



New Mexico Environment Department

NMED Title VI Policies and Expanded Public Outreach

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A Brief Introduction to the New Mexico Environment Department

□ Mission

- Our mission is to protect and restore the environment and to foster a healthy and prosperous New Mexico for present and future generations. We implement our mission guided by four tenets:
 - Science: Using the best available science to inform our decision-making in protecting public health and the environment.
 - Innovation: Employing creative engineering and technological solutions to address environmental challenges.
 - Collaboration: Engaging communities and interested stakeholders in environmental decision-making outcomes.
 - Compliance: Ensuring meaningful compliance with state regulations and permits; leveling the playing field through enforcement.



A Brief Introduction to the New Mexico Environment Department

- Environmental Protection Division
 - ▣ Environmental Health Bureau
 - ▣ Occupational Health and Safety Bureau
 - ▣ Air Quality Bureau
 - ▣ Radiation Control Bureau
- Resource Protection Division
 - ▣ Hazardous Waste Bureau
 - ▣ Solid Waste Bureau
 - ▣ Petroleum Storage Tank Bureau
 - ▣ DOE Oversight Bureau
- Water protection Division
 - ▣ Surface Water Quality Bureau
 - ▣ Ground Water Quality Bureau
 - ▣ Drinking Water Bureau
 - ▣ Construction Programs Bureau



A Brief Introduction to New Mexico

July 2019 Population Estimate: 2,096,829

- Hispanic or Latino- 49.3%
- White (not Hispanic or Latino)- 36.8%
- American Indian or Alaska Native- 11%
- Black or African American- 2.6%
- Asian- 1.8%
- Native Hawaiian or Pacific Islander- 0.2%
- Two or More Races- 2.6%

Median Household Income- \$48,059

% Persons in Poverty- 19.5%

Source: <https://www.census.gov/quickfacts/fact/table/NM,US/PST045219> (July 31, 2020).



Interesting Fact About New Mexico

- **N.M. Const. Article VII, Section 3:** The right of any citizen of the state to vote, hold office or sit upon juries, shall never be restricted, abridged or impaired on account of religion, race, language or color, or inability to speak, read or write the English or Spanish languages except as may be otherwise provided in this constitution...
- **N.M. Const. Article XIX, Section 1:** The secretary of state shall cause any such amendment or amendments to be published in at least one newspaper in every county of the state, where a newspaper is published once each week, for four consecutive weeks, in English and Spanish when newspapers in both of said languages are published in such counties, the last publication to be not more than two weeks prior to the election at which time said amendment or amendments shall be submitted to the electors of the state for their approval or rejection; and shall further provide notice of the content and purpose of legislatively approved constitutional amendments in both English and Spanish to inform electors about the amendments in the time and manner provided by law.



This Story Starts with an EPA Civil Rights Complaint

- June 27, 2005, EPA Complaint No. 09R-02-R6 (“02” stands for the year, which was when the complaint was originally filed).
- Triassic Park RCRA Permit (Original issued 2002, renewal app. received 2011).
- Allegations
 - Failed to scientifically investigate disparate impacts.
 - Failed to provide LEP residents a meaningful opportunity to participate.
 - Statewide pattern and practice of similar discriminatory permitting.
- Contacted by EPA in 2016 to discuss resolution.



Informal Resolution Agreement

- Signed by EPA and NMED on January 19, 2017.
- Terms:
 - ▣ Triassic Park
 - ▣ Notice of Non-Discrimination
 - ▣ Grievance Procedures
 - ▣ Designation of Non-Discrimination Coordinator
 - ▣ Public Participation
 - ▣ Limited English Proficiency
 - ▣ Persons with Disabilities
 - ▣ Training



NMED Policy & Procedure 07-13:

Public Participation

- ❑ The basic premise is to evaluate demographics of the community of concern based upon data, historical knowledge, and communications with those in the community itself to create a Public Involvement Plan that discusses expanded public outreach efforts.
- ❑ Preliminary Screening (We say to use EJScreen, but EPA doesn't like EJScreen anymore.)
- ❑ PIP Creation: Description of Community, Including any Relevant Customs or Holidays; Detailed Outreach Plan, including public meeting/hearing location, public notice methodologies, location of information repository); Contingency Plan.
- ❑ Every PIP is reviewed by a departmental analyst for adequacy.



NMED Policy & Procedure 07-11:

Limited English Proficiency Accessibility Outreach

- Determination of the Extent of Obligation to Provide LEP Services
 - # of LEP individuals likely to be encountered in the community of concern.
 - Frequency at which LEP individuals come into contact with program.
 - Nature and importance of the activity or service provided.
 - Resources available and associated costs.
- Identifying LEP Individuals Who Need Language Assistance- Contact with NMED & I Speak Cards
- Language Assistance Measures (Translation and Interpretation)
- Providing Notice to LEP Persons (Pro Tip: If you're issuing a public notice, the English version and the Spanish version have to be the same.)
- Training



NMED Policy & Procedure 07-10: Non-Employee Disability Accessibility

- ❑ Had assistance from U.S. DOJ and EPA in drafting the policy, as it was one of the first (if not the first) in the nation for a state environmental agency.
- ❑ “NMED is committed to providing individuals with disabilities the opportunity for full participation in its programs, services, activities, actions, and proceedings through its compliance with Section 504 of the Rehabilitation Act of 1973 and the ADA of 1990, as amended by the ADA Amendments Act of 2008.”
- ❑ Accommodations
- ❑ Facility Accessibility
- ❑ Training



NMED Policy & Procedure 07-09: Non-Employee Discrimination Complaint

- Had Policy & Procedure in place prior to the Informal Resolution Agreement.
- Had never been utilized (perhaps because the public did not know it existed...but hopefully because they think that NMED does not discriminate).
- Refined the Policy & Procedure to make the steps clear for the submittal, processing, investigation, and disposition of such complaints.
- Revised Policy & Procedure was posted on the external website!



Reaction

□ NMED

- ▣ We're following our regulatory requirements, that should be sufficient.
- ▣ This is going to take a lot of time/money that we don't have.
- ▣ EPA...
- ▣ Ok. Sounds good. Let's give it a try.

□ Regulated Entities

- ▣ Remind us why this is necessary?
- ▣ EPA...
- ▣ We want to help NMED out and we want to get our permit, so we will do whatever is necessary.

□ Complainants

- ▣ We are outraged that NMED and EPA settled.
- ▣ EPA...
- ▣ NMED is annoying. And discriminatory.



Results

- ❑ NMED has hired a full-time departmental Spanish translator.
- ❑ All of the policies & Procedures are on the external website in English and Spanish.
- ❑ People can submit environmental complaints in English and Spanish.
- ❑ More hearings and public meetings have interpretive services available.
- ❑ NMED contracted with a phone interpretation service for use in the offices and in the field.
- ❑ NMED has banned the use of Google translate (and other similar tools...).
- ❑ NMED's IT is continually updating the external website for ADA compatibility.
- ❑ Recognition by the Bureaus that appropriate budgetary planning must occur (while acknowledging that the full scope of outreach efforts in a year may not be known).
- ❑ NMED employees have become very good at spotting where additional outreach would be beneficial, and thinking of creative, effective ways to do outreach.
- ❑ And more! The sky is the limit!



Lessons Learned

- A large state agency can embrace new ideas and methodologies related to Title VI.
- The regulated community, in large part, is supportive of Title VI efforts.
- Expanded public outreach efforts create positive participation outcomes for communities.



Questions?

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