environmental resources of a Tribe. Tribes are recognized as sovereign entities. Therefore, the State interacts accordingly with them in a government-to-government capacity. These actions with Tribes are independent of stakeholder and public outreach efforts.

The 23 federally recognized Tribes throughout the State of New Mexico include:

- Acoma Pueblo
- Pueblo de Cochiti
- Pueblo of Isleta
- Jemez Pueblo
- Laguna Pueblo
- Nambe Pueblo
- Ohkay Owingeh
- Picuris Pueblo
- Pojoaque Pueblo
- Pueblo of Sandia
- Pueblo of San Felipe
- Pueblo de San Ildefonso
- Pueblo of Santa Ana
- Santa Clara Pueblo
- Santo Domingo Pueblo
- Taos Pueblo
- Pueblo of Tesuque
- Pueblo of Zia
- Zuni Pueblo
- Mescalero Apache
- Jicarilla Apache

- Fort Sill Apache
- Navajo Nation

In addition, the State also recognizes the Ysleta del Sur Pueblo near El Paso, Texas which also has critical interest in the protection of water quality along the Rio Grande as it enters Texas from New Mexico.

Stakeholders and the General Public

Stakeholder and public participation are an integral part of water quality management in NM. All regulatory actions of the WQCC and NMED are required to follow appropriate public comment, notice, and hearing requirements. In addition, with respect to policy-related and non-regulatory activities of the WQCC and NMED, an opportunity for public input is often provided through informational public meetings.

II. SURFACE WATER QUALITY STANDARDS

A. Extent of Authority

New Mexico's Standards for Interstate and Intrastate Surface Waters (20.6.4 NMAC) establish surface WQS that consist of designated uses for surface waters of the State, the water quality criteria necessary to protect the designated uses, and an Antidegradation Policy. These standards are not applicable to tribal waters within the exterior boundaries of a tribe or those lands to which the tribe has incorporated into federal trust. Section 518 of the CWA authorizes EPA to treat eligible Indian tribes with reservations in a similar manner to states (TAS) for administering each of the principal CWA regulatory programs. Therefore, protection of these waters is administered under the individual tribe's WQS as approved by EPA or by EPA for those tribes that have not received TAS under Section 518(e) of the CWA. The State of New Mexico does not have jurisdiction to adopt or impose WQS for tribal waters within NM's borders.

B. Objective

The Standards for Interstate and Intrastate Surface Waters state the following objective:

The State of New Mexico is required under the New Mexico Water Quality Act … and the federal Clean Water Act … to adopt water quality standards that protect the public health or welfare, enhance the quality of water, and are consistent with and serve the purposes of the New Mexico Water Quality Act and the federal Clean Water Act. It is the objective of the federal Clean Water Act to restore and maintain the chemical, physical, and biological integrity of the nation's waters, including those in New Mexico. This part is consistent with Section 101(a)(2) of the federal Clean Water Act, which declares that it is the national goal that wherever attainable, an interim goal of water quality that provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water be achieved by July 1, 1983. Agricultural, municipal, domestic and industrial water supply are other essential uses of New Mexico's surface water; however, water contaminants resulting from these activities will not be permitted to lower the quality of surface waters of the state below that required for protection and propagation of fish, shellfish and wildlife and recreation in and on the water, where practicable. (20.6.4.6 NMAC).

C. Components of New Mexico's Surface Water Quality Standards

The federal WQS regulation (40 CFR 131) establishes the requirements for states and tribes to review, revise and adopt WQS. It also establishes the procedures for EPA to review, approve, disapprove and promulgate WQS pursuant to Section 303 (c) of the CWA. As such, WQS are designed to protect the public health or welfare, enhance the quality of water and serve the purposes of the Act. New Mexico's WQS (20.6.4 NMAC), as required under the CWA, define water quality goals by designating uses for surface waters of the State, setting criteria to protect those uses, and establishing an Antidegradation Policy and implementation plan to preserve water quality. Each of these components is described in more detail below.

Designated Uses

In accordance with 40 CFR 131.10, the State is required to specify goals and expectations for how each water body is used. The system for designating these uses is through development of surface WQS. Numeric criteria are adopted to protect each designated use. It is through the designation of a use for a specific waterbody that water quality protections are implemented.

Designated uses include fish culture, domestic water supply, irrigation, primary contact, secondary contact, livestock watering, wildlife habitat, and several aquatic life subcategories. The full list of designated uses is specified in 20.6.4.900 NMAC.

Within each river basin, waters are divided into individual "segments" for classification and standard-setting purposes (20.6.4.101 through 20.6.4.899 NMAC). Most of the state's perennial water segments and many non-perennial segments have designated uses listed under 20.6.4.101 to 899 NMAC. All other "non-classified" waters are assigned default designated uses under 20.6.4.98 to 99 NMAC; however, identified ephemeral waters have designated uses specified under 20.6.4.97 NMAC.

Water Quality Criteria

Water quality criteria are established to sustain and protect designated uses of surface waters of the State. States typically adopt both narrative criteria (e.g., general criteria that describe the desired condition of a surface water) and numeric criteria (e.g., maximum allowable pollutant concentration in a surface water).

The State of New Mexico has adopted narrative, or general, criteria under 20.6.4.13 NMAC. General criteria apply to all surface waters of the state and declare that:

"…surface waters of the State shall be free of any water contaminant in such quantity and of such duration as may, with reasonable probability, injure human health, animal or plant life or property, or unreasonably interfere with the public welfare or the use of property."

As identified under Subsections A to M of 20.6.4.13 NMAC, New Mexico's general criteria include: bottom deposits and suspended or settleable solids; floating solids, oil and grease; color; organoleptic quality (odor and taste of fish and water); plant nutrients; toxic pollutants; radioactivity; pathogens; temperature; turbidity; total dissolved solids (TDS); dissolved gases; and biological integrity.

Numeric criteria are specific quantitative limits for pollutants established to protect specific designated uses and specific WQS segments. Use-specific numeric criteria are provided in 20.6.4.900 NMAC and apply to all waters with the applicable designated uses, unless otherwise specified in 20.6.4.101 through 20.6.4.899 NMAC as segment-specific criteria. The WQS also include numeric "human health-organism only" criteria established to protect human health when aquatic organisms are consumed from waters containing pollutants.

Antidegradation Policy

New Mexico's Antidegradation Policy, which is based on requirements in 40 CFR 131.12, describes how waters are to be protected from degradation (Subsection A of 20.6.4.8 NMAC). At a minimum, the policy protects existing instream uses. Water quality that exceeds the levels necessary to support the propagation of fish, shellfish, and wildlife, and recreation in and on the water is to be maintained unless the WQCC finds that allowing lower water quality is necessary to accommodate important economic and social development. Waters designated as Outstanding National Resource Waters (ONRWs) are to receive the highest level of antidegradation protection. Designated ONRWs are listed in 20.6.4.9 NMAC.

D. Process for Establishing and Updating Water Quality Standards

[As required by 40 CFR 130.5(b)(6) for CPP]

Process for establishing or revising standards through the Triennial Review

Section 303(c)(1) of the CWA requires the State to hold public hearings for the purpose of reviewing applicable WQS and, as appropriate, modifying and adopting standards at least once every three years. This review is referred to as a "Triennial Review."

Under the State's WQA, NMSA 1978, Section 74-6-2(H), the duties and powers of the WQCC include adoption of standards for surface and ground waters of the state. At a minimum, the WQCC conducts a Triennial Review of its surface WQS as required by Section 303(c)(1) of the CWA and 20.6.4.10 NMAC. NMED has been delegated the responsibility for initiating the Triennial Review; however, anyone may propose new or revised standards to the WQCC at any time in accordance with the rulemaking procedures for the WQCC (20.1.6 NMAC) and the State's WQS (20.6.4 NMAC). These regulations specify requirements for pre-hearing procedures and petitions for regulatory changes, hearing notices, hearing participation, post-hearing actions and appeals. It is recognized that notification and engagement of the public prior to petition is vital to the rule-making process and, therefore, additional requirements have been identified under this WQMP/CPP to encourage participation, allow effective presentation of evidence and points of view, allow participants an opportunity to submit information, and assure that hearings are conducted in a fair and equitable manner. For all proposed changes to the State's WQS, the WQCC bases its decision on evidence presented at the public hearing.

The process to adopt new or amended surface WQS conforms to requirements under numerous federal and state acts including, but not limited to, the CWA (33 U.S.C. § 1251 *et seq)*, the Endangered Species Act (16 U.S.C. §1531 *et seq*), the Civil Rights Act (18 U.S.C. § 241 *et seq*), the Americans with Disabilities Act (42 U.S.C. 12101 *et seq*), the Freedom of Information Act 5 U.S.C. § 552, the WQA (NMSA 1978, Section 74-6-4), the New Mexico State Rules Act (NMSA 1978, Section 14-4-1), and the New Mexico Open Meetings Act (NMSA 1978, Section 10-15-1).

New or amended WQS codified under 20.6.4 NMAC, as adopted by the Commission, are filed with the State Records Center pursuant to the regulatory provisions under the State's WQA (NMSA 1978, Section 74-6-1 *et seq*.) and the State Rules Act (NMSA 1978, Section 14-4-1 *et seq*.),

and in accordance with the State's regulations for rules filed under 1.24.1 NMAC. The new or amended standards become effective for state purposes thirty (30) days after filing.

New or revised surface WQS adopted by the WQCC are certified by the State Attorney General as being duly adopted pursuant to state laws and then submitted to EPA Region 6 Administrator. In accordance with the CWA Section 303(c)(3), EPA Administrator must determine, within sixty days of submission, if the new or amended WQS meet the requirements of the CWA. If the Administrator determines that any such revised or new standard is not consistent with the applicable requirements of the CWA, the Administrator shall notify the State and specify the changes to meet such requirements no later than the ninetieth day after the date of submission. If the State does not remedy the deficiencies, EPA will publish proposed regulations and promulgate a standard to supersede the disapproved State standard.

Establishing or Revising a Designated Use through a Use Attainability Analysis

The process for establishing or revising a designated use occurs through the development of a Use Attainability Analysis (UAA). The UAA is a scientific study that assesses the factors affecting the attainment of a designated use. In accordance with 20.6.4.15 NMAC, the UAA is required to be conducted before a designated use specified in Section 101 (a)(2) of the CWA may be removed or changed to a subcategory requiring less stringent criteria. The uses specified in Section 101(a)(2) of the CWA "provides for the protection and propagation of fish, shellfish, and wildlife, and provides for recreation in and on the water." The established designated uses meeting this goal in the State's WQS include the wildlife habitat use, the primary and secondary contact use, and all aquatic life use subcategories except the limited aquatic life use.

In order for a state to designate a use, or remove a use that is not an existing use, the UAA must demonstrate that attainment of the use is not feasible based on one of the factors identified at 40 CFR 131.10(g):

(1) Naturally occurring pollutant concentrations prevent the attainment of the use; or

(2) Natural, ephemeral, intermittent or low flow conditions or water levels prevent the attainment of the use, unless these conditions may be compensated for by the discharge of sufficient volume of effluent discharges without violating State water conservation requirements to enable uses to be met; or

(3) Human caused conditions or sources of pollution prevent the attainment of the use and cannot be remedied or would cause more environmental damage to correct than to leave in place; or

(4) Dams, diversions or other types of hydrologic modifications preclude the attainment of the use, and it is not feasible to restore the water body to its original condition or to operate such modification in a way that would result in the attainment of the use; or

(5) Physical conditions related to the natural features of the water body, such as the lack of a proper substrate, cover, flow, depth, pools, riffles, and the like, unrelated to water quality, preclude attainment of aquatic life protection uses; or

(6) Controls more stringent than those required by sections 301(b) and 306 [technology-based effluent limitations] of the Act would result in substantial and widespread economic and social impact.

