



NEW MEXICO ENVIRONMENT DEPARTMENT
Surface Water Quality Bureau

Public Involvement Plan (PIP)
for the
Triennial Review of Standards for Interstate
and Intrastate Surface Waters (20.6.4 NMAC)

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APPROVAL PAGE**

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Date

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I. Triennial Review Public Involvement Plan (PIP) Overview

The New Mexico Environment Department (Department), Surface Water Quality Bureau (SWQB or Bureau) developed this Public Involvement Plan (PIP) for the Triennial Review of the State's Standards for Interstate and Intrastate Surface Waters ("Surface Water Quality Standards") codified under 20.6.4 NMAC. 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. In accordance with 40 CFR 131.20, the State shall review these standards and hold a public hearing at least every three years. As these water quality standards are applicable to all waters of the state, the Triennial Review is considered a state-wide action.

The Bureau encourages the public to learn about and get involved in regulatory decision-making opportunities that are part of the Triennial Review. The purpose of this PIP is to provide public participation opportunities and information that may be needed to participate in the Triennial Review.

This PIP integrates information about the community and identifies resources needed by the Bureau to successfully incorporate community participation activities into the decision-making process for the Triennial Review. The PIP identifies the Department staff and resources needed to accomplish these activities.

The Triennial Review provides for public participation throughout different stages. The Bureau will meet the public participation requirements for Triennial Review by following this PIP, which includes all applicable policy, regulatory and statutory public participation requirements.

In developing this PIP, state-wide community participation needs were assessed to ensure appropriate promotion of public outreach by identifying whether there is a combination of environmental and demographic factors (i.e., low income community, minority community, limited English proficiency individuals, Linguistically Isolated Households, etc.) that may impact public participation.¹ This assessment identifies community outreach needs and provides for public access opportunities above and beyond statutorily mandated requirements and underscores the provision of adequate public access to information about the Triennial Review.

The Standards for Interstate and Intrastate Surface Waters (20.6.4 NMAC) is a state-wide document pertinent to a relatively large community of Spanish speakers, and the Bureau will provide pertinent information in both English and Spanish in public meeting notices, public comment notices, and other announcements (radio broadcasts, brochures, signs, postcards, fact sheets, etc.), as necessary. Other language translation will be provided, as the Department can reasonably accommodate, upon request with two-weeks advance notice. During the public comment period, relevant documents may be reviewed on the Bureau's website, provided upon

¹ See IV. Location and Demographics – Demographic Summary below.

request by email/hard copy, or reviewed during normal business hours in hard copy at the Harold Runnels Building, 1190 South St. Francis Dr., Santa Fe.

As much as possible, public participation and informational activities related to the Triennial Review will be held within the timelines outlined in the table below. This timeline is tentative and subject to change; activities subject to statutory or regulatory deadlines are noted. More detailed information about planned Bureau outreach is available in this PIP.

Activity	Dates**
Petition the Water Quality Control Commission for a hearing date	September 2020
Public Notice	November 2020
Public Comment Period	30-day review November – December 2020
Public Meetings	November 2020
Public announcements (radio, brochures, signs, postcards, factsheets, etc.)	As needed or requested
60-day hearing notice	April 2021
Public hearing before the Water Quality Control Commission	July 2021

** Dates are tentative and may be subject to change.

This PIP is a “living” document that may be amended after considering public comments and feedback. The Bureau Chief provides final approval of the PIP and amendments.

II. Contacts

Bureau contacts for questions regarding the Triennial Review, the public review and approval process, the Bureau’s website, or this PIP are listed below:

Jennifer Fullam
 New Mexico Environment Department
 Surface Water Quality Bureau
 1190 South St. Francis Dr.
 Santa Fe, NM 87505
 Phone: (505) 827-2637
 Email: Jennifer.Fullam@state.nm.us

A. Non-English Language Speaker Assistance and Accommodations

Non-English speakers may call the Bureau contact listed in this PIP and request language assistance services, such as an interpreter, so they can learn more about the Triennial Review.

