

DISCUSSION DRAFT

TITLE XX [title XX name]
CHAPTER XXX [chapter XXX name]
PART XXXX [part XXXX name]

x.xx.xx.1 ISSUING AGENCY: New Mexico Interstate Stream Commission, hereinafter the commission.
[x.xx.xx.1 NMAC – N, xx/xx/202x]

x.xx.xx.2 SCOPE: This rule governs the process for developing and maintaining regional water planning pursuant to the Water Security Planning Act.
[x.xx.xx.2 NMAC – N, xx/xx/202x]

x.xx.xx.3 STATUTORY AUTHORITY: Section 72-14A-1, et seq. NMSA 1978.
[x.xx.xx.3 NMAC – N, xx/xx/202x]

x.xx.xx.4 DURATION: Permanent.
[x.xx.xx.4 NMAC – N, xx/xx/202x]

x.xx.xx.5 EFFECTIVE DATE: xxxxxxxxxxxx xx, 2025, unless a later date is cited in the history note at the end of a section.
[x.xx.xx.5 NMAC – N, xx/xx/202x]

x.xx.xx.6 OBJECTIVE: To establish the criteria and procedures to develop, approve and maintain regional water plans, pursuant to the Water Security Planning Act, Section 72-14A-1 et seq. NMSA 1978.
[x.xx.xx.6 NMAC – N, xx/xx/202x]

x.xx.xx.7 DEFINITIONS:

A. “Commission” means the New Mexico Interstate Stream Commission and its members, authorized under NMSA 1978 § 72-14-1, and the director and employees of the commission.

B. “Planning Region” or “Region” means an area of the state as described herein that defines the planning area for Regional Water Security Planning Councils.

C. “Regional Water Security Planning Council” or “Council” means individuals, representing groups or organizations as described herein, who make up the Council and lead the regional water security plan development and implementation process in their respective region.

[x.xx.xx.7 NMAC – N, xx/xx/202x]

x.xx.xx.8 WATER SECURITY TRIBAL ADVISORY COUNCIL

A. Subject to available funding and resources, the commission shall provide administrative support and facilitation, in consultation with the office of the state engineer and Indian affairs department, for the establishment and operation of a water security tribal advisory council (“WSTAC”) comprising representatives of New Mexico pueblos, tribes and nations.

B. The purpose of the WSTAC is to provide a forum for input from New Mexico pueblos, tribes and nations to ensure that their sovereignty, water rights, water needs, and other viewpoints are considered and incorporated in the regional water planning process or other activities as determined by the commission.

C. The participating pueblos, tribes and nations shall determine their own procedures and operating principles.

x.xx.xx.9 PLANNING REGIONS

A. The nine (9) Regional Water Security Planning Regions (“Planning Regions”) are shown in Exhibit A (map).

x.xx.xx.10 COMPOSITION OF REGIONAL WATER SECURITY PLANNING COUNCIL

A. The commission shall invite representatives, who reside within the planning region, from the following entities located within each Planning Region, except as otherwise provided for in sections C and D below, to establish the Regional Water Security Planning Council (“Council” or “Planning Council”). Each entity is entitled to have a representative serve on the council for any Planning Region that it is located within. The commission shall convene the representatives with the goal of establishing the members of a Council by consensus, or, if no

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agreement is reached, the commission shall determine the initial members of the Council. A Council can also self-organize provided the criteria below are met. Council membership will be based on the following:

- (1) one representative appointed by the governing body of each municipality;
- (2) one representative appointed by the governing body of each county;
- (3) one representative appointed by the governing body of each irrigation or conservancy district;
- (4) one representative appointed by the governing bodies of each Pueblo, Tribe, or Nation;
- (5) one representative appointed by the governing body of each council of government;
- (6) one representative appointed by the governing bodies of each soil and water conservation district;
- (7) one acequia or community ditch representative for each county located in whole or in part within the planning region, who shall be appointed by the governing body of the New Mexico Acequia Commission; and
- (8) one representative for mutual domestic or community regional water systems for each county located in whole or in part within the planning region, who shall be appointed by [?].

B. Each Council shall invite ten at-large members, located within the region, to represent the following stakeholders or stakeholder groups:

- (1) agricultural producers;
- (2) a public higher education institution;
- (3) environmental or conservation organizations with water security concerns in the Planning Region;
- (4) recreational interests;
- (5) industrial water users; and
- (6) five additional at-large members.

C. Each council shall invite three non-voting representatives for entities outside the Planning Region. Representatives appointed pursuant to this shall not be required to reside within the borders of the planning region.

D. If a qualified or willing representative cannot be identified to serve as a representative for any entity or stakeholder described in sections 4.A or 4.B, the commission may select a replacement non-voting member who is knowledgeable about water resources in the Planning Region.

E. The council shall adopt written operating principles that describe the following, at a minimum, and shall provide their operating principles to the commission upon request:

- (1) the roles and responsibilities of the council members;
- (2) the duration of the term for representatives on the council; and
- (3) the grounds and process for removing a representative from the council.

F. Subject to the commission director’s determination of adequate funding and staffing, a commission staff member who resides within the region shall act as the commission’s liaison to the council for the purpose of ensuring the proper coordination of commission information, policies, and resources.

G. The commission shall provide administrative support and facilitation for up to three (3) meetings of the Council per calendar year.

x.xx.xx.11 REGIONAL WATER SECURITY PLANNING COUNCIL MEETING REQUIREMENTS

A. Meetings shall be held at least three (3) times per year during periods of plan development or update.

B. Councils must provide reasonable notice of meetings or other activities to council members, the public, and the commission.