A UAA may be conducted by the Department or, in accordance with Subsection D of 20.6.4.15 NMAC, by any person who submits notice to the Department with intent to conduct a UAA. A UAA must rely on a scientifically defensible method and the result, should it support a designated use change under one of the six factors under 40 CFR 131.10(g), must undergo the same administrative review and hearing process as that for the Triennial Review.

Prior to commencement of any investigation, third-parties seeking to conduct a UAA, shall submit a work plan to the Department and EPA for review. Upon approval of the work plan by the Department, the proponent may then conduct the UAA. Upon completion, data, findings and conclusions will be submitted to the Department and either the proponent or the Department may proceed with the administrative review and hearing process for the designated use change. As with the Triennial Review process, the change shall not be considered effective for State purposes until approved by the WQCC and published with an effective date in the New Mexico Register. For CWA purposes, the designated use change shall only be considered effective following EPA review and approval process described in the previous section.

For a designated use change that is being proposed based on evidences of the natural, ephemeral, intermittent or low flow conditions as identified under 40 CFR 131.10(g)(2), the *Hydrology Protocol* method under Appendix C of this WQMP/CPP is recommended. The *Hydrology Protocol* was designed as a multi-parameter evaluation to determine the natural hydrologic conditions of a waterbody and the associated designated uses that should be attainable. For studies investigating a possible designated use change due to hydrologic conditions under 40 CFR 131.10(g)(2), consideration must be taken for any supplemental flows attributed to permitted effluent discharges.

Existing uses, defined in the WQS as "a use actually attained in a surface water of the state on or after November 28, 1975, whether or not it is a designated use", may not be removed regardless of the outcome of a UAA unless a use with more stringent criteria is added. (40 CFR 131.10(h) and Subsection A of 20.6.4.15 NMAC).

Establishing or Revising a Designated Use using the *Hydrology Protocol*

There are three primary types of hydrologic conditions defined under the WQS in New Mexico, each of which has established designated uses for protections under Section 101(a)(2) of the CWA. These include listed ephemeral waters (20.6.4.97 NMAC), general intermittent waters (20.6.4.98 NMAC), and general perennial waters (20.6.4.99 NMAC). In addition, the State's WQS also identify many classified waters by their hydrology, e.g., "perennial tributaries to" or "perennial reaches of" (20.6.4.101 to 899 NMAC).

The *Hydrology Protocol,* attached as Appendix C, is primarily used to provide scientific technical support for a designated use change through a UAA based on natural, ephemeral, intermittent

or low flow conditions or water levels that prevent the attainment of the designated use. Since the *Hydrology Protocol* is done in support of a UAA, it can be conducted either by the Department, or by an entity other than the Department. If an entity other than the Department conducts this type of analysis, a UAA workplan for the use of the *Hydrology Protocol* must be submitted to the Department for review and approval in accordance with Subsection D of 20.6.4.15 NMAC before proceeding with the survey.

For waterbodies that are classified under 20.6.4.101 to 899 NMAC, the State asserts protections for these waters under the classified segment. A survey using the *Hydrology Protocol* can be used to confirm or delineate segment specific hydrological regimes that may or may not lead to a revision to the State's WQS. For example, numerous classified segments in the WQS include only perennial waters, without specifically identifying which reaches are perennial (e.g., "perennial reaches of…", "perennial tributaries to…"). In such cases, the *Hydrology Protocol* can be used to determine whether a segment or of the waterbody is perennial and therefore included in the classified segment, or non-perennial and therefore subject to the designated uses and criteria for general non-perennial waters in 20.6.4.98 NMAC. Such determinations do not require a UAA or a hearing because they do not change the designated uses or criteria but merely allow for the applicable uses to be properly identified. However, if a revision to incorporate the results of the *Hydrology Protocol* survey are needed to further refine, delineate or re-classify a waterbody under 20.6.4.101 to899 NMAC this must be done through the UAA process.

For waterbodies that are perennial but have not been classified under 20.6.4.101 to 899 NMAC, the State asserts perennial protections for these waters under 20.6.4.99 NMAC. A survey using the *Hydrology Protocol* may be used to verify the hydrological regime for these unclassified perennial waters. A revision to incorporate the results of the *Hydrology Protocol* survey to classify a waterbody under 20.6.4.101 to 899 NMAC is done through the UAA process.

For the waterbodies in the State that are non-perennial but have not undergone an in-depth investigation to determine the hydrologic regime (i.e., intermittent, ephemeral), the State asserts intermittent protections for these waters under 20.6.4.98 NMAC, consistent with the goals in Section 101(a)(2) of the CWA. If the results of the *Hydrology Protocol* survey indicate that the waterbody is in fact intermittent, no further action is required because it is protected, by default, under 20.6.4.98 NMAC for intermittent waters.

For those cases in which the results of the *Hydrology Protocol* survey demonstrate that an unclassified non-perennial waterbody is ephemeral, a UAA must be conducted according to 20.6.4.15 NMAC in order for the State to assert protections for the ephemeral waterbody under 20.6.4.97 NMAC.

In some cases, an expedited UAA process outlined under Subsection C of 20.6.4.15 NMAC and illustrated in Figures II-1 and II-2 may be pursued. The expedited UAA process is not applicable for entities other than the Department. However, this does not preclude third-parties from developing and executing a workplan for the use of the *Hydrology Protocol* and submitting the UAA to the Department for use in the expedited process. The expedited UAA process facilitates

the efficient application of the limited aquatic life and secondary contact uses to ephemeral waters where appropriate. As described under Subsection C of 20.6.4.15 NMAC, it is the Departments' role and responsibility to petition and testify regarding the standards changes before the WQCC at a later date.

The *Hydrology Protocol* can also be used to support other factors under 40 CFR 131.10(g), such as those attributed to hydrological modifications, and provide additional evidence that "it is not feasible to restore the water body to its original condition or to operate such modification in a way that would result in the attainment of the use." 40 CFR 131.10(g)(4).

Persons or entities proposing to conduct a UAA using the *Hydrology Protocol* must submit a UAA workplan for the use of the *Hydrology Protocol* to the SWQB for review and approval before proceeding (Subsection D of 20.6.4.15 NMAC). Such an approach will help ensure that the *Hydrology Protocol* and UAA process proceed smoothly, without delay, and that the study will comply with applicable statutes and rules.

Figure II-1. The *Hydrology Protocol* can be used to evaluate an unclassified water, an unnamed waterbody within a classified segment, or a classified waterbody. This flow chart depicts the primary pathways to determining or amending the applicable water quality standards based on the *Hydrology Protocol* results.

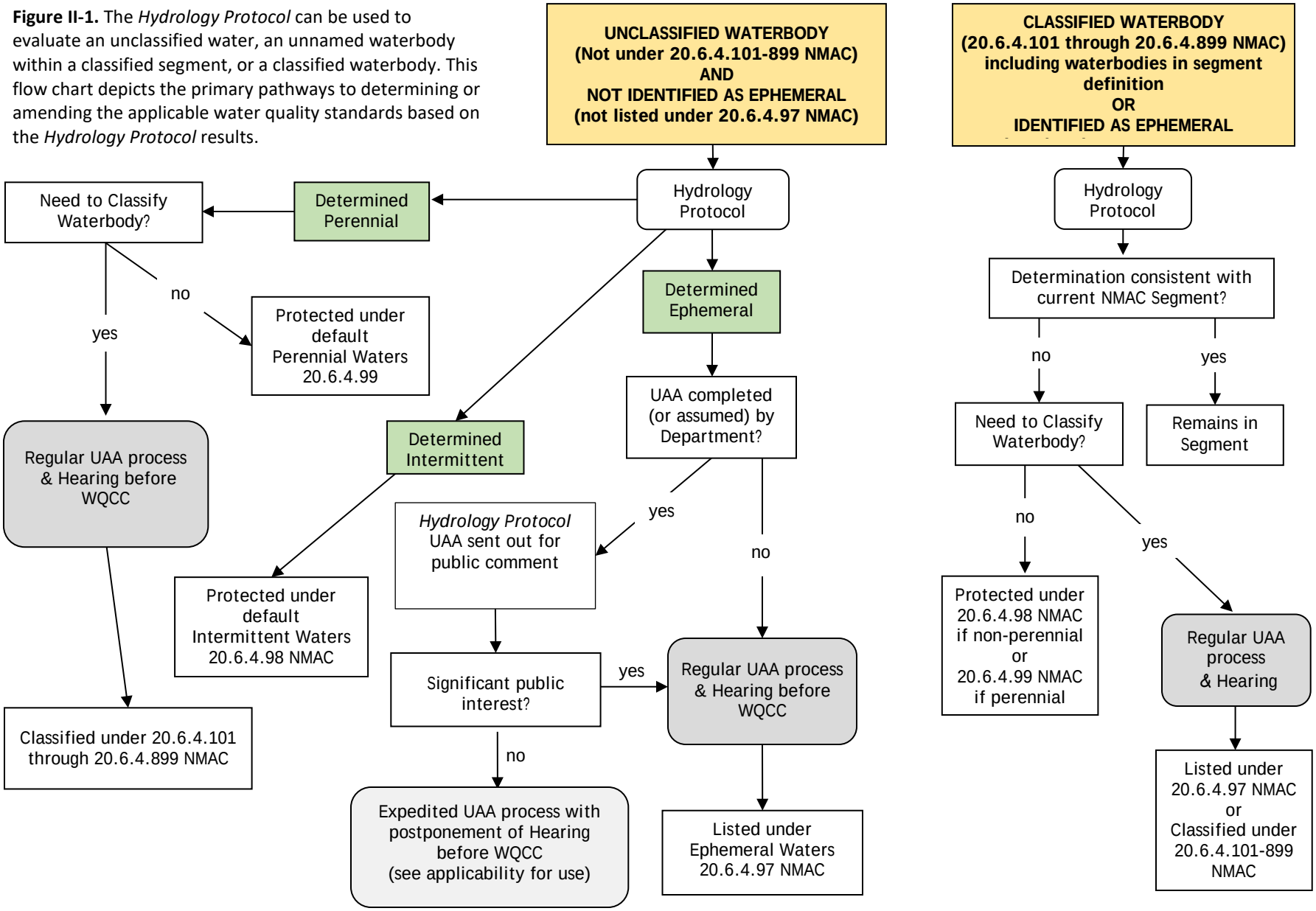
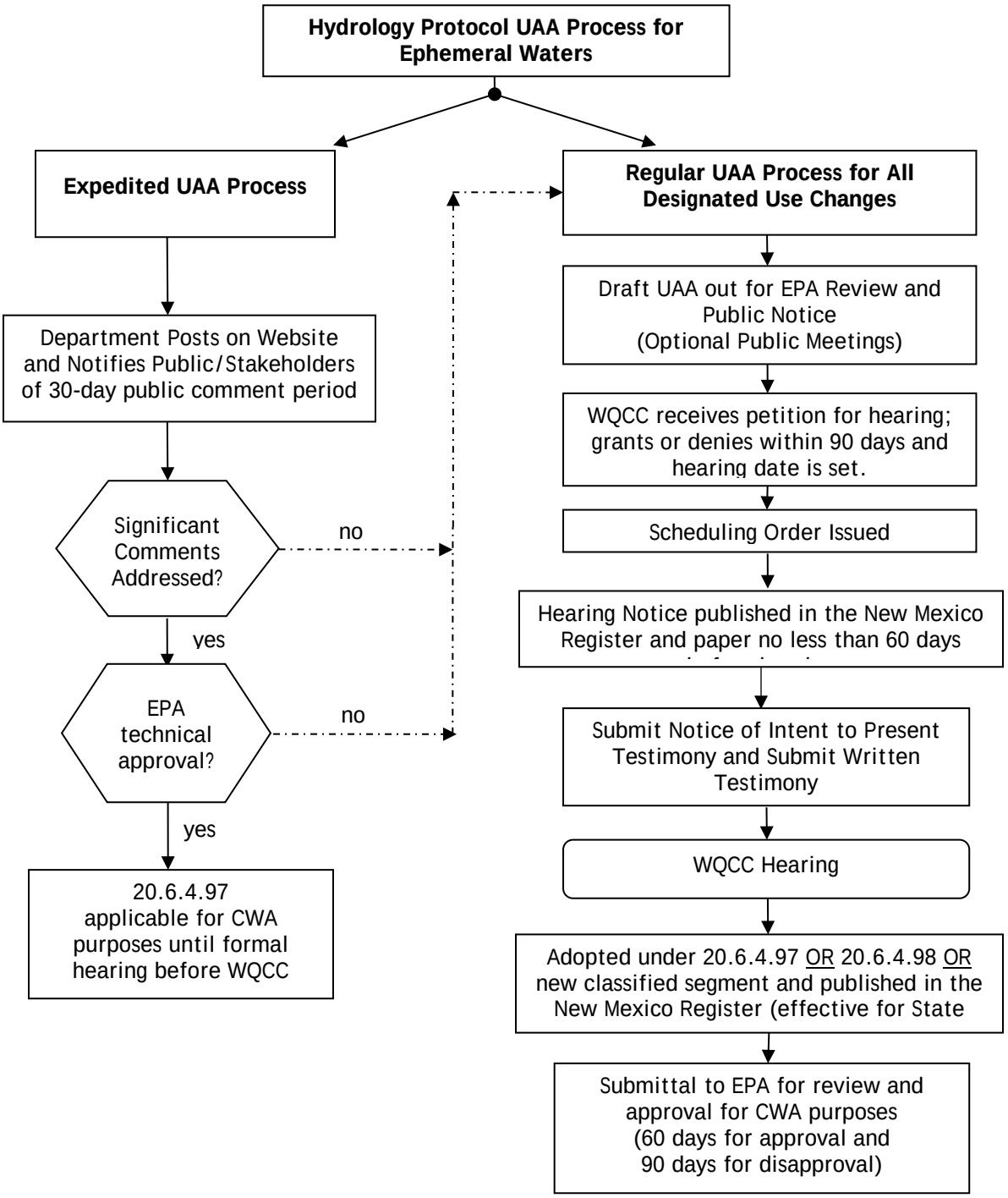


