

19.25.14.1 ISSUING AGENCY:

New Mexico Interstate Stream Commission.
[19.25.14.1 NMAC - N, 12-15-2005]

19.25.14.2 SCOPE:

These regulations will assist the interstate stream commission in implementing the strategic water reserve and in managing water and water rights held for the strategic water reserve.
[19.25.14.2 NMAC - N, 12-15-2005]

19.25.14.3 STATUTORY AUTHORITY:

These regulations are written pursuant to Section 72.14-3.3 NMSA 1978, authorizing the interstate stream commission to establish a strategic water reserve and requiring the promulgation of rules in conformity therewith.
[19.25.14.3 NMAC - N, 12-15-2005]

19.25.14.4 DURATION:

Permanent.
[19.25.14.4 NMAC - N, 12-15-2005]

19.25.14.5 EFFECTIVE DATE:

December 15, 2005, unless a later date is cited at the end of a section.
[19.25.14.5 NMAC - N, 12-15-2005]

19.25.14.6 OBJECTIVE:

These regulations will ensure that water and water rights acquired for the strategic water reserve are used only for the purposes of the reserve, that adequate public notice exists in each affected area for the acquisition or disposal of water rights and that the procedures for the acquisition of water and water rights for the strategic water reserve comply with the state engineer transfer procedures.
[19.25.14.6 NMAC - N, 12-15-2005]

19.25.14.7 DEFINITIONS:

Unless defined below or in a specific section of these regulations, all other words used herein shall be given their customary and accepted meanings. **“Water rights”** means valid existing surface or groundwater rights that have sufficient seniority and a consistent, historic beneficial use to effectively contribute to the purpose of the strategic water reserve.
[19.25.14.7 NMAC - N, 12-15-2005]

19.25.14.8 LIBERAL CONSTRUCTION:

These regulations shall be liberally construed to carry out their intended purpose.
[19.25.14.8 NMAC - N, 12-15-2005]

19.25.14.9 IMPLEMENTATION OF STRATEGIC WATER RESERVE - RIVER REACH OR BASIN PRIORITIES:

A. During the first quarter of each year, the interstate stream commission, after consultation with the state engineer, and the attorney general, shall adopt river reach or ground water basin priorities for the strategic water reserve and for the acquisition of water or water rights and storage rights for the reserve. In establishing such priorities, the interstate stream commission shall consider:

- (1) the urgency of need for water or water rights to be held in the strategic water reserve in a river reach or basin;
- (2) the unavailability of water rights for sale or lease in the river reach or basin and/or whether storage exists for such water;
- (3) the cost, location and seniority of the water or water rights in the river reach or basin;
- (4) whether and to what extent water rights to be purchased or leased will assist the state in complying with its interstate stream compacts or court decrees or will assist the state in managing its waters for the benefit of threatened or endangered species;
- (5) whether water or water rights are available by donation; and
- (6) written comments, if any, from interested public and private entities.

B. The interstate stream commission shall publish its designated river reach or ground water basin priorities in newspapers of general circulation throughout the state. In addition, the interstate stream commission shall publish its designated river reach or ground water basin priorities on its website.
[19.25.14.9 NMAC - N, 12-15-2005]

19.25.14.10 IMPLEMENTATION OF STRATEGIC WATER RESERVE - PRIORITIZATION WITHIN RIVER REACH OR BASINS:

Consistent with Section [72-14-3.3](#) NMSA 1978, for each priority river reach or ground water basin, the interstate stream commission shall establish additional prioritization in coordination with the governing bodies of each Indian nation, tribe, pueblo, board of county commissioners, municipality, special district established pursuant to Chapter 73 NMSA 1978, soil and water conservation district, water authority and water planning region within each affected river reach or ground water basin. Upon making the initial prioritization of river reach or groundwater basin, the commission shall notify the governing bodies of each such entity. Within thirty (30) days after adoption of such initial river reach or ground water basin priorities by the commission as provided in the preceding paragraph, or at the next regularly scheduled meeting of the commission that occurs at least fifteen (15) days after adoption of such priorities as provided in the preceding paragraph, the governing bodies of each such entity and any other interested public and private entities, shall submit comments and suggestions as to this additional prioritization of the acquisition of water or water rights within each priority river reach or groundwater basin. The interstate stream commission will publish notice of, and hear public comments regarding, its prioritization decisions.
[19.25.14.10 NMAC - N, 12-15-2005]

