



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

APR 30 2012

File: Miguel Lohman
- New Mexico

James P. Bearzi, Chief
Surface Water Quality Bureau
New Mexico Environment Department
Harold Runnels Building (N2050)
P.O. Box 5469
Santa Fe, NM 87502-5469

Dear Mr. Bearzi:

I am pleased to inform you that the Environmental Protection Agency (EPA or the Agency) has completed its review of the *Standards for Interstate and Intrastate Surface Waters 20.6.4. NMAC*. Revisions to New Mexico's water quality standards were adopted by the New Mexico Water Quality Control Commission and filed in accordance with the State's Water Quality Act on November 1, 2010. EPA initiated its review when these revisions became effective as State law on December 1, 2010. EPA reviewed and took action on the majority of the State's revisions on April 12, 2011. The Agency decided to take some additional time before acting on other revisions in order to allow both the New Mexico Environment Department an opportunity to provide additional supporting information and to enable a more detailed review of the State's new metals criteria. In today's decision, EPA is approving the majority of the remaining new/revised amendments with one exception, described below.

After further review, we have determined that the provisions found at section **20.6.4.10 D. Site-specific criteria** represent implementation procedures and do not constitute water quality standards that require EPA's review or action under Clean Water Act (CWA) Section 303(c) and, as such, will not be taking action on them. Furthermore, we had no obligation to act on section **20.6.4.10 D. Site-specific criteria** in our April 12, 2011, action and hereby rescind the previous EPA action on the provision. Any site-specific criteria adopted under this provision, however, would constitute new water quality standards subject to EPA review and approval or disapproval under CWA Section 303(c) on a case-by-case basis.

EPA is approving the revised language in section **20.6.4.13 J. Turbidity**, with the expectation that the revised provision will be implemented consistent with the antidegradation policy and implementation methods in the State's standards and Continuing Planning Process and related documents.

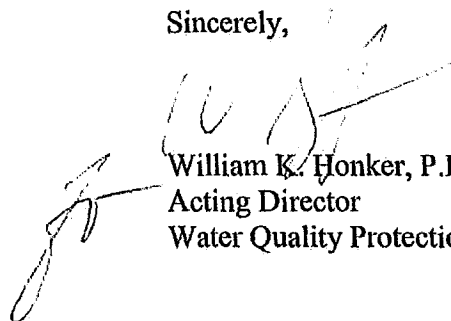
EPA previously took no action on the new or revised criteria for aluminum, cadmium, and zinc contained in section **20.6.4.900 I. (1) Acute and (2) Chronic Hardness-based Metals Criteria**. Based on an extensive review of the supporting documentation, we are approving the application of the hardness-dependent equation for aluminum to those waters of the State at a pH of 6.5 to 9.0 because it will yield criteria that are protective of applicable uses in waters within that pH range. However, EPA is disapproving the application of this equation in waters where the pH is below 6.5 as it may not be protective of applicable uses below that pH range.

Consistent with EPA's regulations, the previously approved 304(a) criteria for aluminum are thus the applicable water quality standards for purposes of the CWA in waters where the pH is at or below 6.5. In such cases, as the permitting authority in New Mexico, EPA will apply the previously approved 87 µg/L chronic total recoverable aluminum criterion. EPA is approving the hardness-dependent equations for both cadmium and zinc.

In acting on the State's revised water quality standards today, EPA is fulfilling its CWA Section 303(c) responsibilities. However, EPA's approval of water quality standards is considered a federal action which may be subject to the Section 7(a)(2) consultation requirements of the Endangered Species Act (ESA). EPA has initiated informal consultation under ESA Section 7(a)(2) with the U.S. Fish and Wildlife Service (USFWS) regarding our approval of certain new or revised water quality standards. EPA's approval of these standards is subject to the outcome of the ESA consultation process. Should the consultation process identify information regarding impacts on listed species or designated critical habitat that supports amending our approval, EPA will amend its approval decision for those new or revised water quality standards.

I appreciate the State's cooperative efforts to resolve these final few issues. If you need additional detail concerning this letter or the enclosed addendum to our original Record of Decision, please call me at (214) 665-3187, or have your staff may contact Russell Nelson at (214) 665-6646.

Sincerely,



William K. Honker, P.E.
Acting Director
Water Quality Protection Division

Enclosure

cc: James Hogan
Surface Water Quality Bureau
P.O. Box 5469
New Mexico Environment Department

Wally Murphy
Field Supervisor
Ecological Services Office
USFWS
2105 Osuna Road NE
Albuquerque, NM 87113-1001

Lynn Wellman
Regional Water Quality Coordinator
USFWS
Box 1306
Albuquerque, NM 87103



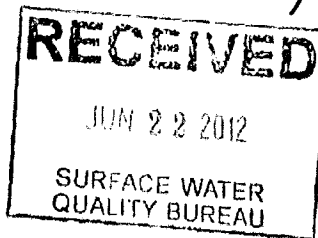
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

JUN 18 2012

key : state regulations
pH + dissolved

→ New Mexico
→ EPA Region 6



James Hogan, Acting Chief
Surface Water Quality Bureau
New Mexico Environment Department
Harold Runnels Building (N2050)
P.O. Box 5469
Santa Fe, NM 87502-5469

Dear Mr. Hogan:

I am writing in reference to the Environmental Protection Agency's (EPA or the Agency) April 30, 2012 action on amendments to the *Standards for Interstate and Intrastate Surface Waters 20.6.4. NMAC*. In that action, EPA approved the remaining new/revised amendments with the exception of aluminum criteria under specific conditions.

In that action, EPA approved the application of the hardness-dependent equation for aluminum to those waters of the State at a pH of 6.5 to 9.0 because it will yield criteria that are protective of applicable uses in waters within that pH range. However, EPA disapproved the application of this equation in waters where the pH is below 6.5 as it may not be protective of applicable uses below that pH range. In that action, we stated that consistent with EPA's regulations, the previously approved 304(a) criteria for aluminum are thus the applicable water quality standards for purposes of the CWA in waters where the pH is at or below 6.5. We also stated that in such cases, as the permitting authority in New Mexico, EPA will apply the previously approved 87 µg/L chronic criterion, but inadvertently referred to the total recoverable form of aluminum - the previously approved criterion is the dissolved fraction. As a result, we are amending our action to clarify that as the permitting authority, EPA will apply the previously approved 87 µg/L dissolved aluminum criterion in those waters where the pH is below 6.5 as described in the enclosed amended Record of Decision (ROD) addendum. This correction does not affect other new/revised standards approved in our previous action.

- could not find ROD Addendum

I appreciate the State's cooperative efforts in resolving this issue. If you need additional detail concerning this letter or the enclosed amended addendum to our original ROD, please call me at (214) 665-3187, or have your staff contact Russell Nelson at (214) 665-6646.

Sincerely,

[Handwritten signature]
William K. Honker, P.E.
Acting Director
Water Quality Protection Division

Enclosure

cc: Wally Murphy
Field Supervisor
Ecological Services Office
USFWS
2105 Osuna Road NE
Albuquerque, NM 87113-1001

Lynn Wellman
Regional Water Quality Coordinator
USFWS
Box 1306
Albuquerque, NM 87103