Figure II-2. Flow chart compares the expedited UAA process for an ephemeral stream determined through a hydrology protocol with the UAA process.



Establishing or Revising a Site-Specific Standard

In accordance with 20.6.4.10 NMAC, there are circumstances such as species sensitivity; site specific physical, chemical or biological conditions that alter bioaccumulation of a chemical; or natural background concentrations that exceed a particular numeric criterion for an established designated use warrants inclusion or updating due to site specific conditions. The commission may adopt site-specific numeric criteria based on relevant site-specific conditions pertaining to listed under 20.6.4.10(D)(1).

Any person may petition the commission to adopt site-specific criteria, giving a thorough explanation of the rational for the proposal that justifies the proposed criteria and relying on scientifically defensible methods that demonstrate the site-specific criteria fully protects the designated use, such as those listed under Subsection D(4) of 20.6.4.10 NMAC. In the same process for establishing or revising designated uses for waterbodies, establishing site specific standards requires the petitioner (the State or other party) to submit demonstration of the supporting evidence for the standard. The process to petition and hold a hearing to propose the site-specific standard is identical to that of the UAA.

Water Quality Standards for Wetlands

Wetlands in New Mexico are protected as "surface waters of the state." However, wetland-specific designated uses and criteria associated with those uses have not been developed. Wetlands designated and protected as ONRWs are identified in the *Maps and List of Wetlands Within United States Forest Service Wilderness Areas Designated as Outstanding National Resource Waters* (Subsection D(3)(h) of 20.6.4.9 NMAC). Other wetlands not identified as ONRWs and not identified as a classified water in sections 20.6.4.101 through 20.6.4.899 NMAC are protected through the designated uses identified in 20.6.4.98 and 20.6.4.99 NMAC, depending on their hydrology.

SWQB is working toward increasing wetlands protection through monitoring and strengthening WQS that pertain to the State's wetlands resources. To achieve these goals the SWQB is currently:

- developing a Rapid Assessment Methodology for New Mexico (NMRAM) for a range of environments and wetland types;
- mapping wetland resources in New Mexico; and,
- ranking the condition of existing wetlands.

SWQB will utilize the information gathered from the monitoring effort to propose wetland-specific state WQS to the WQCC. This information and data will also be used to assess the effectiveness of wetland restoration and mitigation activities.

E. Process for Assuring Adequate Implementation of Water Quality Standards

[As required by 40 CFR 130.5(b)(6) for CPP]

The Department, acting under the authority delegated by the WQCC, implements the WQS by establishing and maintaining controls on the discharge of point source and non-point source pollutants to surface waters of the state. This occurs through ongoing monitoring and assessment of water quality to the State's approved WQS (*see* Section III of this WQMP/CPP); evaluation of proposed discharges in accordance with Subsection B of 20.6.4.8 NMAC and the State's *Antidegradation Policy Implementation Procedure* (Appendix A of this WQMP/CPP); establishment of controls on point source pollutant discharges as described under Section V of this WQMP/CPP; and through Best Management Practices (BMPs) applied to nonpoint sources of pollution, as outlined under the State's Nonpoint Source Management Program (NPSMP) and Section VII of this WQMP/CPP. Violations of the WQS are enforceable through civil and/or criminal actions pursuant to the WQA at NMSA 1978, Section 74-6-10.

III. SURFACE WATER QUALITY MONITORING, ASSESSMENT & REPORTING

Monitoring, assessment, and reporting are ongoing throughout the state. This WQMP/CPP relies upon these activities to identify priorities and recommend control measures.

F. Monitoring

Monitoring of surface water quality is an important component of the State's Water Quality Management Program and is essential to identify and characterize water quality problems, revise WQS, and develop and evaluate the results of control actions. Additionally, water quality monitoring data can be used for pollutant allocation computer modeling and as evidence for enforcement actions. The goal of the Monitoring Program is to provide information to assess the quality of surface waters and direct water quality management activities. The surface water monitoring strategy implemented by SWQB focuses on collecting chemical, physical, and biological data from rivers, streams, lakes, reservoirs, and other aquatic habitats. The comprehensive strategy is described in the *State of New Mexico Surface Water Quality 10-Year Monitoring and Assessment Strategy* (NMED SWQB 2016). In the last major revision to the *Strategy*, the state incorporated wetlands monitoring and assessment. The monitoring goal of the New Mexico Wetlands Program is to provide the information and data necessary to create a baseline inventory and condition of existing wetlands, facilitate wetland protection, develop WQS for wwetlands, assess wetland mitigation activities, and monitor wetland restoration activities for efficacy.

The monitoring strategy establishes methods of identifying and prioritizing water quality data needs, specifies procedures for acquiring and managing water quality data, and describes how these data are used toward three basic monitoring objectives. These objectives include conducting water quality assessments, developing water quality-based controls to minimize pollutants, and evaluating the effectiveness of such controls. From approximately 1998 to present, the SWQB has primarily utilized a rotating basin system approach to water quality monitoring similar to several other states. Using this approach, a select number of watersheds are monitored for two years with an approximate return frequency of eight years depending on available staff, watershed conditions, and financial resources. The rotating basin strategy is supplemented with other data collection efforts and external data sources that meet SWQB's quality assurance and quality control requirements.

The SWQB has established sampling and analytical techniques under 20.6.4.14 NMAC and maintains a Quality Management Plan (QMP), Quality Assurance Project Plans (QAPPs), Field Sampling Plans (FSPs) and Standard Operating Procedures (SOPs) that cover all monitoring activities. The Bureau's QMP and QAPPs are approved by EPA. The QAPPs and SOPs are key elements in implementing this WQMP/CPP. SWQB staff conducting activities specified in the QAPP and SOPs must sign acknowledgement pages indicating they are familiar with the processes outlined in the document and will adhere to its procedures.

G. Assessment

Assessment is the process by which water quality data are analyzed to determine if WQS are being attained. Assessments are based on surface water quality data collected by the SWQB and also by other federal, state, and local agencies and groups, when available. All data used for assessment must meet the Bureau's quality assurance and quality control requirements.

Water quality data are assessed every other year according to the most recent version of the Comprehensive Assessment and Listing Methodology (CALM) and associated appendices, which are reviewed and updated as appropriate. The water quality assessment results are then used as a basis for water quality management decisions, such as:

- Determining whether proposals to make changes to the standards are needed;
- Identifying the need for water quality-based effluent limitations in NPDES permits;
- Conducting an antidegradation review of proposed new or increased permitted discharges as prescribed in the *Antidegradation Policy Implementation Procedure*, found in Appendix A of this WQMP/CPP;
- Developing TMDLs that identify pollutant reduction targets designed to improve water quality and meet standards;
- Developing source water protection plans designed to reduce pollutants and provide safe drinking water quality;
- Determining efficacy of projects for watershed protection and restoration under Section 319 of the CWA; and,
- Certifying federal permits under Section 401 of the CWA.

H. Reporting

The CWA has two primary requirements for reporting water quality in a state: The "303(d) List," and the "305(b) Report." These requirements have been combined into the *State of New Mexico CWA §303(d)/§305(b) Integrated Report* (IR; NMED SWQB 2018), which is incorporated into this WQMP/CPP by reference. The IR is designed to satisfy the statutory requirements of Section 303(d), Section 305(b), and Section 314 of the CWA, and is approved by the WQCC and EPA. The two elements are described below.

303(d) List

Section 303(d) of the CWA requires states to submit to EPA a list of water bodies that do not meet applicable WQS. Water bodies and segments are included on the 303(d) list of impaired waters, based on an evaluation of biological, chemical and/or physical data that demonstrate nonattainment of applicable numeric or narrative standards resulting in designated use impairment. Once a water body is listed as impaired, several management decisions can be made to improve water quality including development of TMDLs or watershed-based plans (WBPs); proposing changes to the standards; identifying appropriate effluent limits in NPDES permits; and prioritizing where restoration projects should be implemented. If the data indicate that a previously impaired stream segment is meeting applicable WQS, the water body would be delisted, i.e., removed from the 303(d) list.

305(b) Report

Section 305(b) of the CWA requires states to prepare and submit a report biennially to EPA on the status of water quality within the state. The report provides an assessment of water quality in a state, a summary of water quality management programs, and an estimate of the environmental, social, and economic impacts associated with achieving the objectives of the CWA. EPA uses the information contained in the Section 305(b) Report to update the US Congress on: progress toward meeting the goals of the CWA; the costs and benefits of working towards these goals; program plans and needs in areas such as permits, grants, effluent guidelines, etc.; and mechanisms to implement needed changes.

IV. TOTAL MAXIMUM DAILY LOADS (TMDLs)

[As required by 40 CFR 130.6(c)(1) for WQMP]

A. Background

Pursuant to Section 303(d) of the CWA, TMDLs or TMDL alternatives must be developed for water quality limited segments (also known as "impaired" water bodies). Water quality limited segments are those segments where water quality does not meet, or is not expected to meet, applicable WQS. TMDLs are established on a pollutant by pollutant basis for each assessment unit or watershed. A TMDL establishes the amount of a pollutant a water body can assimilate without causing a violation of WQS. The target load is generally determined by multiplying the applicable water quality criterion by the critical flow and a pollutant-specific conversion factor.

Per 40 CFR §130.2(i), TMDLs are the sum of the following three components: 1) the individual Waste Load Allocations (WLA) for point sources; 2) the Load Allocations (LA) for nonpoint sources and background conditions; and 3) the Margin of Safety (MOS) to account for uncertainty:

$$TMDL = \Sigma WLA + \Sigma LA + MOS$$

In practical terms, a TMDL is a water quality planning document that establishes specific goals to meet surface WQS. Once the required TMDL calculations are documented, probable sources of pollutants are examined, and a brief outline of a potential implementation plan is described.

