REGION 6
DALLAS, TX 75270

June 5, 2026

Mr. James C. Kenney, Secretary
New Mexico Environment Department
Post Office Box 5469
Santa Fe, New Mexico 87502

RE: EPA Action on New Mexico 2026 Clean Water Act § 303(d) List

Dear Mr. Kenney:

Thank you for your March 31, 2026, submission of New Mexico's 2026 Integrated Report and Clean Water Act § 303(d) list of water quality limited segments.

The Environmental Protection Agency (EPA) reviewed the submission and supporting documentation and determined that the 2026 § 303(d) list meets the requirements of the Clean Water Act and the EPA's implementing regulations. By this action, the EPA approves the state's decisions regarding segments and associated pollutants identified in the 2026 § 303(d) list and the associated priority rankings for development of total maximum daily loads (TMDLs). A detailed discussion of the EPA's action is included in the record of decision enclosed with this letter.

The New Mexico Environment Department (NMED) § 303(d) program personnel expended considerable effort to monitor and assess environmental data against the state water quality standards. They produced a § 303(d) list that was of the highest quality and ahead of the statutory deadline. They responded quickly to requests for additional information and were very supportive of the EPA's first offering of Tribal consultation on the state's § 303(d) list. The state personnel's knowledge of the program and dedication to protection of the water of New Mexico is to be commended.

The EPA staff looks forward to working closely with the NMED to make continuing improvements to the § 303(d) program. Thank you again for your efforts in developing New Mexico's 2026 § 303(d) list and for your cooperation in addressing EPA's questions. If you have any questions, please contact me at (214) 665-8138 or Robert Cook of my staff at (214) 665-7141.

Sincerely,

CURRY JONES Digitally signed by CURRY JONES
Date: 2026.06.05 13:32:14 -05'00'

For Troy C. Hill, P.E.
Director
Water Division

Enclosure (1): Record of Decision for the Approval of New Mexico's Clean Water Act 2026 § 303(d) List

cc: Jonas Armstrong, NMED, Water Protection Division Director
Shelly Lemon, NMED, Surface Water Quality Bureau Chief
Lynette Guevara, Monitoring, Assessment, and Standards Section Program Manager

1. Introduction

This document sets forth the U.S. Environmental Protection Agency's (EPA) reasoning for approving NM's 2026 Clean Water Act (CWA) Section 303(d) list. The EPA received NM's 2026 303(d) list on March 31, 2026, through the EPA's Assessment, Total Maximum Daily Load (TMDL) Tracking and implementation System (ATTAINS), which is the EPA's electronic system for receiving and tracking 303(d) submissions.[1]

The EPA has conducted a complete review of the state's 2026 303(d) list and supporting documentation and information, including changes from the previous 303(d) list. Based on this review, the EPA has determined that the state's 303(d) list of water quality-limited segments (WQLSs)[2] still requiring TMDLs (i.e., Category 5 of the state's Integrated Report (IR)) satisfies the requirements of Section 303(d) of the CWA and the EPA's implementing regulations. Therefore, the EPA hereby approves NM's 2026 303(d) list.

The EPA's action regarding NM's 303(d) list does not extend to any waterbodies, or portions of waterbodies, that are within Indian country, as defined in 18 USC Section 1151. The EPA is taking no action to approve or disapprove the state's 303(d) list with respect to those waters.

2. The EPA's Analysis of NM's Submission

Section 303(d)(1) of the CWA and the EPA's implementing regulations at 40 CFR 130.7 require states, territories, and authorized Tribes (herein referred to as "states") to identify waters for which effluent limitations required by CWA Section 301(b)(1)(A) and (B) are not stringent enough to implement any applicable water quality standard (WQS). States need not identify on their lists waters where the following controls are adequate to implement applicable standards: 1) technology-based effluent limitations required by the Act, 2) more stringent effluent limitations required by state or local authority, and 3) other pollution control requirements required by state, local, or federal authority. 40 CFR 130.7(b)(1) and (2). CWA 303(d) lists must identify WQLSs still requiring TMDLs. 40 CFR 130.7(b). The definition of "water quality limited segment" in 40 CFR 130.2(j) includes any segment where it is known that water quality does not meet applicable WQSs (referred to as "impaired waters"), and any segment that is not expected to meet applicable WQSs (referred to as "threatened waters"), "even after the application of the technology-based effluent limitations required by" the Act. The term "applicable WQSs" refers to those WQSs established under Section 303 of the Act. An impaired or threatened water must be on the 303(d) list and requires a TMDL unless the state can demonstrate that no pollutant(s) causes or contributes to the impairment[3] or one or more of the three types of requirements described earlier in this paragraph become stringent enough to implement applicable