B. Department Websites

New Mexico Environment Department - <https://www.env.nm.gov/>
 Surface Water Quality Bureau - <https://www.env.nm.gov/surface-water-quality/>

C. Triennial Review Website

The Bureau maintains a website location for Triennial Review (see website address below). The website will be kept up to date and has information about the site and important documents. <https://www.env.nm.gov/surface-water-quality/2020-triennial-review/>

III. Regulatory Framework

New Mexico's Surface Water Quality Standards (20.6.4 NMAC), as required under the Clean Water Act, 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. In accordance with 40 CFR 131.20, States are required to have a public hearing to review, revise and adopt water quality standards at least every three years. As this is a rulemaking action to amend 20.6.4 NMAC, the public participation requirements include those specified in 40 CFR 25.4, the State Rules Act (§14-4-2 NMSA 1978), 20.1.6 NMAC, 1.24 NMAC as well as the public participation requirements for Water Quality Standards amendments described in the State's Water Quality Management Plan/Continuing Planning Process ("WQMP/CPP"). At a minimum, the public participation process for a hearing and potential rulemaking amending 20.6.4 NMAC consists of the following:

- Providing the public with the information and assistance necessary for meaningful involvement (40 CFR 25.4 and WQMP/CPP);
- Providing a central location of reports, studies, plans, and other documents (40 CFR 25.4 and WQMP/CPP);
- Maintaining a list of affected or interested parties and stakeholders (40 CFR 25.4 and WQMP/CPP);
- Notifying stakeholders in a timely fashion prior to consideration of major decisions (generally at least 30 days);
- Posting information regarding the potential rulemaking on the agency's website (14-4-2 NMSA 1978);
- Posting information regarding the potential rulemaking on the State's Sunshine Portal (14-4-2 NMSA 1978);
- Making information regarding the potential rulemaking available in the agency's district and field offices (14-4-2 NMSA 1978);
- Sending information regarding the potential rulemaking by electronic mail to persons who have made a written request for notice (14-4-2 NMSA 1978);
- Sending written notice that includes, at a minimum, an internet and street address where the information may be found to persons who provide a postal address (14-4-2 NMSA 1978);
- Providing notice of the public hearing 60-days prior in one newspaper of state-wide circulation, one of general circulation in the area affected and the State Register (14-4-5.2 NMSA 1978 and 20.1.6.201 NMAC);
- Providing information regarding the potential rulemaking, including the hearing date, on the Water Quality Control Commission's website;
- Providing any member of the general public the opportunity to testify at the public

- hearing either orally or in writing (20.1.6.204 NMAC); and
- Notifying the public of the approved rule under 20.6.4 NMAC through publication of the amended rule in the New Mexico Register (1.24.10.16 NMAC);
- Posting of the effective rule on the agency’s website; and
- Sending information regarding outcome of the rulemaking by electronic mail to persons who have participated in the rulemaking and provided an electronic mail address to the agency (14-4-2 NMSA 1978).

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.

Elements and timelines within this PIP are intended to disclose the actions which adequately fulfill the public participation requirements.

IV. Location and Demographics

The Standards for Interstate and Intrastate Surface Waters (20.6.4 NMAC) is a statewide document, and thus contains objectives and strategies for the entire state.

Demographic Summary

Using the US Census Bureau, 2013-2017 American Community Survey (ACS) report, New Mexico has an estimated population of 2,084,828; 48.8 percent (%) identify as Hispanic or Latino (which may be of mixed race) and 9% identify exclusively as American Indian, with a total of 62% of the total population being identified as “minority”.

Of the 2,084,828 individuals in the state, 1,953,766 are age 5 and over and considered in the demographics associated with linguistics. There are an estimated 684,541 individuals (35% of the total population age 5 and above) that speak a language other than English at home compared to 21.5% for the United States. An estimated 541,385 individuals (27% of the overall population age 5 and above) speak Spanish at home while an estimated 98,010 individuals (5% of the overall population) speak Other Non-Specified language(s) at home. An estimated 173,779 individuals (9% of the overall population) age 5 and over speak English “less than very well”. Of the linguistically isolated households, 83% are Spanish speaking, 3% speak another Indo-European language, 4% speak an Asian-Pacific language, and 10% speak some other unidentified language(s). Because there is a known population of Navajo and other Native American language speakers in New Mexico and the survey did not specifically identify these groups, it may be assumed that the 10% of unidentified languages include Navajo or other Native American language speakers.