B. TMDL Prioritization

From 1997 to 2007, the development of TMDLs was prioritized according to the terms and schedule set forth in a consent decree and settlement agreement negotiated between EPA and Forest Guardians/Southwest Environmental Center. The consent decree TMDLs have been completed, and the consent decree was dismissed in 2009.

Following completion of the settlement agreement schedule, SWQB prioritizes TMDL development based on the results of ongoing monitoring and assessment. NMED-SWQB developed the *Prioritization Framework and Long-Term Vision for Water Quality in New Mexico* (NMED SWQB 2015a), and as a result the TMDL program in New Mexico was revised to allow a greater focus on state water quality priorities, encourage TMDL alternatives, and emphasize the value of protecting waterbodies that are not impaired. Additionally, SWQB will develop TMDLs as outlined under the current Section 106 and 604(b) of the CWA work plans. TMDLs may also be developed, reviewed, and updated in response to changed conditions or new data.

C. Process for TMDL Development

[As required by 40 CFR 130.5(b)(3) for CPP]

TMDLs are incorporated into the WQMP/CPP upon approval by EPA. The process SWQB uses for developing a TMDL is as follows:

- Develop a list of Category 5 assessment units and pollutants from the most recent *State of New Mexico CWA §303(d)/§305(b) Integrated Report* (NMED SWQB 2018). Identify those Category 5 assessment units that may be candidates for TMDL alternatives, such as a Watershed Based Plan.
- Collate all existing and readily available data necessary to draft TMDLs, including field and laboratory data (chemical, physical and biological) from the assessment process, and critical flow data. In addition, identify point sources covered by individual and general NPDES permits, NPDES permit numbers, and expiration dates.
- Plan a sampling effort to collect any additional data that are needed.
- Draft the TMDL document; solicit and incorporate comments from SWQB, NMED legal, and EPA staff.
- Conduct public participation for the TMDL in accordance with Section XIV of the WQMP/CPP. This includes a public comment period of at least 30 days. SWQB issues a public notice for distribution via email and the SWQB website. The public notice must include:
    - a description of the watershed and parameters for which the TMDL is proposed;
    - a brief explanation of the TMDL;
    - the start and end dates of the public comment period;
    - how and where to submit comments for inclusion in the record;
    - a description of the process for requesting approval of the TMDL before the WQCC;
    - how to obtain a copy of the TMDL document or request additional information;
    - the location, date, time, purpose, and format of any proposed public meeting or other forum for obtaining information;
    - contact information for persons with disabilities to obtain assistance in participating in the public process.
- Hold at least one public meeting in the watershed during the public comment period to present the document and solicit comments on the TMDL, including the list of Probable Sources.
- After the public comment period closes, collate all comments, prepare a response to comments, and make appropriate changes to the draft TMDL based on those comments. The response to comments is added as an appendix to the draft TMDL and provided to those stakeholders who submitted written comments.
- Post the final draft TMDL on NMED website no less than 10 days before the WQCC meeting.
- Present the final draft TMDL at a WQCC meeting and request approval. WQCC comments are incorporated into the TMDL as necessary.
- Following adoption by the WQCC as an amendment to Appendix B of the WQMP/CPP, submit the TMDL to EPA Region 6 for approval. The submittal to EPA shall be certified by

the Governor or the Governor's designee (e.g., NMED Secretary) that the WQMP/CPP update is consistent with all other parts of the plan as required by 40 CFR 130.6(e).

- Post the approved TMDL document, the response to comments, the WQCC approval document, and EPA approval document on SWQB's website, and update the administrative record accordingly.
- Update Appendix B of this WQMP/CPP to include the approved TMDL. (Available at https://www.env.nm.gov/surface-water-quality/wqmp-cpp/)

TMDLs may be revised as necessary, following the process outlined above, based on changes to WQS or other factors influencing the TMDL calculation or distribution between the WLA and LA in the TMDL. TMDLs may be removed from the WQMP with WQCC approval if the waterbody is no longer impaired and meets the requirements for TMDL removal.

D. TMDL Implementation

As TMDLs are developed and approved, they are incorporated into Appendix B-1 of this WQMP/CPP and used as the basis for implementation of water pollution control activities. For point sources, TMDLs are implemented through NPDES permits (see Section V), whereas for nonpoint sources, TMDLs are implemented through the Nonpoint Source Management Program (NPSMP; see Section VII).

Point Sources

The process for incorporating WLAs as individual effluent limitations in NPDES permits is described in Section V.B of this WQMP/CPP.

Nonpoint Sources

The NPSMP seeks voluntary solutions to address nonpoint source water quality problems and provides funding opportunities for implementation projects. The NPSMP, funded through Section 319 of the CWA, prioritizes watershed-based planning and on-the-ground implementation projects where TMDLs have been developed. Priority watersheds for watershed-based planning are 12-digit watersheds with streams assigned to either Category 4A (i.e., they have approved TMDLs) Category 4B, or Category 4C. The large majority of these priority watersheds are in Category 4A. Watershed-based plans (WBPs) are in essence TMDL implementation plans (US EPA 2013). Priority watersheds for implementation are 12-digit watersheds with WBPs. Completed WBPs are available at https://www.env.nm.gov/surface-water-quality/accepted-wbp/.

V. EFFLUENT LIMITATIONS

[As required by 40 CFR 130.6(c)(2) for WQMP]

A. Introduction

The primary mechanism for controlling point source discharges to "waters of the United States" (as defined under 40 CFR 122.2) in New Mexico is the NPDES permit program established under Section 402 of the CWA. The State of NM is not currently delegated authority for issuing NPDES permits; therefore, EPA Region 6 is the permitting authority responsible for issuing NPDES permits in New Mexico and specifying the amount and concentration of pollutants (i.e. effluent limitations) that a permittee may discharge to a surface water. The permitting authority is also responsible for the enforcement of effluent limitations stipulated by NPDES permits.

Two types of effluent limitations are developed by EPA for NPDES permits: technology based effluent limitations (TBELs) and water quality-based effluent limitations (WQBELs). Technology based effluent limitations are defined in federal regulations and are applicable across a category of effluent discharge. The applicability of effluent limitations is summarized in Table V-1.

Table V-1. Effluent Limitations for NPDES Permits

<table>
<tr><th colspan="2">Technology Based</th><th colspan="2">Water Quality Based</th></tr>
<tr><td>Publicly Owned Treatment Works (POTWs) – Secondary Treatment (40 CFR 133)</td><td>Industry – Effluent Limitation Guidelines (40 CFR Subchapter N, or Best Professional Judgment (BPJ))</td><td>WLA from approved TMDL</td><td>If there is no TMDL/WLA, a WQBEL may be developed on a case by case basis to protect water quality</td></tr>
<tr><td colspan="2">Additional State-adopted control strategies for protection of public health or environment</td><td colspan="2">WQBELs may be expressed as chemical specific limitations (e.g., phosphorus), narrative limitations (e.g., visible sheen, BMPs, etc.), or as whole effluent toxicity requirements (e.g., biomonitoring).</td></tr>
</table>

Federal regulations require that NPDES permits include technology based effluent limitations and other necessary effluent limitations for toxic pollutants and sewage sludge. EPA is responsible for development and promulgation of TBELs pursuant to Sections 301, 304, 306, 307, and 316 of the CWA. Federally promulgated TBELs for each industry are published by EPA in 40 CFR Chapter I Subchapter N - *Effluent Guidelines and Standards*. If TBELs have not been established by regulation for a particular industry, a permit writer may establish effluent limitations based on "best professional judgment" and the rationale should be documented in the permit's fact sheet (major facilities) or statement of basis (minor facilities).

If TBELs are not adequate to protect applicable WQS, then NPDES permits must contain WQBELs (40 CFR 122.44(d)). WQBELs may be calculated as part of a WLA in a TMDL (see Section IV) and incorporated into an NPDES permit; WQBELs may be based on reasonable potential calculations at the time an NPDES permit is drafted by EPA; or WQBELs may be based on an antidegradation review in accordance with the *Antidegradation Policy Implementation Procedure* in Appendix A of this WQMP/CPP. EPA will evaluate all three scenarios and, in coordination with NMED through the 401 Certification process, choose the most conservative and protective effluent limitation.

If a WLA has been developed in a TMDL, the permitting authority is required to incorporate it into the NPDES permit. A TMDL details the assumptions and process used to develop the WLA. EPA's Technical Support Document (TSD) procedures should be used by the permitting authority to incorporate the WLA into the NPDES permit. However, if no TMDL has been established, the permitting authority reviews effluent discharge data to ensure that NPDES permits are protective of WQS. For all pollutants that have a reasonable potential to cause or contribute to a violation of a water quality standard, the permitting authority performs calculations or modeling to determine effluent limitations for those pollutants. This review is done in accordance with applicable federal regulations and guidance. Specific evaluations for NPDES permits issued in New Mexico are discussed in the EPA Region 6 document *Procedures for Implementing NPDES Permits in New Mexico* (NMIP) developed by EPA in consultation with NMED.

In addition, the WQCC previously adopted additional control strategies for the protection of public health and the environment. This strategy was originally adopted by the WQCC in 1989 in the WQMP's Work Element 6 and retained in the 2002 WQMP update in Work Element 2. In the 2011 update, the previously included fecal coliform limitation of 500 colony forming units (cfu)/100 milliliters (mL) was dropped because the WQS now apply *E. coli* bacterial criteria to all waters. These strategies are as follows:

- NMED will review NPDES permit actions for purposes of state certification in accordance with Section 401 of the CWA, WQA NMSA 1978, 74-6-5.E, and 20.6.2.2001 NMAC. NMED will assure through appropriate review and communication with the permitting authority that permit requirements and effluent limitations are compatible with appropriate state law, protect WQS and implement the water quality management plan.

- NMED will use the effluent limitation of 6.0-9.0 for pH for state certifications of NPDES permits except when:
    a. more stringent limitations are needed to meet the antidegradation policy and implementation plan of the New Mexico WQS, (20.6.4 NMAC);
    b. the WQCC has adopted a more stringent limitation in a point source waste load allocation.

  In all cases, state-certified effluent limitations for pH shall be stringent enough so that receiving waters meet WQS.

For effluent discharges that are not being addressed by an NPDES permit or that are in extended violation of an NPDES permit, Sections 20.6.2.2100 through 2102 NMAC of the *Ground and Surface Water Protection* regulations specify additional effluent limitations for the protection of surface water quality.

Compliance schedules for NPDES permits are allowed by 20.6.4.12 NMAC and 40 CFR 122.47. Compliance schedules are established by EPA per the NMIP. Compliance schedules may be included in NPDES permits at the time of renewal or modification and are written to require compliance at the earliest practicable time. Compliance schedules include milestone dates and provisions for submitting progress reports and a final report detailing activities conducted toward meeting compliance schedule provisions. Other uses of compliance schedules by the NPDES permitting authority may also be allowable.

The permitting authority may not issue an NPDES permit that is in conflict with this WQMP/CPP (40 CFR 130.12(a)). Effluent limitations, including WQBELs and compliance schedules where applicable, are contained in NPDES permits, which can be viewed at: https://www.env.nm.gov/surface-water-quality/npdes-permits/.

B. Process for Development and Certification of Effluent Limitations and Schedules of Compliance for NPDES Permits

[As required by 40 CFR 130.5(b)(1) for CPP]

As the current NPDES permitting authority for NM, EPA Region 6 develops effluent limitations and schedules of compliance in accordance with the NMIP, which is based on applicable federal regulations and guidance. NPDES permits may not be issued until the State is provided an opportunity to review and certify the permit. The WQA assigns the responsibility for certifying permits issued under the CWA to NMED (NMSA 1978, Section 74-6-4(F)), and also specifies the conditions under which a certification shall be denied (NMSA 1978, Section 74-6-5(E)). NPDES regulations at 40 CFR § 124.53(e) require that state certification shall include conditions which are necessary to assure compliance with the applicable provisions of CWA and appropriate requirements of state law. For each more stringent condition, the Department cites Water Quality Act or State law references upon which that condition is based. Failure to provide such a citation waives the right to certify with respect to that condition. The department may include a statement of the extent to which each condition of the draft permit can be made less stringent without violating the requirements of State law, including WQS.

