

# NEW MEXICO INTERSTATE STREAM COMMISSION

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**Submitted Electronically to:** pw.environment@env.nm.gov

New Mexico Environmental Department  
1190 St. Francis Dr., Suite N4050  
P.O. Box 5469  
Santa Fe, NM 87502

**RE: Notice of Public Comment Period Regarding the New Mexico Environment Department's Proposed Water Reuse Regulations, Ground and Surface Water Protection – Supplemental Requirements for Water Reuse (20.6.8 NMAC)**

The New Mexico Office of the State Engineer (NMOSE) and New Mexico Interstate Stream Commission (NMISC) hereby submit comments (Comments) to the New Mexico Environmental Department (NMED) Draft Water Reuse Regulations, Ground and Surface Water Protection. We thank the NMED for the opportunity to comment. The NMOSE/NMISC supports the proposed water reuse regulations because the ability to discharge treated reuse water within groundwater aquifers with a permit will result in greater flexibility in water management for various basins, including and encompassing various Endangered Species Act (ESA) compliance purposes.

The NMOSE is statutorily charged with the general supervision of the waters of the state and of the measurement, appropriation, and distribution thereof. NMSA 1978, § 72-2-1 (1907). The NMOSE is interested in the proposed rules because of the potential impacts to State water rights administration and the direct flow needs of State water users.

The NMISC is charged with administration of all interstate water compacts for New Mexico, as well as protecting, conserving, and developing the water and stream systems of the State. NMSA 1978, § 72-14-3 (1943). The NMISC is interested in the proposed rules because of the potential effects of the proposed action on Compact administration and accounting.

## Comments on the Water Reuse Proposed Rule

**20.6.8.7.A.(4)** : Suggest cutting the last two sentences of the definition of “**Application**”.

**20.6.8.7.C.(7)(iv)** : the header “**iv**” should be bolded.

**20.6.8.7.C.8** : Suggest adding definition to “Commercial wastewater”. Suggested definition;  
*“Commercial wastewater comes from non-domestic sources, such as beauty salon, taxidermy,*

*furniture refinishing, musical instrument cleaning, or auto body repair shops. This wastewater may contain hazardous materials and requires special treatment or disposal.”*

**20.6.8.7.C.(8)** : “**Conventional Well**” add “a well drilled to extract” before the word “oil”.

**20.6.8.7.D.(1)** : “**Defacto**” should be two words being “De facto”. Also, suggested to use this common definition; “*The downstream use of surface water as a source of drinking water that is subject to upstream wastewater discharges (also referred to as ‘unplanned potable reuse’)*”.

**20.6.8.7.D(4)** : Suggested to use this common definition for “**Direct potable**”; “*The delivery of purified water to a drinking water plant or a drinking water distribution system without an environmental buffer. Additional treatment, monitoring, and/or an engineered buffer(s) would be used in place of an environmental buffer to provide equivalent protection of public health and response time in the event that the purified water does not meet specifications.*”

**20.6.8.7.E(2)** : Suggested to use this common definition for “**Environmental buffer**”; “*A water body such as an aquifer, wetland, river, or reservoir which provides a number of benefits. Benefits include contaminant removal, dilution and blending, and time to detect and respond to failures before final treatment and distribution. These benefits, in conjunction with varying levels of upstream treatment, provide the necessary public health assurances required of potable reuse projects.*”

**20.6.8.7.G** : Suggested to add definition for ‘**Groundwater Replenishment Reuse Program**’.

Example being: “*The process of adding recycled water to a groundwater basin for use as a source of water for drinking water supplies. Surface spreading involves augmenting groundwater with tertiary treated recycled water via spreading basins followed by soil aquifer treatment. In addition, full advanced treatment is needed for augmenting groundwater with recycled water by direct injection*”.

**20.6.8.7.H.(1)** : “**Hydraulic fracturing**” or “**fracking**” add “for the purposes of this rule” (as water well drillers also use this method to stimulate groundwater flow). Suggested to also eliminate language about fracturing fluid proprietary additives.

**20.6.8.7.I.(2)** : Suggested to use this common definition for “**Indirect potable**”; “*to augment groundwater or surface waters*”.

**20.6.8.7.I** : Suggest adding definition for “**industrial wastewater**”.

**20.6.8.7.I.(7)** : “**Irrigation**” suggest changing definition provided to “means the watering of land by artificial means to foster plant growth.”

**20.6.8.7.L.(1)** : “**Land application**” mentions domestic wastewater and industrial wastewater but does not mention commercial waste water. It may help to have examples, such as rangeland restoration, dust control, compaction, etc. Also suggested to add the following; “*distribution of either treated wastewater of acceptable quality, referred to as effluent, upon, or insertion into, the land with a uniform application rate for the purpose of utilization, or assimilation*”.

**20.6.8.7.O** Suggested to add definition for ‘**Operator**’; “‘operator’ means a person authorized by the oil conservation division of the energy, minerals and natural resources department to operate a unit for an oil or gas well or other oil or gas facility”.

**20.6.8.7.P.(4)** : “**Planned water reuse**” suggest removing the term “beneficially” as it has water rights implications and replace with fit-for-purpose reuse of a recycled water supply to optimize water usage.

**20.6.8.7.P.(5)** : “**Potable**” suggest changing definition provided to “means suitable for human consumption.”

**20.6.8.7.T(2)** : The legislative statute states that; “*treated water*” or “*treated produced water*” means *produced water that is reconditioned by mechanical or chemical processes into a reusable form.*”

These definitions should match.

**20.6.8.7.U.(1)** : “**Unconventional well**” add “a well drilled to extract” before the word “oil”. Also, suggested to eliminate the ‘example’ sentence in the body of the definition.

**20.6.8.7.W.(5) : “Wastewater”** (this is out of order, “Wastewater” comes before “Water contaminant”). Want to make sure that cannabis hydroponic wastewater is included in industrial, but we would call it “commercial”. Their current definition does not address commercial wastewater.

**20.6.8.400.B(1) :** “Authorized applications” other than through a demonstration project are not identified.

**20.6.8.400.B.1(a), (f) and (i) :** Applicable federal, state and local permits and certifications that would apply to demonstration projects, untreated and treated produced water handling, transportation and storage and disposal are not identified.

**20.6.8.400(D)(1) :** Effluent Quality should also include consideration of the phase, transformation, minerology, or reactivity/polarity of co-contaminants.

### **Additional editorial comments**

We thank you for this opportunity to provide comments on the water reuse proposed regulations. The NMOSE and NMISC look forward to working with the NMED to implement the new water reuse rules. If you have any further questions regarding this matter, please do not hesitate to contact us, or you may contact Jerri Pohl by email at [jerri.pohl@ose.nm.gov](mailto:jerri.pohl@ose.nm.gov) or at 505-827-7848.

Sincerely,



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Mike A. Hamman, P.E.  
New Mexico State Engineer,  
Rio Grande Compact Commissioner, and  
New Mexico Interstate Stream Commission Secretary



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Hannah Riseley-White, Director  
New Mexico Interstate Stream Commission

MAH/HRW/kme

cc: Nat Chakeres, General Counsel, NMOSE  
John T. Romero, Water Resource Allocation Program/Water Rights Director, NMOSE  
Jerri Pohl, Statewide Projects, NMOSE  
Chris Shaw, Rio Grande Bureau Managing Attorney, NMISC  
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