The per capita income for New Mexico is \$25,257 as compared to the national per capita income of \$32,621, with 19.5% of New Mexico’s population living in poverty. These results indicate that

for the state of New Mexico, the percentage of Spanish-speaking communication is considerable (i.e., substantially greater than the state or national percentage) and there are demographic factors (i.e., low income community, minority community, limited English proficiency individuals, Linguistically Isolated Households, etc.) that may impact public participation.

It is important for the Bureau to incorporate the linguistic and communication needs of the State when conducting public outreach and participation activities for statewide documents. Therefore, the Bureau will provide information in Spanish and in English for public comment notices, public meeting notices, and other announcements (radio broadcasts, brochures, signs, postcards, etc.) as needed, and strive to make public participation efforts as inclusive as possible within Bureau budget and time limitations. For example, as much as possible, mass communication methods will be used in addition to private postal notices or personal email, as many residents in the New Mexico may not have regular access to the internet, private e-mail accounts or postal service, and may rely on publicly posted notices and radio broadcasts. Informational flyers may be posted at post offices, community centers and public libraries, at the Bureau's discretion after consideration of public interest and input. Community centers and public libraries may serve as access areas for the Bureau to leave hard copies of important documents and information about how to comment on the Integrated Report. Specific repository addresses that may be used depending on the need, are provided in this PIP on page 7.

V. Public Participation and Outreach Activities

The public may ask questions about the proposed Triennial Review at any time. Interested community members do not need to wait for a formal public comment period to contact the Bureau. However, the Bureau emphasizes that to be included in the administrative record, comments about the proposed amendments to 20.6.4 NMAC must be submitted during the noticed comment periods, and in accordance with the public notice.

Specific outreach activities related to the Triennial Review include:

- Creating and maintaining a specific web page with attachments and links to pertinent documents
(<https://www.env.nm.gov/surface-water-quality/2020-triennial-review/>);
- Emailing the public notice to stakeholders who requested such notice during the initial stakeholder outreach campaign;
- Developing a public notice announcing the opening of the 30-day public comment period;
- Posting the Public Involvement Plan and public notice to the SWQB website;
- Emailing the public notice to SWQB's email list through the GovDelivery e-mail delivery service (1,796 email addresses as of July 14, 2020);
- Sending the public notice to NMED's public relations officer for a press release;
- Sending the public notice to NMED's Tribal Liaison for distribution to Tribes;
- Providing the public notice to each of NMED's field offices;
- Posting notice of the proposed amendments on the State's Sunshine Portal;
- Providing 60-day notice of the public hearing in a newspaper of state-wide circulation;

- Providing 60-day notice of the public hearing in a newspaper of local circulation
- Providing 60-day notice of the public hearing in the New Mexico Register;
- Providing opportunity for members of the public to participate in the public hearing and provide comment, either oral or written;

Copies of the proposed amendments to the State's Surface Water Quality Standards and any supporting documents may be obtained via download from the Bureau's website at <https://www.env.nm.gov/surface-water-quality/2020-triennial-review/>, or by contacting Jennifer Fullam at (505) 827-2637, jennifer.fullam@state.nm.us, NMED SWQB, P.O. Box 5469, Santa Fe, New Mexico, 87502.

This is the most direct way to learn more about and be involved in the rulemaking process for the State's Surface Water Quality Standards. Additionally, the public may request to review documents at the Bureau or one of the information repositories listed below.

Based on the demographics report discussed in the PIP, basic information about public involvement opportunities will be in both English and Spanish. This information will include how to request materials in Spanish or to speak with Bureau staff through an interpreter. Further details about public participation for this activity are outlined below.