Section 20.6.2.2001 NMAC of the *Ground and Surface Water Protection* regulations sets forth procedures for state certification of NPDES permits. The procedures specify public notice requirements, a public comment period, the content and distribution of a certification or denial, timeframes, and appeal requirements. NMED also evaluates outreach needs for the affected community during the process of permit reissuance and evaluates the need for document translation and other access needs during the public comment period. A public involvement plan (PIP) will be developed for each action and a link posted on NMED's website. If an affected party

or the public needs additional assistance to participate in the permitting process, they must make the request to the Point Source Regulation Program Manager - contact information is listed at: https://www.env.nm.gov/surface-water-quality/point-source-regulation-section/.

I. Incorporating TMDL Waste Load Allocations into NPDES Permits

Pursuant to 40 CFR 130.12(a), NPDES permits must be consistent with the WQMP. Each NPDES permit issued must contain requirements necessary to achieve WQS (40 CFR 122.4(d)). Therefore, where a WLA has been assigned through the TMDL process, the WLA must be incorporated into the permit as specific effluent limitations. All WLA (original and revised) are documented in Appendix B-2 of this WQMP/CPP.

If an application for a new or revised permit is received for a discharge into an impaired waterbody with an approved TMDL but with no previously developed WLA, the permit may be issued without revision of the TMDL provided the discharge is at or less than the in-stream TMDL target concentration. In the case of a new permit, the WLA will be calculated using the TMDL target concentration and applicable flow value as specified in EPA's NMIP. In the case of a revised permit for which there is already an existing WLA but there has been a change to the design flow, the TMDL will be revised to include a revised WLA calculated using the TMDL target concentration and the change in design or production flow. In the case of a new or revised stormwater WLA, the jurisdictional area approach will be used to calculate the WLA unless another method is determined to be more appropriate. All new and revised WLA will be tracked in Appendix B-2 of this WQMP/CPP and the associated TMDL will be revised during the next scheduled TMDL development.

C. Process for Determining the Priority of Permit Issuance

[As required by 40 CFR 130.5(b)(9) for CPP]

As the current permitting authority for New Mexico, EPA Region 6 determines the priority of NPDES permit issuance.

D. Process for Deriving WQBELs based on Narrative Standards in NPDES Permits

[As required by 40 CFR 130.5(b)(1) for CPP]

EPA derives numeric permit limitations from effluent limitations guidelines in the federal regulations at 40 CFR 405 through 471, or from numeric WQS at 20.6.4 NMAC. New Mexico also has narrative water quality standards at 20.6.4 NMAC, but because of the difficulty of deriving permit limits from these standards, this issue has largely been unaddressed. However, circumstances may arise that require narrative standards to be addressed in NPDES permits due to the issuance of a TMDL or the presence of a 303(d) impairment in the facility's receiving water.

Nutrients

There are no technology-based effluent limits for nutrients in EPA's *Effluent Guidelines and Standards* in the code of federal regulations (40 CFR Ch. 1 Sub. N), which has resulted in much

discussion nationwide about the process for incorporating nutrient limits into NPDES permits. SWQB's listing methodology uses thresholds to determine what background levels of nutrients should be expected in a healthy, reference stream. Consequently, these thresholds are also used in TMDL development, which has led to stringent effluent limitations in NPDES permits. The WQS have provisions to assess waterbodies for temporary standards, or to go through the process to develop a Use Attainability Analysis, if appropriate, but these tools may not apply in some situations.

When SWQB reviews draft permits in accordance with the 401 Certification process, the approach that will be taken with respect to nutrient limits is the following:

- When an impairment exists in the waterbody without a TMDL and there are no data, SWQB will first require monitoring of effluent to collect nutrient data.

- When an impairment exists in the waterbody without a TMDL and there are available effluent data, SWQB will analyze the effluent data to determine an effluent limit that will be protective of the receiving waterbody based on the frequency of collection and confidence of the data. This approach is consistent with Tier One protection of SWQB's antidegradation policy, which states that no further degradation of existing water quality is permitted in a surface water where the existing water quality does not meet applicable WQS.

SWQB will evaluate other methods for deriving numeric nutrient limits as necessary.

TDS Salinity

As outlined in the Colorado River Salinity Control Forum, SWQB will adhere to the monitoring frequency outlined in that document for both municipal and industrial facilities.

Other Narrative Standards

As future numeric translators are developed, SWQB will utilize those translators as appropriate to evaluate protective water quality-based effluent limitations in the appropriate NPDES permits.

VI. MUNICIPAL AND INDUSTRIAL WASTE TREATMENT

[As required by 40 CFR 130.6(c)(3) for WQMP]

A. Clean Watersheds Needs Survey

Every four years EPA conducts the Clean Watersheds Needs Survey and submits a report to Congress in compliance with Section 516 of the CWA. The report is a comprehensive assessment of the capital needs to meet the water quality goals set in the CWA. The states and EPA collect information about publicly owned wastewater collection and treatment facilities; stormwater and combined sewer overflows control facilities; nonpoint source pollution control projects; and decentralized wastewater management.

The State of New Mexico participates in these surveys by collecting information and submitting it to EPA. The current version of the report is available at: http://www.epa.gov/cwns/.

B. Clean Water State Revolving Fund

The CWA, as amended in 1987, authorized EPA to make capitalization grants to the states to establish revolving loan funds with the condition that the states make 20% matching contributions. The Clean Water State Revolving Fund (CWSRF) provides affordable loans for the construction of wastewater treatment facilities and other water quality projects to prevent or abate water pollution. CWSRF monies can also be used for nonpoint source control (see Section VII). Combination loan/grants are available for projects that meet the criteria described in the CWSRF regulations. A portion of the available CWSRF funding may be targeted for projects that support green infrastructure, water or energy efficiency, and environmentally innovative projects.

NMED's Construction Programs Bureau (CPB) administers the loan program under 20.7.5, 20.7.6 and 20.7.7 NMAC and WQA NMSA 1978, Sections 74-6A-1 to 74-6A-15. In the 2018 session of the New Mexico Legislature the CWSRF authorizing state statute (Wastewater Facility Construction Loan Act, 15 NMSA 1978, Sections 74-6A-1 to 15) was amended to expand the types of eligible projects and borrowers to bring it into alignment with the CWA and the 2014 Water Resources Reform and Development Act. The 2018 statutory change affected 20.7.5.6 NMAC and was therefore amended by the WQCC in August of 2018. The remaining NMAC sections will be amended administratively in the upcoming year.

C. Process for Priority Rating of Wastewater Construction Loans Projects and Management of the Priority List

[As Required by 40 CFR 130.5(b)(8) for CPP]

As part of its administration of the CWSRF program, CPB follows a priority rating system compliant with 40 CFR 35.2015. The Priority Rating System Guidance document is available on CPB's website at: https://www.env.nm.gov/construction-programs/clean-water-state-revolving-fund-cwsrf/. The document establishes a systematic, fair and consistent approach for ranking

funding applications. The results of each application cycle are published on the website above as the Integrated Project Priority list and the corresponding Intended Use Plan.

The priority rating process is summarized as follows:

- Determine the time frame for opening the priority list per federal requirements.
- Send out an invitation to eligible entities to apply.
- Receive applications.
- Review the applications for eligibility.
- Inform applicants if they are not eligible for the CWSRF and if they may be eligible for other funding programs.
- Perform a technical review of each application using the Priority Rating System.
- Compile the CWSRF Integrated Projects Priority List.
- Prepare the draft Intended Use Plan that identifies the intended uses of the CWSRF and describe how those uses support the goal of the fund and incorporates the Integrated Projects Priority List.
- Publish the draft Intended Use Plan and associated Integrated Projects Priority List on its website at: https://www.env.nm.gov/construction-programs/clean-water-state-revolving-fund-cwsrf/ for public comment.
- Submit the draft Intended Use Plan to EPA for comment and approval.

CPB reviews the Priority Rating System periodically and proposes any amendments deemed necessary for effective program implementation. Any revisions to the Priority Rating System are presented to WQCC for approval. The amended system must then be approved by EPA.

As part of the funding process, CPB reviews preliminary engineering reports or technical memorandum for projects requesting CWSRF funding. CPB follows USDA Guidance 1780-2 for preliminary engineering reports.

D. Rural Infrastructure Revolving Loan Program

The New Mexico Rural Infrastructure Act (NMSA 1978, Sections 75-5-1 to -6) created the Rural Infrastructure Revolving Loan Program (RIP) in 1988. The purpose of the RIP is to provide financial assistance to local authorities for the construction or modification of water supply facilities. The Rural Infrastructure Act was amended in 2001 to include construction or modification of wastewater facilities and solid waste facilities.

Any incorporated city, town, village, mutual domestic association, or water and sanitation district whose water supply facility serves a population of less than twenty thousand persons or a county that serves a population of less than two hundred thousand may be eligible. These types of projects can be financed through RIP:

- Eligible water, wastewater and water pollution control projects
- Water pipelines
- New sewer interceptors and collectors
- Infiltration/inflow correction
- Water and sewer system rehabilitation
- Treatment plant improvements
- Nonpoint source projects (e.g., septic tanks)
- Cost of water rights acquisition
- Eligible solid waste facilities including collection, disposal, storage and recycling
- Engineering studies and design
- Project inspection
- Easement and right-of-way
- Project legal costs
- Purchase of equipment

E. Special Appropriations Program

CPB provides oversight for water, wastewater and other environmental infrastructure construction projects funded through the Special Appropriations Program. These are state grants for special projects issued annually when authorized by the New Mexico Legislature during the legislative session and approved by the Governor. Since 1973 NMED has managed over $542 million in Special Legislative Appropriations for construction of community water supplies, wastewater facilities and other environmentally related projects.

F. Process for Controlling Disposition of Residual Waste from Wastewater Treatment Processing

[As required by 40 CFR 130.5(b)(7) for CPP]

Proper biosolids management to prevent ground and surface water pollution is important. State regulations allow several methods for the disposal of municipal sludge:

- The disposal of dry sludge in landfills, or composting and reuse, regulated under 40 CFR 503 and NM's *Solid Waste Management* regulations at 20.9.1 – 20.9.10 NMAC.
- Land application, including the injection of liquid sludge into subsurface soil, regulated under 40 CFR 503, Subpart B and NM's *Ground and Surface Water* regulations at 20.6.2 NMAC.
- Surface disposal within an approved disposal unit, regulated under 40 CFR 503, Subpart C and NM's *Ground and Surface Water Protection* regulations at 20.6.2 NMAC.

VII. NONPOINT SOURCE MANAGEMENT AND CONTROL

[As required by 40 CFR 130.6(c)(4)]

A. The Nonpoint Source Management Program

Nonpoint sources of water pollution are recognized as major contributors to water pollution in New Mexico as well as the nation. Principal sources of surface water nonpoint source pollution in New Mexico include on-site liquid waste disposal, roads, recreation, urban storm water run-off, erosion from rangelands, agricultural activities, construction, silviculture, wildfires, resource extraction and land disposal. Hydromodification may affect attainment of designated uses by diverting water out of stream channels, impounding waters, and channelizing or otherwise disturbing streambeds. Principal known sources of nonpoint source ground water pollution in rural and suburban areas include household septic tanks, cesspools, hard rock mines, and agricultural activities.