C. Subcommittee meetings may be held and may or may not be supported by commission staff and resources.

x.xx.xx.12 ADOPTION OF REGIONAL WATER SECURITY PLAN: In order to be approved by the commission, regional plans must meet the following criteria:

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- A. Plans shall include a list of projects, programs and policies in order of priority.
- B. Councils shall seek and document in the plan Water Security Tribal Advisory Council (WSTAC) involvement, input and endorsements, as applicable.
- C. Councils shall seek and document in the plan public input in the development, vetting and prioritization of regional water planning activities and proposals.
- D. Councils shall seek and document and incorporate comments received from stakeholders consistent with the guidelines laid out by the commission.
- E. Plans shall provide documentation of comments received from, and coordination with, state and federal agencies.
- F. Councils shall review existing water plans and data sets of municipalities, counties, and other entities within or relevant to the Planning Region and use them as appropriate.
- G. The outcomes sought by each Regional Water Security Plan shall:
 - (1) be established through broad public input;
 - (2) consider public welfare values, balancing water uses and the needs of future generations of New Mexicans;
 - (3) comply with state water law;
 - (4) be developed using the best available science;
 - (5) recognize and respect federally recognized or reserved tribal water rights;
 - (6) consider access to water for domestic use; and
 - (7) comply with applicable federal water law.
 - (8) consider the water needs of healthy fish and aquatic and riparian habitats.
- H. Councils must report to the commission by June 30 of each year on the progress of Planning Activities and outcomes of Regional Water Security Plan implementation.
- I. Plans shall be updated at least once every ten years and may be updated more frequently. The commission will maintain and publish all water security plans developed by Planning Councils.

x.xx.xx.13 PROCEDURE FOR REGIONAL WATER SECURITY PLANNING COUNCILS TO DEVELOP AND PROVIDE NOTICE TO THE COMMISSION OF ISSUES AND CONCERNS RELATING TO THE PUBLIC WELFARE OF THE WATER PLANNING REGION

- A. Identifying Public Welfare Issues and Concerns for Water Planning Region: Each Council shall establish a process for identifying the issues and concerns relating to the public welfare of the Council's water planning region. The process shall comply with the following requirements:
 - (1) All water rights holders or other interested parties who may be affected by a Council's determination shall be given a full and fair opportunity to participate in the process.
 - (2) Any member of the public or member of a Council may suggest a possible issue and concern related to public welfare for consideration by a Council.
 - (3) A Council shall not act on any suggestion until the requirements of notice and opportunity for participation under this rule have been met.
 - (4) In determining whether a particular issue or concern rises to the level of the public welfare of the water planning region, a Council is not required to reach unanimous consensus, but the Council shall include a clear description of the positions of any opponents when it transmits its determination to the Commission.
 - (5) Issues and concerns relating to the public welfare of a water planning region identified by a Council under the procedures outlined in this rule shall not be duplicative of the water rights evaluation factors set forth in the state engineer's authorizing statutes (i.e., impairment of existing water rights, contrary to conservation of water within the state, or detrimental to the public welfare of the state).
- B. State engineer consideration of regional issues of public welfare in permitting decisions:
 - (1) The state engineer, in its permitting decisions, may consider issues of public welfare of a water planning region identified by a Council if the state engineer determines that such regional issues are related to or may impact the public of the welfare of the state.
 - (2) The state engineer shall not be bound by any determination of a Council.

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(3) In reviewing applications that implicate a given issue or concern identified by a Council as relating to the public welfare of a water planning region, the state engineer shall explain its reasoning related to such issue or concern if the state engineer determines that it is relevant to the public welfare of the state.

C. Notification of Council's Determination:

(1) When a Council has determined that an issue or concern relates to the public welfare of a water planning region, the Council shall notify the Commission;

(2) The notification shall include the information contained in Subsection A of this Section;

(3) The Commission's staff shall notify the relevant state engineer district office(s) of the Council's determination and shall provide all relevant documentation relating to the determination.

x.xx.xx.14 PROCEDURE FOR A REGIONAL WATER PLANNING COUNCIL TO CONSIDER PUBLIC WELFARE VALUES AND THE NEEDS OF FUTURE GENERATIONS OF NEW MEXICANS

A. Regional Water Planning Council may consider public welfare values of the water planning region after such values have been determined pursuant to the procedures set forth in Section 12 of this rule.

B. Regional Water Planning Council shall consider the following public welfare values of the state in their regional water planning activities:

(1) The state's ability to meet its obligations under interstate compacts;

(2) The state's ability to comply with the Endangered Species Act, or otherwise prevent significant harm to the habitats of Federal- and State-endangered or -threatened species; and

(3) Regional water rights settlements, including tribal water rights settlements and alternative administration plans under the Active Water Resources Management program.

C. Procedure for a Regional Water Planning Council to consider the needs of future generations of New Mexicans:

(1) The Regional Water Planning Council shall use the best science, data and models related to water resource planning and shall use them with scientific integrity and adherence to principles of honesty, objectivity, transparency and professionalism, as specified in NMSA 1978, Section 72-14A-4(C)(7);

(2) Regional Water Planning Council shall utilize such data and models to consider the needs of future generations of New Mexicans in their regional planning activities.

HISTORY OF x.xx.xx NMAC: [RESERVED]