A. Postal Mailing or E-Mailing of Notices and Updates

The Bureau maintains an extensive email list (1796 email addresses as of July 14, 2020) that includes individuals interested in surface water quality issues and activities. This list is a combination of all previously interested persons who requested the Bureau provide them with information about surface water quality in New Mexico. The Bureau regularly maintains contact information, which is updated or supplemented if additional information is found. Interested persons providing both an address and email may receive physical mail and an email. Additional individuals, organizations, and other interested parties are added to the email list as requested.

B. Email Updates

If you would like to be added to the Bureau's email list for information and updates, visit the Bureau's website at: <https://www.env.nm.gov/surface-water-quality/> and click on the "Subscribe to SWQB News" button on the bottom of the home page. For help, you can contact the Bureau's website liaison, Heidi Henderson at (505) 827-2901 or email Heidi.Henderson@state.nm.us.

C. Public Notices

Based on the Bureau's evaluation of the community, public notices will be translated into Spanish. In addition, the Bureau may post notices on the Department's Events Calendar at: <https://www.env.nm.gov/events/>

In addition to those tribes, pueblos or nations already subscribed to the Bureau's email list, additional efforts to communicate the proposed amendments to the Surface Water Quality

Standards will be made through the Agency's Tribal Liaison in fulfillment of the Department's Tribal Consultation and Collaboration Policy (07-16).

D. Informational Pamphlets

The Bureau may develop informational pamphlets for the Triennial Review that briefly explain what is happening relative to the updates and revisions and the next steps in the process. To the extent such informational pamphlets are produced, the Bureau may determine whether they will be available in languages other than English, online (e.g., Bureau website) and in print (hardcopy) at the document repositories listed in the PIP. They may also be distributed via email to interested organizations and individuals, including those who sign up for email notices through the website.

E. Public Comment Period

The 30-day public comment period on the Triennial Review is planned to start November 2, 2020. In addition, the Bureau may post notices on the Department's Events Calendar at: <https://www.env.nm.gov/events/>.

F. Other Outreach

Other means of outreach such as flyers announcing public comment periods may be posted in more local locations throughout the State (e.g., local businesses, schools, libraries) and on the Department's website, at the Bureau's discretion after consideration of public interest and input.

G. Information Repositories

Copies of proposed amendments to the State's Surface Water Quality Standards and any of the above-mentioned supporting documents may be obtained via download from the Bureau's website at <https://www.env.nm.gov/surface-water-quality/2020-triennial-review/> or by contacting:

Jennifer Fullam, NMED SWQB
P.O. Box 5469
Santa Fe, New Mexico 87502
Phone: (505) 827-2637
Email: jennifer.fullam@state.nm.us
SWQB Front Desk: (505) 827-0187

Post offices, community centers and public libraries, at the Bureau's discretion after consideration of public interest and input, may serve as access areas for the Bureau to leave hard copies of important documents and information about how to comment on the Triennial Review. The following is a list of locations where hard copies of relevant documents will be available to the community:

None identified at this time. Given that the COVID-19 health emergency still exists throughout New Mexico, the Bureau requests that individuals access Triennial Review

documents and information online. If individuals have access restrictions to the online material and if requested, the Bureau will work with individuals to provide safe access to hardcopies. Please communicate with the Bureau Contact listed above and in Section II to receive hardcopies.

H. Triennial Review Proceedings, Outcomes and Responses to Comments

Following close of the public comment period and prior to the hearing to consider adoption of the proposed language, the Bureau will post the comments online at <https://www.env.nm.gov/surface-water-quality/2020-triennial-review/> and include comments, as submitted as an Exhibit in the hearing for the adoption of the amendments to the Standards for Interstate and Intrastate Surface Waters (20.6.4 NMAC). All filings for the hearing will be available to the public via download from the Water Quality Control Commission website (<https://www.env.nm.gov/water-quality-control-commission/wqcc/>), or upon request. The Commission hearing will be open to the public. Schedules and proposed agendas are maintained on the Commission's website. The Standards for Interstate and Intrastate Surface Waters, as approved by the Commission, will then be filed with the States Records and Archives for publication in the New Mexico Register and made effective for State purposes. The effective rule is then submitted to the U.S. Environmental Protection Agency Region 6 for review and approval for purposes of the Clean Water Act.