B. The Nonpoint Source Management Plan

NM's plan for management of nonpoint source pollution is described in the *New Mexico Nonpoint Source (NPS) Management Plan*. The purpose of the NPS Management Plan is to describe the regulatory and non-regulatory programs, programmatic actions, and best management practices (BMPs) necessary to reduce pollutants from nonpoint sources entering surface water and ground water. Included in the plan are six objectives that facilitate achievement of program goals. Implementation of the plan will help New Mexico succeed in attainment of surface water quality criteria that will fully protect designated uses as described in the State's WQS, meet the goals of the federal CWA and ensure adequate ground water quality for municipal, domestic, and agricultural uses.

The NPS Management Plan has established a process to develop programs and activities within watersheds that will facilitate the achievement of surface WQS. Watershed-based planning is emphasized as a means of coordinating watershed restoration efforts, fostering watershed associations, and encouraging partnership among agencies, nongovernmental organizations, and the public. The plan supports local watershed-based implementation of TMDLs and also coordinates with other land and resource management agencies that have established resource protection programs and activities.

The NPS Management Plan uses a voluntary approach to achieve water quality improvements. Incentives to voluntarily implement projects and restoration efforts include competitive grant funding through Section 319(h) of the CWA and technical support and guidance through SWQB. EPA has provided watershed planning guidance in the *Nonpoint Source Program and Grants Guidelines for States and Territories* (USEPA 2013). Completion of watershed planning per the guidelines is a requirement for Section 319 funds to be used for water quality restoration activities.

In order to fund water quality improvement projects, SWQB issues annual requests for applications for projects to be considered for funding from the federal NPS program grant under Section 319(h) of the CWA. The requests identify impaired waters with TMDLs describing the impairments, and a smaller category of impaired waters which do not require TMDL development because the impairments are thought to be caused by insufficient flow rather than excessive pollutant loading (Category 4C waters). Proposed projects must address impairment issues in these waters through planning or implementation.

Low-interest loans through the Clean Water State Revolving Fund (CWSRF) are another potential source of funding for nonpoint source control projects. Both public and private entities as defined in the Clean Water Act are eligible for funding for non-point source projects.

SWQB has reviewed, upgraded, and will continue to implement all Section 319(b) management program components. These components include:

- Identification of BMPs appropriate to nonpoint source pollution problems in NM, as well as appropriate application and implementation of these BMPs;
- A schedule of milestones that provides focus, traceable events, and deadlines for program implementation;
- Identification of funding sources and potential partnerships based on available funding programs; and
- Identification of federal financial assistance programs and development projects.

Another important element of the NPS Management Plan is coordination with government agencies. Many of the stream segments which have been or are water quality limited due to nonpoint source pollution pass through public lands. A number of the federal agencies involved have agreed, formally or informally, to ensure that all new and renewed land use authorizations, easements, rights-of-way documents, allotment management plans, term-grazing permits, and other agreements involving permitted activities on properties administered by the federal agency would have enforceable provisions for compliance with WQS. Efforts under these agreements have resulted, and are expected to continue to result, in the implementation of BMPs and mitigation measures at many sites.

C. The Wetlands Program

The SWQB Wetlands Program administers wetland restoration and program development grants received from EPA under Section 104(b)(3) of the CWA. The overall goals of the Wetlands Program are to protect and restore NM's wetlands and riparian areas and to increase self-sustaining and naturally functioning wetlands and riparian areas. The Wetlands Program emphasizes the role of wetlands in prevention and reduction of water quality impairments and providing habitat for aquatic life and wildlife.

EPA identified four core components critical to effective, comprehensive wetland programs (USEPA 2009). The components are regulatory actions; monitoring and assessment (*see* Section

III of this WQMP/CPP); restoration and protection; and WQS (*see* Section II of this WQMP/CPP). A description of these components in NM's Wetlands Program are found in the *Wetlands Program Plan for New Mexico* (NMED SWQB 2015b). Regulatory actions/controls and restoration and protection are described in further detail below.

Regulatory Controls

The State's regulatory program, which applies to all surface waters of the state including wetlands, is described in Dredge and Fill Program and Effluent Limitations sections of this WQMP/CPP (Section X and V, respectively). Specifically, NPDES permits under Section 402 of the CWA regulate discharges to wetlands, and the Dredge and Fill Program under Section 404 of the CWA regulates other activities affecting wetlands.

Restoration and Protection

SWQB encourages wetland protection on a watershed basis. This approach involves assisting watershed groups throughout the state to develop "Wetland Action Plans" as a component of watershed-based plans. A Wetland Action Plan is a planning document designed specifically to address wetlands and riparian resources within the boundaries of a specific watershed. Participating watershed groups assess wetlands and riparian areas in their watershed and develop proposals to protect, restore, and create wetlands locally. This effort helps watershed groups incorporate wetland issues into their mission and promotes stewardship of wetlands through cooperative approaches involving agencies, local governments, tribes, nonprofit organizations, and the public.

In addition, SWQB promotes wetland restoration as an integral part of watershed restoration and health. A number of restoration projects are occurring statewide and are funded by EPA Region 6 Program Development grants under Section 104(b)(3) of the CWA. Project activities include restoration of wet meadows and waterfowl habitat on the Rio Grande along the central flyway, restoration of Bosque on private land parcels, re-establishment of natural flooding, increasing wetland plant diversity and habitat diversity, removal of exotic vegetation, restoration of springs, planning for open-space and conservation easements to protect wetlands resources including buffer zones, restoring beaver habitat, restoring high mountain fen wetlands, river restoration to address transportation maintenance issues, and conservation of playas and closed basin wetlands. The Wetlands Program maintains the New Mexico Statewide Wetlands Roundtable, consisting of state and federal agency and tribal participation. The wetland restoration/protection program also includes provisions for technical assistance to landowners or organizations carrying out wetland restoration projects, active research regarding effective wetland restoration techniques and methods to measure the success of restoration activities, and training and capacity-building for organizations interested in joining restoration partnerships.

VIII. MANAGEMENT AGENCIES

[As required by 40 CFR 130.6(c)(5) for WQMP]

A. Designated Management Agencies for Wastewater Management

Under Section 208 of the CWA, WQMPs are to include identification of DMAs necessary to implement the WQMP and provisions for adequate authority for intergovernmental cooperation. DMAs must demonstrate legal, institutional, managerial, and financial capability, and specific activities necessary to carry out their responsibilities. Incorporated municipalities, counties, sanitation districts, and water and sanitation districts have the necessary authorities under state law to satisfy the requirements of Section 208(c)(2) of the CWA, which include the authority to:

- carry out appropriate portions of an areawide waste treatment management plan developed under Section 208(b)of the CWA;
- manage effectively waste treatment works and related facilities serving such area in conformance with any plan required by subsection (b) of this section;
- directly or by contract, design and construct new works, and to operate and maintain new and existing works as required by any plan developed pursuant to subsection (b) of this section;
- accept and utilize grants, or other funds from any source, for waste treatment management purposes;
- raise revenues, including the assessment of waste treatment charges;
- incur short- and long-term indebtedness;
- assure in implementation of an areawide waste treatment management plan that each participating community pays its proportionate share of treatment costs;
- refuse to receive any wastes from any municipality or subdivision thereof, which does not comply with any provisions of an approved plan under this section applicable to such area; and
- accept, for treatment, industrial wastes.

State law provides the designated agencies with the necessary authority to design, construct, operate, and maintain wastewater treatment plants and to accept and utilize state and/or federal funds for these purposes. As specified at 40 CFR 130.12(b), Section 201 of the CWA funding can only be awarded to DMAs that are in conformance with the statewide WQMP.

B. Process for Designating Wastewater Management Agencies

The WQCC has the responsibility of designating management agencies which are then certified by the Governor (40 CFR 130.6(e)). DMAs must demonstrate legal, institutional, managerial and financial capability necessary to carry out the entity's responsibilities in accordance with Section 208(c) of the CWA. EPA shall accept such designations unless it is found that the DMAs do not have adequate specified authorities required in Section 208(c)(2) of the CWA (40 CFR 130.9(d)).

As economic development and growth continue in NM, or as the need arises, additional DMAs for wastewater will be considered. The WQCC will consider new DMAs upon presentation of a

petition requesting such designation. The petitioning DMA must demonstrate legal, institutional, managerial, and financial capability necessary to carry out the entity's responsibilities in accordance with Section 208(c) of the CWA. Designation of a management agency will occur only after appropriate public participation and presentation of relevant authorities by the petitioner.

C. Management Agencies for Point Source Management

The Governor certified the designation of ninety-seven (97) wastewater management agencies in 1980. Additional management agencies were certified in September 1983, August 1984, October 1985, April 1999, and May 2001. A total of eighty-four (84) municipalities, two (2) counties, eleven (11) sanitation or water and sanitation districts, four (4) state agencies, and two (2) Native American tribal entities have been designated wastewater management agencies.

Designated wastewater management agencies are listed in Table VIII-1. Each agency that has accepted this designation shall be responsible for wastewater management in its facility planning area and shall, if the agency satisfies applicable federal regulations, be able to receive construction program funding under Section 201 of the CWA.

D. Management Agencies for Nonpoint Source Management

The NPS Management Plan identifies specific federal, state and local agencies with a role in implementing nonpoint source pollution management and control. Unlike with the Wastewater Designated Management Agencies, a nonpoint source management agency can be entered into through interagency agreements, which are developed as needed to outline management responsibilities unique to each agency's area of responsibility and expertise.

For nonpoint source management, agencies or organizations participating through formal agreements under the NPS Management Plan will be considered a management agency for purposes of the WQMP/CPP.

Table VIII-1. Designated Management Agencies for Wastewater Management.

INCORPORATED MUNICIPALITIES Agency Designated	Accepted	Rejected
Alamogordo	X	
Albuquerque	X	
Artesia	X	
Aztec	X	
Bayard	X	
Belen	X	
Bernalillo	X	
Bloomfield	X	
Capitan	X	
Carlsbad	X	
Carrizozo	X	
Causey	X	
Chama	X	
Cimarron	X	
Clayton	X	
Cloudcroft	X	
Clovis	X	
Columbus	X	
Corona	X	
Cuba	X	
Deming	X	
Des Moines	X	
Dexter	X	
Dora	X	
Eagle Nest	X	
Elida	X	
Encino	X	
Espanola	X	
Estancia	X	
Eunice	X	
Farmington	X	
Floyd	X	
Folsom	X	
Fort Sumner	X	
Gallup	X	
Grady	X	
Grants	X	

INCORPORATED MUNICIPALITIES Agency Designated	Accepted	Rejected
Grenville		X
Hagerman	X	
Hatch	X	
Hobbs	X	
Hope		X
House	X	
Jal	X	
Jemez Springs	X	
Lake Arthur	X	
Las Cruces	X	
Las Vegas	X	
Logan	X	
Lordsburg	X	
Los Alamos County	X	
Los Lunas	X	
Loving	X	
Lovington	X	
Magdalena	X	
Maxwell	X	
Melrose	X	
Moriarty	X	
Mosquero	X	
Mountainair	X	
Pecos	X	
Portales	X	
Questa	X	
Raton	X	
Red River	X	
Reserve	X	
Rio Rancho	X	
Roswell	X	
Roy	X	
Ruidoso	X	
San Jon	X	
San Ysidro	X	
Santa Fe	X	
Santa Rosa	X	

INCORPORATED MUNICIPALITIES Agency Designated	Accepted	Rejected
Silver City	X	
Socorro	X	
Springer	X	
Sunland Park	X	
Taos	X	
Tatum	X	
Texico	X	
Truth or Consequences	X	
Tucumcari	X	
Tularosa	X	
Vaughn	X	
Virden		X
Wagon Mound	X	
Willard		X

COUNTIES Agency Designated	Accepted	Rejected
Valencia	X	
Dona Ana	X	

SANITATION DISTRICTS / WATER & SANITATION DISTRICTS Agency Designated	Accepted	Rejected
Alpine Village Sanitation District	X	
Anthony Sanitation District	X	
Bluewater Water & Sanitation District		X
El Valle de los Ranchos Water & Sanitation District	X	
Lakeshore City Sanitation District	X	

SANITATION DISTRICTS / WATER & SANITATION DISTRICTS Agency Designated	Accepted	Rejected
Pena Blanca Water & Sanitation District	X	
Ranchos de Placitas Sanitation District	X	
San Rafael Water & Sanitation District	X	
Thoreau Water & Sanitation District	X	
Twining Water & Sanitation District	X	
Williams Acres Water & Sanitation District	X	
Yah-ta-hey Water & Sanitation District	X	

STATE AGENCIES Agency Designated	Accepted	Rejected
Corrections Dept.	X	
Dept. of Finance and Administration	X	
Health and Environment Dept.	X	
Natural Resources Dept.	X	

NATIVE AMERICAN TRIBAL ENTITIES Agency Designated	Accepted	Rejected
Navajo Tribal Utility Authority (interim wastewater management agency)	X	
Pueblo of Pojoaque	X	

IX. IMPLEMENTATION MEASURES

[As required by 40 CFR 130.6(c)(6) for WQMP]

A. Overview

This section addresses implementation measures necessary to carry out those programs that are listed in this Statewide WQMP/CPP. Schedules that specify when pollution control programs are expected to be implemented are useful in tracking the progress of control programs incorporated into the WQMP/CPP. Implementation schedules inform management agencies responsible for the programs, and other interested or affected parties, when significant milestones leading to implementation are expected to occur.