[1] ATTAINS data is publicly accessible via the EPA's How's My Waterway online tool and ATTAINS web and geospatial services. For more information, see https://www.epa.gov/waterdata/get-data-access-public-attains-data.

[2] The EPA uses the term, WQLS, to reflect the combination of a water segment and an applicable WQS that is not attained or is threatened. For example, if a segment is not meeting three applicable WQSs then there are three WQLSs for that segment.

[3] See CWA Sections 303(d)(1)(A) and 303(d)(1)(C); 40 CFR 130.7(b)(4); 2006 Integrated Reporting Memorandum, page 60; 2024 Integrated Reporting Memorandum, pages 18-19. EPA Integrated Reporting Memoranda may be found at https://www.epa.gov/tmdl/integrated-reporting-guidance-under-cwa-sections-303d-305b-and-314.

WQSs. In addition, in developing their 303(d) lists, states must meet several procedural, submission, and content requirements as described in this decision document.

States must submit their 303(d) lists to the EPA on April 1 of every even-numbered year. 40 CFR 130.7(d)(1). The EPA must approve or disapprove the 303(d) list no later than 30 days after submission. The EPA approves a list only if it meets the requirements of 40 CFR 130.7(b). 40 CFR 130.7(d)(2). If the EPA approves the listing(s), the state must incorporate the listing(s) into its current Water Quality Management (WQM) plan. If the EPA disapproves of a listing decision(s), the EPA must, not later than 30 days after the date of such disapproval, identify waters for inclusion on the 303(d) list. The EPA then must promptly issue a public notice seeking comment on the listing(s). After considering public comment and making any revisions the EPA deems appropriate, the EPA must transmit the listing(s) to the state, and the state must incorporate the listing(s) into its WQM plan. Id.

The statutory and regulatory requirements, and the EPA's review of the state's compliance with the requirements, are described in detail in this document. To the extent that any EPA-approved listing decisions are unchanged from prior approved 303(d) list actions, the EPA incorporates the reasoning of those previous list actions unless otherwise noted.

A. Supporting documentation for making listing determinations

EPA regulations at 40 CFR 130.7(b)(6) require states to include, as part of their submissions to the EPA, documentation to support the state's determination to include or not include waters on its 303(d) list. Such documentation must include, at a minimum, the information discussed in the subsections below.

i. Description of the methodology used to develop the 303(d) list. 40 CFR 130.7(b)(6)(i).

EPA regulations at 40 CFR 130.7(b)(6) require states to include a description of the methodology used to develop the 303(d) list.[4] The EPA does not approve or disapprove assessment methodologies. Instead, in acting on 303(d) lists, the EPA evaluates whether the state, territory, or authorized tribe met listing requirements in determining whether applicable WQSs are met and included waters requiring TMDLs on its 303(d) list. 2024 Integrated Reporting Memorandum (IR Memo) at 15.

The EPA finds that NM has provided a description of its methodologies used for determining whether its waters are achieving the state's WQSs, satisfying the regulatory requirement to provide a "description of the methodology used to develop the list." 40 CFR 130.7(b)(6)(i). *See* NM's Consolidated Assessment and Listing Methodology (CALM). The EPA has considered the state's methodology as part of its review of the state's 303(d) list.

[4] The EPA's Integrated Reporting Memoranda provide more information on assessment methods. See 2006 Integrated Reporting Memorandum at 29.

ii. Description of the data and information used to identify waters. 40 CFR 130.7(b)(6)(ii).

