

Written Public Comment on PFAS Protections in New Mexico Surface Water Standards

WQCC 25 75 R

Submitted by	Elaine Cimino, Director, Common Ground Rising
Proceeding	2026 Triennial Review of 20.6.4 NMAC
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Position	Adopt the proposed PFOA and PFOS criteria without weakening and strengthen the rule to address human exposure, additional PFAS, mixtures, monitoring, and environmental justice

To the New Mexico Water Quality Control Commission

I submit these written comments in WQCC 25-75 (R). I am an environmental-justice advocate, director of Common Ground Rising, and a co-author of the petition that led the United States Environmental Protection Agency to designate the Española Basin as a Sole Source Aquifer. My work has focused for decades on the consequences communities face when government approves or tolerates pollution before it has established adequate monitoring, disclosure, and prevention.

The Commission should adopt NMED's proposed acute, chronic, and tissue-based aquatic-life criteria for PFOA and PFOS without weakening them. Those criteria are overdue and supported by EPA's 2024 recommendations. But the Commission should not mistake this narrow step for a complete PFAS protection program. NMED has approached PFAS mainly through the aquatic-life criteria placed in its petition. That lens leaves human exposure through fish, combined exposure to multiple PFAS, additional compounds with available federal benchmarks, source control, monitoring, and implementation largely outside the frame.

That narrowness has consequences. PFAS move among water, sediment, soil, fish, wildlife, wastewater, biosolids, and human bodies. Communities encounter mixtures and multiple exposure routes, not one chemical and one designated use at a time. A rule that recognizes only PFOA and PFOS aquatic-life toxicity may establish a useful regulatory floor while still leaving the public unable to answer basic questions: Where is PFAS entering New Mexico waters? Which communities and private wells are at risk? Are fish safe to eat? Will permits contain enforceable monitoring and discharge limits? What happens when several PFAS are present below their individual criteria but create a combined risk?

Requested Commission Decision

I ask the Commission to take a two-track approach. First, adopt every PFAS protection that the present record and lawful scope permit, including NMED's criteria and the additional provisions proposed by Amigos Bravos to the fullest permissible extent. Second, if the Commission concludes that any stronger provision requires separate notice or a separate record, direct NMED to begin a

publicly funded rulemaking by a date certain. A procedural limitation in this docket should define the next step; it should not become an indefinite postponement.

Adopt NMED's PFOA and PFOS acute, chronic, and tissue-based aquatic-life criteria without weakening them. Adopt the human-health organism-only criteria proposed by Amigos Bravos for PFOA, PFOS, and PFBS to the fullest extent supported by the record and lawful scope.

Adopt the additional acute aquatic-life benchmarks for the eight PFAS identified in the Amigos Bravos proposal where the Commission finds that the record and notice permit adoption.

Adopt a mixture hazard-index approach for PFOA, PFOS, and PFBS so that additive risk is not ignored merely because each chemical is evaluated separately.

Preserve and actively implement the authority in 20.6.4.14.F to require baseline information and monitoring for emerging contaminants in federal permits.

Require an implementation plan explaining how water-column and tissue criteria will be monitored, assessed, used in impairment decisions, translated into permit conditions, and connected to fish-consumption advisories.

Require public access to sampling locations, raw results, reporting limits, laboratory methods, quality-control records, and enforcement or follow-up decisions.

If any PFAS protection is deferred, issue a written finding that identifies the deferred provision, explains the procedural or evidentiary gap, assigns responsibility, identifies funding, and sets dates for a petition, public notice, hearing, and final decision.

Aquatic Life Criteria Are Necessary but Incomplete

EPA's final 2024 freshwater aquatic-life criteria for PFOA and PFOS address effects on the survival, growth, and reproduction of aquatic organisms. EPA states that the chronic water-column and tissue criteria are independently applicable. NMED's proposal properly brings these protections into New Mexico's surface-water standards.

Chemical	Acute water	Chronic water	Invertebrate whole body	Fish whole body	Fish muscle
PFOS	71 µg/L	0.25 µg/L	0.028 mg/kg	0.201 mg/kg	0.087 mg/kg
PFOA	3,100 µg/L	100 µg/L	1.18 mg/kg	6.49 mg/kg	0.133 mg/kg

NMED proposed criteria in 20.6.4.900.J. Water values are in micrograms per liter and tissue values are in milligrams per kilogram.