Where appropriate or required, individual documents also contain additional implementation procedures specific to a program. For example, Appendix A describes the implementation procedure for the State's Antidegradation Policy. Another example is the NPS Management Plan that identifies implementation and financing of measures for nonpoint source pollution control.

Implementation schedules may also be affected by statutory or Court imposed orders. An example of a statutory schedule is Section 303(c) of the CWA which requires States to review their WQS every three years. An example of a Court imposed schedule is the consent decree and settlement agreement that resulted from *Forest Guardians and Southwest Environmental Center v. Carol Browner, Administrator, U. S. Environmental Protection Agency* (1997) and the consequent MOU between EPA and NMED for the development of TMDLs (see Section IV of this WQMP/CPP).

Measures for financing these programs arise from a variety of sources including federal grants (e.g., Sections 106, 201, and 319 of the CWA), state budgets authorized by the NM Legislature, state revolving funds, local governments, cost sharing with stakeholders (public and private) or other means as appropriate to the task.

B. Planning Strategy for Implementation Measures

Implementation measures will be completed by:

- Using the process descriptions in this WQMP/CPP as a reference guide to program implementation and scheduling.
- Adhering to statutory, regulatory and court sanctioned schedules.
- Using funding sources appropriate to the task.
- Posting on NMED's website anticipated or tentative review schedules. Examples include but are not limited to: Triennial Review of WQS and biennial review of the *State of New Mexico CWA §303(d)/§305(b) Integrated Repor*t.

X. DREDGE AND FILL PROGRAM

[As required by 40 CFR 130.6(c)(7) for WQMP]

A. Description of the Dredge and Fill Program

The U.S. Army Corps of Engineers (USACE) is responsible for issuing permits for activities involving the discharge of dredged or fill materials to waters of the U.S. pursuant to Section 404 of the CWA. New Mexico is not delegated primacy for the issuance or enforcement of Section 404 permits, but NMED does review the permits for purposes of state certification or denial under Section 401 of the CWA.

In addition to the certification of permits, the Dredge and Fill Program includes consultation with applicants and USACE as needed, compliance site inspections, education, and outreach activities.

B. Process for Certification of Dredge and Fill Permits under Section 401 of the CWA

In accordance with Section 401 of the CWA, USACE may not issue permits for the discharge of dredged or fill materials to waters of the U.S. until the State is provided an opportunity to review and certify the permit. The WQA assigns the responsibility for certifying permits issued under the CWA to NMED (NMSA 1978, Section 74-6-4(F)), and also specifies the conditions under which a certification shall be denied (Section 74-6-5(E)).

Section 20.6.2.2002 NMAC of the *Ground and Surface Water Protection* regulations sets forth procedures for the state certification of dredge and fill permits. The procedures specify public notice requirements, a public comment period, the content and distribution of a certification or denial, timeframes, and appeal requirements.

C. Planning Strategy for the Dredge and Fill Program

NMED, through the SWQB, will review the Dredge and Fill Program annually to determine if improvements are required. SWQB will also review and certify, certify with conditions, or deny USACE individual, regional and nationwide permits.

XI. BASIN PLANS

[As required by 40 CFR 130.6(c)(8) for WQMP]

A. Introduction

Basin plans were initially developed by the State for water quality planning in the early and mid-1970s. In the 1980s the State shifted to planning on a statewide basis rather than basin-by-basin. According to 40 CFR 130.6(c)(8), a WQMP must identify "any relationship to applicable basin plans developed under Section 209" of the CWA. Because New Mexico has chosen to do its planning on a statewide basis, no such basin plans are applicable to NM. For the same reason, the CPP requirement in 40 CFR 130.5(b)(2) to describe "the process for incorporating elements of any applicable areawide waste treatment plans under section 208, and applicable basin plans under section 209" does not apply to NM.

Although the State conducts water quality planning on a statewide level, implementation and restoration efforts focus on the watershed level. A successful watershed protection approach must be founded on cooperative interaction between the federal, state, and local levels of government, and between the public and private sectors.

Throughout the state, local government organizations and citizens are working to address local water issues relating to both quantity and quality. These organizations include voluntary watershed groups, soil and water conservation districts, county and municipal governments, and concerned citizens.

B. Strategy

The WQCC will continue water quality management planning on a statewide basis via this WQMP/CPP. SWQB will work with and encourage participation by local, state and federal organizations, watershed groups, other nongovernmental organizations, and concerned citizens in the development and implementation of strategies to address specific regional or watershed concerns.

XII. GROUND WATER

[As required by 40 CFR 130.6(c)(9)]

A. Ground Water Pollution Prevention Program

The WQCC has adopted comprehensive regulations (20.6.1 through 20.6.7 NMAC), including ground WQS and a discharge permitting program, for the protection of ground water quality under the authority of the WQA. The *Ground and Surface Water Protection* regulations are codified at 20.6.2 NMAC, with supplemental permitting requirements for dairy facilities at 20.6.6 NMAC and for copper mines at 20.6.7 NMAC. In accordance with the WQA at NMSA 1978, Section 74-6-4, the WQCC has delegated responsibility for administering its regulations regarding ground water protection to NMED and the OCD. The WQCC reviews and changes its regulations as it deems appropriate.

The GWQB reviews and approves discharge permits for discharges that have the potential to impact ground water quality. Ground water discharge permits address discharges from a wide variety of facilities, including large and small-scale domestic wastewater treatment plants, septic tank/leachfields, industrial facilities, power generating plants, mining facilities, dairies, food processing plants, commercial landfarms for remediation of contaminated soil, UIC wells and ground water remediation systems. The program also addresses unauthorized discharges such as spills; performs enforcement actions to ensure compliance with permit requirements; and requires abatement of ground water contamination related to permitted facilities. The discharge permitting process includes public notification, a public comment period and a public hearing in situations where there is substantial public interest. Permits are issued for five-year terms and must be renewed to provide continuous coverage. Currently, GWQB manages approximately 675 active permits.

The Underground Injection Control (UIC) Program is a federal ground water protection program established by the SDWA. The purpose of the UIC Program is to prevent ground water contamination by regulating the discharge of wastes into UIC wells. New Mexico has primacy for administration of the UIC Program, which is jointly implemented by GWQB and OCD. These divisions administer the UIC Program under authority granted by the WQA (NMSA 1978, Section 74-6-4), the *Ground and Surface Water Protection* regulations (20.6.2 NMAC), the New Mexico Oil and Gas Act (NMSA 1978, Section 70-2-12(B)), OCD's *Oil and Gas Injection* regulations (19.15.26 NMAC), and the New Mexico Geothermal Resources Act (NMSA 1978, Sections 71-9-1 to 71-9-11).

UIC wells include:

- Any dug hole or well that is deeper than its largest surface dimension, where the principal function of the hole is emplacement of fluids,

- Any septic tank or cesspool used by generators of hazardous waste, or by owners or operators of hazardous waste management facilities, to dispose of fluids containing hazardous waste, or
- Any subsurface distribution system, cesspool or other well which is used for the injection of wastes.

EPA has grouped UIC wells into five classes (Class I, II, III, IV and V), according to the type of fluid they inject and where the fluid is. *See* https://www.epa.gov/uic.

New Mexico administers the federal UIC Program through the ground water discharge permits required by 20.6.2 NMAC. Facilities that discharge fluids into UIC wells are required to have ground water discharge permits approved by either GWQB or OCD, depending on the type of operation. Discharge permits contain operational, monitoring, contingency, and closure plans with specific requirements to prevent and remediate any negative impacts that UIC wells may have on ground water quality. GWQB permits and oversees the operation, monitoring, and closure of Class I, III, IV, and V wells. OCD regulates Class II wells, and also Class I, III, and V wells related to oil and gas development activities, geothermal activities, and brine solution mining.

B. Planning Strategy for Ground Water Protection

The WQCC will update its water protection regulations as necessary to address emerging issues. NMED and OCD will continue to administer the state regulations for ground water protection in accordance with the WQCC's delegation of responsibilities.

XIII. DETERMINATION OF COMPLIANCE WITH WATER QUALITY STANDARDS FOR THE PROTECTION OF HUMAN HEALTH CRITERIA

[As required by 20.6.4.12 NMAC]

A. Background

In accordance with 20.6.4.12(D) NMAC:

> *Compliance with the human health-organism only criteria shall be determined from the analytical results of representative grab samples, as defined in the water quality management plan. Human health-organism only criteria shall not be exceeded.*

The procedures and methods used in the scientific studies necessary to make compliance determinations are found in several documents developed by SWQB. These documents include the WQS (20.6.4 NMAC) and the Surface Water Quality Bureau's QAPP for Water Quality Management Programs, which are reviewed and approved by EPA. The Water Quality Management Programs QAPP specifically addresses both laboratory and field procedures, including data interpretation approaches and field sampling techniques. The 2002 action by WQCC concerning human health priority toxic pollutants relies on grab sample techniques to determine standards compliance. Accordingly, specification of this technique is appropriate.

SWQB interprets a grab sample as a discrete, individual sample taken within a short period of time (usually less than 15 minutes) and is representative of the conditions at the time of sampling. This definition is operationally sufficient for perennial, intermittent and ephemeral waters. As stated in the Bureau's QAPP, SWQB relies on standard procedures and laboratory quality assurance to ensure the repeatability of the data. Procedures used for the evaluation of quality assurance and quality control are found in the QAPP. The analytical results of the representative grab samples shall be used for the determination of compliance with applicable human health criteria.

B. Process for Determination of Compliance

The following procedures apply to determining compliance for enforcement purposes; they do not apply for purposes of determining attainment of designated uses. Sampling for determination of compliance with WQS human health criteria shall be accomplished as follows:

- A minimum of three individual grab samples, separated in time by no less than 15 minutes each, shall be taken during the same sampling/storm event from the same location. For the purpose of determining non-compliance, the analytical results of two or more of these samples must be greater than the applicable human health criteria. Results of all grab samples shall be recorded and reported.

Sampling and analysis shall be in accordance with SWQB's current QAPP and SOPs.

XIV. PUBLIC PARTICIPATION

A. Requirements for Public Participation

This section applies to the CWA and WQA programs administered by SWQB described herein.

General public awareness and stakeholder involvement is crucial to the successful implementation of CWA programs. By seeking and considering invaluable public input and involvement, SWQB can more effectively promote best management practices and increase public involvement to produce better decisions, as well as greater public acceptance and support for these decisions.