EPA regulations at 40 CFR 130.7(b)(6)(ii) require states to provide a description of the data and information used to identify waters, including a description of the data and information used by the state as required by 40 CFR 130.7(b)(5). The EPA finds that NM has provided a description of the data and information that it assembled and evaluated. *See* IR, Section II.C. The EPA has considered the state's description as part of its review of the state's 303(d) list.

iii. A rationale for any decision to not use any existing and readily available data and information for any one of the categories of waters as described in 40 CFR 130.7(b)(5). 40 CFR 130.7(b)(6)(iii).

EPA regulations at 40 CFR 130.7(b)(6)(iii) require states to provide a rationale for any decision to not use any existing and readily available data and information for any one of the categories of waters as described in 40 CFR 130.7(b)(5). 40 CFR 130.7(b)(6)(iii). The EPA evaluates whether a state provides a technical, science-based rationale for decisions not to use data or information in developing the list.[5] The EPA finds NM provided a rationale where it did not use data or information it assembled and evaluated to develop its list. 40 CFR 130.7(b)(6)(iii). The EPA has considered the state's rationale as part of its review of the state's 303(d) list.

iv. Other reasonable information requested by the Region. 40 CFR 130.7(b)(6)(iv).

EPA regulations at 40 CFR 130.7(b)(6)(iv) require states to provide any other reasonable information requested by the EPA. Upon request by the EPA, each state must demonstrate good cause for not including a water or waters on the list. Consistent with 40 CFR 130.7(b)(6)(iv), good cause includes, but is not limited to:

- assessment and interpretation of more recent or accurate data in the record demonstrate that the applicable WQS is met;
- more sophisticated water quality modeling;
- flaws in the original analysis that led to the water being listed; or
- changes in conditions.

Good cause may also include, for example (see, e.g., 2006 IR Memo at 58-59):

- existence of an EPA-approved or EPA-established TMDL;
- demonstration that the impairment is being addressed through more stringent effluent limits or other pollution control requirements; or
- demonstration that the impairment is not caused by a pollutant.

The EPA finds NM provided additional reasonable information requested by the EPA. The EPA has considered this information as part of its review of the state's 303(d) list.

[5] 2024 IR Memo at FN 15 (citing court cases); 2006 IR Memo at 37 (EPA evaluates whether there is a "reasonable technical rationale").

B. Public participation

EPA regulations require states to provide for public participation in the development of their 303(d) lists, including describing their process for involving the public and other stakeholders in their Continuing Planning Processes (CPPs). 40 CFR 130.7(a). States are expected to demonstrate how they considered public comments in their final decisions. The EPA considers the public comments and state responses as appropriate in its actions on 303(d) lists in determining whether a state has provided reasoned support for its submission. See 2006 IR Memo at 25-26.

The state's 2026 303(d) list submission to the EPA included a full list of public comments and the state's responses to comments. The state posted the draft 303(d) list for public comment for 45 days, from December 8, 2025, through January 22, 2026. Public notices were posted to the New Mexico Environment Department (NMED) website and sent through the GovDelivery e-mail delivery service. The state responded in writing to each comment received. Public comments, and the state's responses, can be found in Appendix C of the IR.

Prior to assessing data for the 303(d) list, the state published a call for outside data to be considered for the 2026 303(d) list. The call for data was open for 32 days, from June 16, 2025, through July 18, 2025. Concurrent with the call for outside data, the state solicited public comments on the listing methodology as documented in the CALM.

The EPA concludes NM provided an opportunity for public comment on its 303(d) list consistent with 40 CFR 130.7(a). In addition, the state demonstrated how it considered public comments in its final decision.