These values protect aquatic-life uses. They are not drinking-water standards or a substitute for human-health criteria. For perspective, the proposed chronic PFOA aquatic-life value of 100 µg/L equals 100,000 ng/L. That comparison does not show that the aquatic-life criterion is erroneous; it shows that different criteria answer different regulatory questions. The Commission should state this distinction clearly so agencies, permittees, and the public do not present adoption of aquatic-life criteria as complete protection against human exposure.

Human Exposure Through Fish Must Be Addressed

The proposed rule accounts for bioaccumulation as an aquatic-life concern but does not itself establish human-health organism-only criteria. Amigos Bravos, supported by the testimony of toxicologist Jamie C. DeWitt, proposes organism-only criteria of 0.07 ng/L for PFOS, 0.0036 ng/L for PFOA, and 500 ng/L for PFBS. These proposed values address exposure through consumption of aquatic organisms rather than direct consumption of the water.

This protection matters in New Mexico. Fishing is not merely recreational for every household. Fish may be part of subsistence, cultural, or ceremonial practices. A monitoring program based on an assumed average consumer can miss people who eat locally caught fish more often, prepare

different tissues, or depend on a particular water body. The Commission should require monitoring and risk communication that account for those uses and should explain how tissue results will lead to timely, understandable fish-consumption advice.

PFAS Mixtures Cannot Be Evaluated One Compound at a Time

The record also supports a hazard-index method for PFOA, PFOS, and PFBS. A chemical-by-chemical approach can declare compliance even when several PFAS with related health effects are present together. EPA has developed a framework for estimating noncancer risk from certain PFAS mixtures. The Commission should use the available science rather than assume that each compound acts in isolation.

The same problem appears in the limited chemical scope. EPA has developed acute aquatic-life benchmarks for additional PFAS identified in the Amigos Bravos proposal, including PFBA, PFHxA, PFNA, PFDA, PFBS, PFHxS, 8:2 FTUCA, and 7:3 FTCA. The existence of thousands of PFAS makes a two-chemical rule especially vulnerable to substitution: regulated compounds may decline while unregulated replacements enter commerce and the environment. The Commission should adopt the additional benchmarks where legally available and require NMED to establish a transparent method and schedule for adding PFAS as authoritative criteria or benchmarks become available.

Monitoring and Permitting Determine Whether the Rule Protects Anyone

Numerical criteria do not protect water unless agencies can detect exceedances and act on them. The final rule or accompanying decision should require an implementation plan with enough detail to be accountable. At minimum, the plan should identify priority waters and sources, sampling media and frequency, laboratory methods, reporting limits, quality-control requirements, public-data practices, assessment methods, permit translation, enforcement responses, and the process for issuing or revising fish-consumption advisories.

The plan should prioritize likely sources and pathways, including military and airport firefighting operations, industrial facilities, wastewater discharges, landfills, stormwater, biosolids, and contaminated sites. Monitoring should extend beyond the discharge point when hydrology, sediment transport, fish movement, or groundwater and surface-water interaction can carry PFAS into communities. Permits should require baseline sampling before a new or expanded discharge begins, routine monitoring after operations start, and investigation when results or process information indicate a credible PFAS pathway.

Detection limits are critical. A permittee should not report a non-detect using a laboratory reporting limit too high to evaluate the applicable criterion. NMED should publish the method, reporting limit, result, qualifiers, sampling location, date, and quality-control information in a searchable format. The public should not have to file an inspection-of-public-records request to learn whether PFAS was tested, which compounds were included, or whether the method could detect a violation.

Environmental Justice Requires Prevention and Early Disclosure

This issue is personal. I lived in La Cieneguilla from 1998 to 2003, in an area later associated with very high measured PFAS contamination and in the home with the Highest PFAS PFOS reading. Residents were not given testing and warning proportionate to the potential risk. Whatever the eventual allocation of responsibility among sources, the experience illustrates the regulatory failure that occurs when agencies wait for contamination to become a drinking-water crisis before they test broadly, disclose promptly, and act preventively.