Public participation requirements under the CWA are specified in 40 CFR 25.4. The rule requires agencies to "…conduct a continuing program for public information and participation in development and implementation of activities…" and includes the following provisions:

- Design informational documents and activities to encourage and facilitate public participation for meaningful involvement (40 CFR 25.4(b)(1));
- Provide at least one central location of reports, studies, plans, and other documents (40 CFR 25.4(b)(3));
- Develop and maintain a list of potentially affected and interested parties and engage with them under public consultation as outlined under 40 CFR 25.4(d) (40 CFR 25.4(b)(5);
- Provide notification generally within no less than 30 days of any action to allow time for public response (40 CFR 25.4(c)).

The specifics for adhering to these requirements are outlined in greater detail for each section in Table XIV-1. In addition to the federal requirements identified above, the agency has additional outreach requirements, which include:

- Tribal engagement in accordance with NMED's *Tribal Communication and Collaboration Policy* (NMED Office of the Secretary 2009),
- Development of PIPs in accordance with *NMED's Limited English Proficiency (LEP) Accessibility and Outreach Policy 07-11, Non-Employee Disability Accessibility and Outreach Policy 07-10* and *Public Participation Policy 07-13*.
- Provide public notification consistent with the public participation and outreach activities outlined in the associated PIP.

Table XIV-1. Public Participation Requirements

Program Element	Actions
WQMP/CPP - All Updates	• Stakeholder identification and outreach to gather information and identify potential updates • Conduct public meetings (Optional*) • Minimum 30-day public comment period • Publish notice of public comment period and meetings in newspaper(s) or alternative media in affected area(s) (Optional*) • Email notice to SWQB mailing list (Optional*) • Post on NMED website (Optional*) • Present updates/revisions at public WQCC meeting • Post WQCC and EPA approved WQMP/CPP on NMED website
Water Quality Standards at 20.6.4 NMAC & Ground and Surface Water Protection Regulations at 20.6.2 NMAC	• Stakeholder identification and outreach to gather information and identify potential updates • Conduct public meetings (Optional*) • Minimum 30-day public comment period for draft proposal • Petition the WQCC at a public meeting to request a hearing for the proposed changes to the regulations (NMSA 1978, Section 74-6-6(A)) • Publish hearing notice in the New Mexico Register and one newspaper of general circulation in the affected area and mailed to the WQCC mailing list (NMSA 1978, Section 74-6-6(C)) 60 days prior to hearing date; (45-day notice requirement in 40 CFR 25.5, 30-day notice requirement in NMSA 1978, Section 74-6-6, 60-day notice requirement in 20.1.6.201 NMAC) • Publish hearing notice in additional newspapers or through alternative media in affected area(s) (Optional*) • Email hearing notice to SWQB mailing list (Optional*) • Post on NMED website (Optional*) • Public hearing before WQCC (20.1.6 NMAC) • Publication of approved regulation in the New Mexico Register with effective date of rule (1.24.10 NMAC) • Post WQCC and EPA approved regulations on NMED website
Water Quality Surveys	• Conduct pre-monitoring community meetings prior to conducting the study to inform stakeholders in affected area about upcoming study plan, obtain contacts, and obtain watershed specific information from those living/working within the watershed (Optional*) • Post field sampling plans on NMED website (Optional*)
TMDL Documents	• Minimum 30-day public comment period (40 CFR 130.7) • Conduct public meeting(s) in affected watershed(s) (Optional*)

Program Element	Actions
	• Publish notice of public comment period and meetings in newspaper(s) and/or alternative media in affected area(s) (Optional*) • Email notice to SWQB mailing list (Optional*) • Post on NMED website (Optional*) • Public participation at WQCC meeting • Post WQCC and EPA approved TMDL on NMED website
Appendix B-2 of this WQMP/CPP	• Post on NMED website as new TMDLs with WLA are approved, existing WLA are revised, or new WLA are added to existing TMDLs.
State of New Mexico CWA §303(d) List (Appendix A of the §303(d)/§305(b) Integrated Report)	• Minimum 30-day public comment period (40 CFR 130.7) • Publish notice of comment period in newspaper(s) or alternative media in affected area(s) (Optional*) • Email notice to SWQB mailing list (Optional*) • Post on NMED website (Optional*) • Public participation at WQCC meeting • Post WQCC and EPA approved Integrated Report on NMED website
CWA §303(d)/§305(b) Listing Methodology	• Minimum 30-day public comment period (Optional*) • Publish notice of comment period in newspaper(s) or alternative media in affected area(s) (Optional*) • Email notice of comment period to SWQB mailing list (Optional*) • Post final listing methodology on NMED website (Optional*)
Nonpoint Source Management Plan	• Stakeholder identification and outreach to gather information and identify potential updates • Conduct public meetings (Optional*) • Minimum 30-day public comment period • Publish notice of public comment period and meetings in newspaper(s) or alternative media in affected area(s) (Optional*) • Email notice to SWQB mailing list (Optional*) • Post on NMED website (Optional*) • Present updates/revisions at public WQCC meeting • Post WQCC and EPA approved NPSMP on NMED website
Request for Proposals (RFPs)	• Publish notice in at least three newspapers of general circulation within the state at least 20 calendar days before proposals are due (1.4.1 NMAC). • NMED Press Release (Optional*) • Post on NMED website (Optional*) • Email notice to SWQB mailing list (Optional*)

Program Element	Actions
Competitive Sub-Grant Awards: Solicitation for Applications (SFAs)	• NMED Press Release (Optional*) • Post on NMED website (Optional*) • Email to SWQB mailing list (Optional*)
401 Certifications of 402 Federal Permits (NPDES)	Joint Notice with EPA Region 6 (40 CFR 124.10(c) and 20.6.2.2001 NMAC): • Minimum 30-day public comment period • Publish notice in one newspaper of general circulation (in area of discharge if individual permit) • Send notice to the applicant; appropriate local, state, tribal and federal agencies; and all parties who have specifically requested copies of public notices. • Post notice on NMED website • Email notice to SWQB mailing list (Optional*) When joint notice is impractical, NMED shall provide notice according to 20.6.2.2001 NMAC: • Minimum 30-day public comment period • Publish notice in one newspaper of general circulation (in area of discharge if individual permit) • Post notice on NMED website • Email notice to applicant (except for general permits), SWQB mailing list, and affected government agencies or interested parties
401 Certifications of 404 Federal Permits (Dredge and Fill)	Joint Notice with US Army Corps of Engineers (33 CFR 325.3; 33 CFR 330.5; 20.6.2001 NMAC): • Minimum 15-day public comment period • Send notice to the applicant; adjoining property owners; affected local, state, tribal and federal agencies; and all parties who have specifically requested copies of public notices. • Post notice on NMED website • Email notice to SWQB mailing list (Optional*) When joint notice is impractical, NMED shall provide notice according to 20.6.2.2002 NMAC: • Minimum 15-day public comment period • Publish notice in one newspaper of general circulation (in area of discharge if individual permit) • Post notice on NMED website • Email notice to applicant (except for general permits); SWQB mailing list; and affected government agencies or interested parties

B. Planning Strategy for Fulfilling Public Participation Requirements

SWQB will satisfy public participation requirements in accordance with appropriate law/regulation/policy by:

- Developing PIPs that take into consideration the composition and English language proficiency of the affected community or area.
- Accommodating persons with a disability that desire to participate in NMED activities.
- Providing the public with the information necessary for meaningful involvement and informing the public of how they can obtain pertinent documents/information. This information is provided in public notices, at public meetings or hearings, available upon request, or can be obtained from the SWQB website at www.nmenv.state.nm.us/swqb. Brochures, newsletters, fact sheets, press releases, and other media are also utilized, as appropriate, to provide the public with the pertinent documents/information. This information includes appropriate information and documents as well as guidelines on how public meetings or hearings will be conducted.
- Providing a central location of reports, studies, plans, and other documents. SWQB maintains an administrative record, including all study plans and associated documentation (i.e. data, field sheets, etc.). A library of all intensive water quality survey reports is maintained, and reports are available to the public upon request.
- Maintaining a stakeholder list of affected/interested parties. SWQB maintains a database of affected/interested parties. This list includes the WQCC mailing list, environmental organizations, the regulated community, watershed groups, and numerous individuals who sign up to receive information. The list is currently operated through Govdelivery and individuals can subscribe to SWQB News at the bottom of every SWQB webpage.
- Properly notifying stakeholders and interested parties in accordance with laws/statutes/policies of any upcoming program activities. SWQB uses a variety of tools to disseminate information to the public, including publishing notices in the required newspapers (and the New Mexico Register, if necessary), emailing notices to the Bureau's interested parties list and encouraging them to post and/or forward to other interested parties, issuing NMED press releases, and posting pertinent documents and public notices on SWQB's website (https://www.env.nm.gov/surface-water-quality/).

Whenever practical and possible, SWQB will expand outreach efforts to maximize public participation by seeking out innovative ways of informing and involving the public such as through social media, webinars, etc. SWQB will provide the public with information on their role in the public participation process by documenting public input and providing a response to public input by explaining how the input was taken into consideration through the public participation process. This information is attached to final documents and provided individually to those who participated in the public comment process.

XV. REFERENCES

The following documents and regulations may be updated more frequently than the WQMP/CPP. The context of each reference should be used to determine if a specific version or the most current version of the document is being referenced.

K. Federal and State Acts

- Federal Clean Water Act (CWA), 33 U.S.C. 1251 *et seq*., (2002). https://www.epa.gov/sites/production/files/2017-08/documents/federal-water-pollution-control-act-508full.pdf. (last visited July 16, 2019)

- Federal Safe Drinking Water Act, 42 U.S.C. 300f to 300j, (2010). https://www.gpo.gov/fdsys/pkg/USCODE-2010-title42/pdf/USCODE-2010-title42-chap6A-subchapXII.pdf (last visited July 16, 2019)

- New Mexico Water Quality Act, NMSA 1978, §§ 74-6-1 through 74-6-17 (2009). http://public.nmcompcomm.us/nmpublic/gateway.dll/?f=templates&fn=default.htm. (last visited July 16, 2019)

- New Mexico Oil and Gas Act, NMSA 1978, §§ 70-2-1 through 70-2-38 (2004). http://public.nmcompcomm.us/nmpublic/gateway.dll/?f=templates&fn=default.htm. (last visited July 16, 2019)

- New Mexico Geothermal Resources Development Act, NMSA 1978 §§ 71-9-1 to 71-9-11 (2016). http://public.nmcompcomm.us/nmpublic/gateway.dll/?f=templates&fn=default.htm. (last visited July 16, 2019)

L. Federal and State Regulations

- Federal Water Quality Planning and Management 40 CFR § 130 (2019). https://www.ecfr.gov/cgi-bin/text-idx?SID=60c392d68c0ca8cec151679b1bce4b05&mc=true&tpl=/ecfrbrowse/Title40/40CIsubchapD.tpl. (last visited July 16, 2019)

- Federal Water Quality Standards, 40 CFR § 131, (2019). https://www.ecfr.gov/cgi-bin/text-idx?SID=60c392d68c0ca8cec151679b1bce4b05&mc=true&tpl=/ecfrbrowse/Title40/40CIsubchapD.tpl. (last visited July 16, 2019)

- New Mexico Ground and Surface Water Protection, 20.6.2 NMAC, December 21, 2018. http://164.64.110.134/parts/title20/20.006.0002.html. (last visited July 16, 2019)

- New Mexico Ground Water Protection-Supplemental Permitting for Copper Mine Facilities, 20.6.6 NMAC. December 1, 2013. http://164.64.110.134/parts/title20/20.006.0007.html. (last visited July 16, 2019)

- New Mexico Ground Water Protection-Supplemental Permitting Requirements for Dairy Facilities, 20.6.6 NMAC. January 31, 2011. http://164.64.110.134/parts/title20/20.006.0006.html. (last visited July 16, 2019)

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