

ONRW Initiative
Draft Proposed Amendments to Standards for Interstate and Intrastate Surface Waters
20.6.4 NMAC
November 20, 2009

20.6.4.7 NMAC:

C. “Agreement agency” means a federal, state or local agency that is a signatory to a commission-approved memorandum of agreement with the department and that has authority to make land use or resource management decisions where an outstanding national resource water is located.

20.6.4.8.A NMAC:

(3) Activities that may result in degradation shall be allowed in surface waters of the state when such activities will result in restoration or maintenance of the chemical, physical or biological integrity of the waters.

(a) The department or an agreement agency may approve on a case-by-case basis discharges that may result in degradation referred to in Paragraph (3) above in accordance with the following:

(i) The degradation shall be limited to the shortest possible time.

(ii) The degradation shall be minimized and controlled by BMPs or in accordance with permit requirements as appropriate. All practical means of minimizing the duration, magnitude, frequency and cumulative effects of degradation shall be utilized.

(iii) The degradation shall not result in water quality lower than necessary to protect any existing use of the surface water.

~~(3) No degradation shall be allowed in waters designated by the commission as outstanding national resource waters (ONRWs), except as provided in Subparagraphs (a) through (e) of this paragraph.~~

~~(a) Temporary and short term degradation of water quality shall be allowed only when such degradation can be shown to result in restoration or maintenance of the chemical, physical or biological integrity of the ONRW and is consistent with the objectives in 20.6.4.6 NMAC and with the purposes for which the commission designated the ONRW.~~

~~(b) Temporary and short term degradation of water quality that complies with Subparagraph (a) of this paragraph shall be limited to the shortest possible time and last no longer than 12 months, unless approved by the commission.~~

~~(c) Temporary and short term degradation shall only be approved on a case-by-case basis by the commission, the department or a designated management agency as appropriate. Temporary and short term degradation resulting from applications under 20.6.4.16 NMAC shall be considered and may be approved by the commission. All other temporary and short term degradation shall be considered and may be approved by the department or by a designated management agency pursuant to a commission-approved memorandum of agreement between the department and the designated management agency. In approving temporary and short term degradation, the commission, the department or the designated management agency~~

shall consider and minimize the frequency and cumulative effects of such degradation. The approval of temporary and short-term degradation shall not result in permanent degradation of water quality in the ONRW or in water quality lower than necessary to protect existing uses in the ONRW and shall not alter the essential character or special use that makes the water an ONRW.

~~(d) In implementing activities that may result in temporary and short-term degradation of water quality, all practical means of minimizing such temporary and short-term degradation shall be utilized.~~

(4) Where waters have been designated by the commission as outstanding national resource waters (ONRWs), water quality shall be maintained and protected.

(a) The department or an agreement agency may approve on a case-by-case basis discharges that may result in temporary and short-term degradation of water quality in an ONRW in accordance with the following:

(i) The degradation shall be limited to the shortest possible time.

(ii) The degradation shall be minimized and controlled by BMPs or in accordance with permit requirements as appropriate. All practical means of minimizing the duration, magnitude, frequency and cumulative effects of degradation shall be utilized.

(iii) The degradation shall not result in water quality lower than necessary to protect any existing use in the ONRW.

(e) Preexisting land-use activities allowed by federal or state law prior to designation as an ONRW, and controlled by best management practices (BMPs), shall be allowed to continue so long as there are no new or increased discharges resulting from the activity after designation of the ONRW.

20.6.4.9.D NMAC:

(3) Waters in federally designated Wilderness Areas within United States Forest Service (USFS) lands.