The burden of delay does not fall evenly. Rural households and private-well users often lack routine monitoring and treatment resources. Pueblo and acequia communities may face harms to water, fish, foodways, and cultural practices that conventional exposure assumptions do not capture. Lower-income households are least able to purchase bottled water, install treatment, obtain medical consultation, or replace food sources. When government delays standards or monitoring, those communities absorb the uncertainty and cost.

For that reason, environmental justice should influence where sampling occurs, how quickly results are disclosed, which languages and communication channels are used, how fish consumption is evaluated, and who receives technical and financial assistance. Community members should help identify sampling locations and exposure practices. Their participation should be funded and should begin before final monitoring plans and permits are settled.

Communities Should Not Finance the Rulemaking Needed to Protect Them

The Commission should reject any structure that makes residents or nonprofit organizations raise thousands of dollars to develop the technical case for protection from chemicals they did not manufacture or release. Third-party participation has exposed important gaps in this proceeding, but it cannot substitute for a properly funded agency program. NMED should maintain scientific capacity to review new PFAS evidence, propose criteria, design monitoring, and enforce permits. Where law permits, responsible polluters should bear investigation, monitoring, treatment, and cleanup costs.

A Date Certain Is Necessary for Deferred Protections

The hearing officer and Commission may need to determine whether some proposed additions are within the notice and are a logical outgrowth of NMED's petition. I respect those procedural requirements. They should not produce an open-ended promise to revisit PFAS in another triennial cycle. If the Commission defers any human-health criterion, additional compound, mixture provision, or implementation requirement, its final order should identify what is deferred and require NMED to publish a petition and proposed schedule within six months. The schedule should include funding, technical development, public notice, community engagement, a hearing date, and a target date for final action.

Conclusion

New Mexico has enough evidence to act now. Adopt the PFOA and PFOS aquatic-life criteria without weakening them. Add the human-health, additional-compound, and mixture protections supported by this record to the fullest lawful extent. Require transparent monitoring and permit implementation. For anything that cannot be adopted in this docket, order a funded rulemaking on a defined schedule.

A final rule that stops at two aquatic-life criteria will leave NMED looking at only part of the PFAS problem. The Commission can correct that limited view by pairing immediate adoption with enforceable next steps. Communities should not have to discover contamination in their wells, fish, or bodies before the state builds the system needed to prevent it.

Respectfully submitted

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Sources and Record References

1. New Mexico Environment Department, 2026 Triennial Review, including hearing information and links to the official docket and proposed amendments, accessed September 20, 2026. <https://www.env.nm.gov/surface-water-quality/2026-triennial-review/>
2. New Mexico Environment Department, First Amended Petition and proposed amendments to 20.6.4 NMAC, filed June 2, 2026, including proposed 20.6.4.900.J. Available through the WQCC 25-75 (R) docket linked from the NMED Triennial Review page. <https://www.env.nm.gov/surface-water-quality/2026-triennial-review/>
3. Amigos Bravos, Notice of Intent to Present Direct Testimony and Exhibits, proposed amendments, and direct testimony of Jamie C. DeWitt, Ph.D., DABT, filed July 30, 2026, WQCC 25-75 (R). Available through the official docket. <https://www.env.nm.gov/surface-water-quality/2026-triennial-review/>
4. U.S. Environmental Protection Agency, Final Aquatic Life Ambient Water Quality Criteria for Perfluorooctanoic Acid PFOA, September 2024. <https://www.epa.gov/wqc/aquatic-life-criteria-perfluorooctanoic-acid-pfoa>
5. U.S. Environmental Protection Agency, Final Aquatic Life Ambient Water Quality Criteria for Perfluorooctane Sulfonate PFOS, September 2024. <https://www.epa.gov/wqc/aquatic-life-criteria-perfluorooctane-sulfonate-pfos>
6. U.S. Environmental Protection Agency, Final Framework for Estimating Noncancer Health Risks Associated with Mixtures of PFAS, 2024, cited in the WQCC record through the Amigos Bravos filing.
7. U.S. Environmental Protection Agency, PFAS Explained, describing the persistence, widespread occurrence, and multiple environmental media in which PFAS are found. <https://www.epa.gov/pfas/pfas-explained>
8. NMED SmartComment Portal for WQCC 25-75 (R). <https://nmed.commentinput.com/?id=EY6A3ZU4B>