19.25.14.11 ACQUISITION OF WATER OR WATER RIGHTS:

Consistent with its prioritizations, the interstate stream commission shall acquire water or water rights from willing sellers or lessors. The commission shall acquire water or water rights at a price no higher than appraised market value, based upon the best available information and considering the seniority and the consistent historic beneficial use of the water or water rights. The interstate stream commission may acquire water or water rights by donation at any time. Acquisitions shall be contingent upon a successful transfer of the water rights to the interstate stream commission pursuant to the procedures for transfer of water rights established by the state engineer. The interstate stream commission shall not purchase or lease water or water rights that will result in an increase in net depletions in the affected river reach or that will create cumulative adverse impacts on existing water users or delivery systems or the ability of the state of New Mexico to properly manage its waters or meet interstate obligations. The commission shall not acquire water or water rights that are served by or owned by an acequia or community ditch established pursuant to Articles 2 and 3 of Chapter 73 NMSA 1978 for inclusion in the strategic water reserve. The interstate stream commission shall not acquire water or water rights that are served by an irrigation district established pursuant to Article 10 of Chapter 73 NMSA 1978 except through a contractual arrangement with the district board of directors or the interstate stream commission may establish a special water users association pursuant to [73-10-48](#) NMSA 1978. The interstate stream commission acquires water or water rights from a member of an irrigation or conservancy district established pursuant to Chapter 73 NMSA 1978, the interstate stream commission shall utilize funds from the strategic water reserve to pay the annual assessment to the district that would accrue to the district absent the transaction.
[19.25.14.11 NMAC - N, 12-15-2005]

19.25.14.12 APPLICATION FOR PERMIT WITH THE STATE ENGINEER:

All acquisitions of water or water rights by the commission for the strategic water reserve are subject to approval by the state engineer and shall comply with all state engineer rules and regulations governing surface and ground water transfer applications.
[19.25.14.12 NMAC - N, 12-15-2005]

19.25.14.13 MANAGEMENT OF WATER:

A. The interstate stream commission shall manage water and water rights within the strategic water reserve in order to assist the state in complying with its interstate compacts and court decrees or to assist the state and water users in water management efforts for the benefit of threatened or endangered species or in a program intended to avoid additional listings of species.

B. If water or water rights are purchased, leased or acquired through donation to assist the state and water users in water management efforts for the benefit of threatened or endangered species or in connection with a

program intended to avoid additional listings of species, the interstate stream commission shall manage such water or water rights in conjunction with collaborative programs or processes where they exist.

C. The commission shall expedite the transfer and management of water rights donated to the strategic water reserve.

D. Water or water rights acquired for the strategic water reserve shall remain in their river reach or groundwater basin of origin.

[19.25.14.13 NMAC - N, 12-15-2005]

19.25.14.14 ADMINISTRATIVE COSTS:

The interstate stream commission shall determine annually its administrative costs associated with the strategic water reserve and consistent with Section 72-14-3.3 NMSA 1978 such costs shall be paid for from funds received for the strategic water reserve.

[19.25.14.14 NMAC - N, 12-15-2005]

19.25.14.15 DISPOSAL OF WATER RIGHTS:

The interstate stream commission may sell or lease water or water rights from the strategic water reserve only upon a finding by the commission that such water or water rights are no longer necessary for the reserve and only at a price no less than appraised market value. The interstate stream commission may lease water or water rights from the strategic water reserve to the United States but shall not sell water rights from the strategic water reserve to the United States. The interstate stream commission shall utilize proceeds from the leasing of water rights from the strategic water reserve for carrying out the purposes of the strategic water reserve. Any sale of water or water rights from the strategic water reserve shall first be offered for the original purpose of use. Proceeds from such sales shall be used by the office of the state engineer to adjudicate water rights.

[19.25.14.15 NMAC - N, 12-15-2005]

19.25.14.16 ANNUAL LEGISLATIVE REPORT:

On or before December 15th of each year, the interstate stream commission shall report to the appropriate committee of the legislature on the status of the strategic water reserve.

[19.25.14.16 NMAC - N, 12-15-2005]

HISTORY OF 19.25.14 NMAC: [RESERVED]