C. Assembling, evaluating, and using data and information

i. Assemble and evaluate data and information

States must assemble and evaluate all existing and readily available water quality-related data and information to develop the 303(d) list. 40 CFR 130.7(b)(5). In reviewing a state's 303(d) list submission, the EPA considers whether the state has satisfied the requirements under 40 CFR 130.7(b)(5) to assemble and evaluate all existing and readily available water quality-related data and information when developing their 303(d) list. This includes, at a minimum, all existing and readily available data and information about the following categories of waters: (1) waters identified as partially meeting or not meeting designated uses, or as threatened, in the state's most recent CWA Section 305(b) report; (2) waters for which dilution calculations or predictive modeling indicate non-attainment of applicable WQSs; (3) waters for which water quality problems have been reported by local, state, and federal agencies; members of the public; and academic institutions (these organizations and groups should be actively solicited for research they may be conducting or reporting); and (4) waters identified as impaired or threatened in any CWA Section 319 nonpoint source assessment submitted to the EPA. In addition to these minimum categories, states are required to assemble and evaluate any other water quality-related data and information that is existing and readily available. 40 CFR 130.7(b)(5).

The EPA has reviewed the state's submission, including the state's description of the data and information that it assembled and evaluated and finds that the state satisfied the requirement to assemble and evaluate all existing and readily available water quality-related data and information to develop its list under 40 CFR 130.7(b)(5). Prior to assessing data for the 303(d) list, the state published a call for outside data to be considered in the development of the 2026 303(d) list. The call for data was open for 32 days, from June 16, 2025, through July 18, 2025.

ii. Use of data and information

States must use existing and readily available water quality-related data and information in developing the 303(d) list, 40 CFR 130.7(b)(5), unless they provide a rationale not to use them, 40 CFR 130.7(b)(6)(iii). The EPA evaluates whether a state provides a technical, science-based rationale for decisions not to use data or information in developing the list.[6]

The EPA evaluated whether NM provided a technical, science-based rationale for any decisions not to use existing and readily available water quality-related data or information to make a WQS attainment status determination and concluded the state provided such a rationale for the purposes of 40 CFR 130.7(b)(6)(iii). NM evaluated both internally and externally generated data using metrics described in the CALM, a Quality Assurance Project Plan (QAPP), the SWQB Standard Operating Procedures (SOPs), and Surface Water Quality Bureau (SWQB) Data Submission Guidelines (*for external data*). Data meeting the requirements identified in these documents is considered for development of the state's 303(d) list. In limited circumstances, data did not meet the requirements identified in these documents and the state reasonably determined it would not use such data for development of the state's 303(d) list. *See* 2026 IR External Data Quality Determinations, and Assessment Rationale for 2026 303(d) List.

D. Identification of waters for inclusion on the 303(d) list

As noted above, EPA regulations at 40 CFR 130.7(b)(6) require states to provide documentation to support the state's determination to include or not include its waters on the 303(d) list. The EPA has reviewed the state's submission, including its assessment methodology and additional supporting documentation for its listing determinations.

i. Approval of identification of waters for inclusion on the 303(d) list

The EPA determined that the waters included on NM's 2026 303(d) list are listed consistent with the CWA 303(d) and 40 CFR 130.7 requirements, and the EPA is approving all waters the state included on the 303(d) list. The EPA's approval of the 303(d) list is based on the EPA's review of the state's submission including the description of the data and information concerning individual waters, documentation to support decisions to rely or not rely on particular data and information, and a description of how data and information were applied to make WQS attainment status

[6] See FN 5.

determinations. The EPA also considered applicable public comments and responses. NM catalogs the WQ attainment status determinations for all waters in Appendix A of the IR and for impaired waters in an Integrated List Summary Spreadsheet.

ii. Approval of exclusion of waters identified on previous 303(d) lists

NM's 2026 303(d) list submission delists 67 impairments from 56 different WQLSs. In reviewing the state's 2026 303(d) list, the EPA carefully considered the state's decision to remove these WQLSs from the 303(d) list submission, its justification for those removals, any applicable public comments and responses, and the methodology used in making those decisions. WQLSs were delisted for three primary reasons: establishment of an EPA approved TMDL; change in EPA approved WQS resulting in attainment; and new data indicating WQS attainment. The EPA concludes that the state's decisions to remove WQLSs previously identified as part of the 303(d) list are reasonable, based on all existing and readily available water quality-related data and information, applicable WQSs, and sound science, and the removal decisions are properly justified. The state provided a catalog of delisted waters, delisting reasons, and their assessment rationale in an Integrated List Summary Spreadsheet.

iii. Approval of exclusion of other waters not included on the 303(d) list

The EPA carefully reviewed the state's reasons not to include certain waters on the 303(d) list, the relevant supporting documentation, and any applicable public comments and responses. The EPA concludes that the decisions to exclude certain segments from the state's 2026 303(d) list are reasonable, based on all existing and readily available water quality-related data and information, applicable WQSs, and sound science.

