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Proposal would reduce water pollution

General
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► *New standard would tighten limits on some pollutants, add others to list*

By **BEN NEARY**
The New Mexican

Rivers and streams in New Mexico could receive increased protection if the state's Water Quality Control Commission this week adopts proposed pollution regulations intended to safeguard human health.

The Surface Water Quality Bureau of the New Mexico Environment Department has proposed regulations to tighten limits on mercury and other dangerous pollutants significantly while also proposing new restrictions on many other pollutants the state doesn't currently regulate.

The bureau maintains the new regulations will both protect people from pollutants that can cause diseases such as cancer and also protect fish and wildlife.

While environmentalists applaud the proposed new regulations, they emphasize it hasn't been easy to get the state to consider them.

In response to a lawsuit brought by environmental groups, the U.S. Environmental Protection Agency early last year stated it would consider rejecting some elements of less-stringent standards the Water Quality Control Commission adopted three years ago. The EPA administers the federal Clean Water Act.

The water-quality commission, which includes several representatives of New Mexico's agricultural industry, had attempted in its earlier regulations to exempt from some regulation water used to irrigate crop lands. The commission also declined to try to regulate scores of dangerous pollutants it main-

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tained weren't present in New Mexico.

"Because the Water Quality Control Commission is friendly to industry, the Environment Department does not like to rock the boat," John Horning of Forest Guardians said of the proposed regulations. Forest Guardians, a Santa Fe environmental group, was among the groups that sued the EPA to force it to reject the previous regulations the commission adopted.

"This is a highly controversial issue that the oil-and-gas industry and Los Alamos National Laboratory flat out do not like because it's going to place a higher burden on them to prove that they're not threatening public health and water quality," Horning said of the proposed regulations.

"It would provide an important layer of protection to both fish and wildlife and public health," Horning said. "If there is one lesson that we feel is important, it is that there is an inextricable link between human health and the health of fish and wildlife."

The proposed new standards would tighten the allowable levels of mercury in the state's surface water tenfold and establish new regulations on substances such as benzene — a component of gasoline — that aren't currently regulated, Horning said.

Brian Shields, executive director of the Amigos Bravos group in Taos, said federal law is clear that the state has to adopt water-quality standards that protect human health.

"That's the legal argument," Shields said. "The human argument is that most of these components, constituents, a lot of them are suspected of causing cancer, so it's necessary for the protection of the people of New Mexico to adopt these standards."

Amigos Bravos has long pressed the state to take action to prevent the Molybdenum mine in

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Taos County from polluting the Red River. Shields commended the Surface Water Quality Bureau of the state Environment Department for proposing stringent water-quality standards.

"The state could have argued differently, and I commend them for really going through and adopting for so many different chemicals as they have," Shields said of the proposed regulations.

"Although not all of them have been found in New Mexico up to this point, they could be found in the near future. What we're experiencing throughout the United States is basically the poisoning of America. We have all these chemicals that are being produced that are really becoming part of the system. So looking for them now is proactive, and I think it's a good thing for the state."

The U.S. Fish and Wildlife Service also intends to testify at the hearing this week in favor of the proposed standards. The agency's New Mexico Ecological Services Field Office filed notice of intent to present testimony with the state that it supports the adoption of water-quality standards to protect animals and allow for the restoration and maintenance of aquatic ecosystems in the state.

"We support and commend the (Surface Water Quality) Bureau's leadership by proposing human-health criteria to further protect the water resources of New Mexico for people's health and welfare," the Fish and Wildlife Service stated.

While several groups and entities have said they're pleased with the proposed water-quality regulations, there is some opposition. Los Alamos National Labo-

ratory has filed notice that it intends to present expert testimony at the commission hearing this week stating concern about applying the proposed new regulations to ephemeral stream courses. The lab for decades has discharged some pollutants into normally dry canyons that only drain into the Rio Grande when it rains.

Richard Meyerhoff, a lab scientist, has filed notice that he intends to testify in favor of having the state commission only apply certain regulations to streams that run full time and can support fish populations.

"Although the Laboratory supports the establishment of fish consumption standards, it believes that the (Surface Water Quality) Bureau proposal goes too far," Meyerhoff stated in testimony filed with the state. "Specifically, the proposal specifies that for 'persistent toxic pollutants,' the human health standards shall apply to *all tributaries* of waters with a designated, existing or attainable fishery use. Many of the tributaries are ephemeral, which by definition, do 'not support a self-sustaining population of fish.'"

Horning, of Forest Guardians, said his group will speak in favor of the commission applying the standards to ephemeral streams.

"Absolutely they have to apply to ephemeral stream courses," Horning said. "Because what happens to a lot of these pollutants is they bind to sediment, and the sediment ultimately gets to a perennial stream. Litigation interpreting the Clean Water Act has been resolved in favor of the need to protect ephemeral waters. "They're trying to insulate

themselves from the requirements of the Clean Water Act, saying, 'If we discharge to an ephemeral waterway, it just doesn't matter,'" Horning said of the laboratory. "And nothing could be further from the truth."

The San Juan Water Commission, meanwhile, has filed notice it intends to ask the state's water commission to postpone action on the proposed new regulations to give the public time "to fully analyze the scientific basis for each of the approximately 92 human health standards and 18 aquatic life standards proposed by the New Mexico Environment Department."

Environment Secretary Pete Maggiore on Friday declined to allow a reporter to speak with Surface Water Quality Bureau workers about the regulations. He said his department would only respond to written questions because of what he maintained has been one-sided and inaccurate reporting in *The New Mexican*.

Maggiore hasn't returned calls to a *New Mexican* reporter since the newspaper first reported last year that Maggiore and other state officials had engaged in secret talks with officials of the Phelps Dodge Mining Company to reduce a multi-million dollar cleanup bond that the Environment Department staff had recommended. The state ultimately agreed to cut the proposed bond roughly in half, and the matter is pending before a department hearing officer.

The Water Quality Control Commission is scheduled to consider the proposed new regulations after its regularly scheduled meeting that begins at 9 a.m. Tuesday at the Old Senate Chambers on the second floor of the Bataan Memorial Building, 407 Galisteo St.