E. Identification of pollutants causing or expected to cause a violation of applicable WQSs (40 CFR 130.7(b)(4))

As part of their 303(d) lists, states are required to identify the pollutants causing or expected to cause violations of the applicable WQSs. 40 CFR 130.7(b)(4). This includes a pollutant that by itself or in combination with other pollutants causes or is expected to cause violations of applicable WQSs. States must identify on their 303(d) lists all pollutants that are known to be causing or are expected to cause violations of the applicable WQSs. 40 CFR 130.7(b)(4), see also, 2024 IR memo at 17-19. For listed waters, if the available data and information do not support identification of pollutants causing or expected to cause the exceedance, list submissions would identify the pollutant as "unknown."

Consistent with 40 CFR 130.7(b)(4), NM appropriately identified the pollutants that were causing or expected to cause a violation of the applicable WQS.

F. Priority ranking and two-year TMDL development (40 CFR 130.7(b)(4))

The CWA and the EPA's regulations require states to establish a priority ranking for the waters on their 303(d) list "taking into account the severity of the pollution and the uses to be made of such waters." CWA Section 303(d)(1)(A); 40 CFR 130.7(b)(4). The regulations at 40 CFR 130.7(b)(4) provide that this priority ranking must include "all listed water quality limited segments still requiring TMDLs" and further require that states submit their priority rankings to the EPA as a component of their biennial 303(d) lists. Additionally, the regulations require that the priority ranking identify the waters targeted for TMDL development in the next two years. 40 CFR 130.7(b)(4).

NM's description of how all listed WQLSs is prioritized for TMDL development, including identification of waters targeted for TMDL development in the next two years, is included within the state's 303(d) list submission. NM's IR Appendix A and the Category 4 or 5 Summary Spreadsheet include an estimated year for TMDL development for waters in category 5/5A, including those waters targeted for TMDL development in the next two years. In addition, NM described how its priority ranking considered the severity of pollution and the uses to be made of such waters. Per the IR, p25, NM's TMDL development is governed by the states rotating basin monitoring schedule, the prioritization strategy in the state's long-term vision document, and by the relevant uses and severity of the impairment.

The EPA's review of NM's submission finds that the state established a priority ranking for all waters on the 303(d) list, taking into account the severity of the pollution and the uses to be made of such waters.[7] In addition, the state identified the waters targeted for TMDL development in the next two years.

G. Tribal Consultation by the EPA

The EPA's policy is to consult on a government-to-government basis with federally recognized tribal governments when EPA actions and decisions may affect Tribes. To promote coordination and consultation, all Tribes that may be affected by the EPA's upcoming action on the state's 303(d) list were identified, notified of the upcoming state's list submission for EPA action, and offered the opportunity to engage in consultation with the EPA.

The EPA provided to the Tribes, via email on January 16, 2026, a notice of an upcoming opportunity to consult on EPA's expected review and action on NM's 303(d) list. The early notice highlighted the state's open public comment period and provided web links to the state's draft IR documents. Additionally, after receiving the state's 303(d) list submittal on March 31, 2026, the EPA notified the Tribes of an opportunity to consult on EPA's review and action on NM's list. The consultation offer was broadcast, via email, on April 8, 2026, with a closing date of April 17, 2026.

[7] In addition to these two statutory factors, states may also consider other factors when prioritizing TMDLs. See 57 Fed. Reg. 33040, 33,044-45 (July 24, 1992).

No requests for further information nor requests to consult on a government-to-government basis were received.

3. Summary of the EPA's decision on the 2026 CWA 303(d) list

After careful review of NM's final 303(d) list submission package, the EPA has determined that NM's 2026 303(d) list meets the requirements of Section 303(d) of the CWA and the EPA's implementing regulations. Therefore, the EPA approves NM's 2026 303(d) list.