PRODUCED WATER

UNSAFE FOR DISCHARGE OR OFF-OILFIELD REUSE

RADIOACTIVE AND HAZARDOUS MATERIALS COMMITTEE

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BECAUSE WATER MATTERS

BACKGROUND

What is produced water?

Produced water is a wastewater byproduct from the drilling and production of oil and gas. It’s a combination of the water and chemicals that go down the well, and the formation water and chemicals that come with the oil or gas that is extracted. Produced water contains known and unknown pollutants. Produced water is significantly different from brackish water.



BACKGROUND

What is in produced water?

- Oil
- Grease
- Suspended solids
- Dissolved solids
- Heavy metals
- Organics
- Naturally occurring radioactive materials
- Dissolved gases
- Other known and undisclosed hydraulic fracturing chemicals

Many are known hazards, including:

- Arsenic
- Barium
- Bromide
- Mercury
- Benzene
- Toluene
- Ethylbenzene
- Xylene



These chemicals have the potential to cause cancer, adverse developmental and reproductive outcomes, and other harmful effects to humans and the environment.

In 2025, the Water Quality Control Commission (WQCC) passed a produced water rule proposed by the New Mexico Environment Department (NMED) regulating discharge and reuse of treated and untreated produced water, satisfying the requirements of the act.

According to the WQCC in its 2025 produced water rule, there is insufficient data on the characterization and treatment of produced water to discharge it into the environment in a way that complies with state water quality standards and protects human health and the environment.

Produced water currently CANNOT be treated so it's safe for humans and the environment

BACKGROUND

What does the Commission's 2025 produced water rule do?

- Allows science and the development of treatment technologies to move forward by authorizing non -discharging "pilot projects" of any size or scale.
- Based on scientific evidence, the rule protects human health and the environment by prohibiting reuse outside the oilfield and discharge of treated and untreated produced water to surface and ground water.
- The rule "sunsets" in 2030 to give the state the opportunity to revise the rule in response to scientific progress.

NMAC 20.6.8.400

20.6.8.400 PRODUCED WATER REUSE: As provided in the Water Quality Act, Subsection P of Section 74 -6-4 NMSA 1978, and the Produced Water Act, Subsection B of Section 70-13-3 NMSA 1978, the following provisions apply to the discharge of produced water for activities unrelated to the exploration , drilling, production, treatment, or refinement of oil or gas.

A. General requirements.

(1) Untreated produced water discharge to surface water: No person shall cause or allo w untreated produced water to discharge so that it may move directly or indirectly to a surface water. The department shall deny certification of any federal permit proposing to discharge untreated produced wate r to a surface water.

(2) Treated produced water discharge to surface water: No person shall cause or allow treated produced water to discharge so that it may move directly or indirectly to a surface water. The department shall deny certification of any federal permit proposing to discharge treated produced water to a surface water.

(3) Untreated produced water discharge to ground water: No person shall cause or allow untreated produced water to discharge so that it may move directly or indirectly into ground water. The department shall not issue a discharge permit or a discharge permit modification that includes the dis charge of untreated produced water.

(4) Treated produced water discharge to ground water: No person shall cause or allow treated produced water to discharge so that it may move directly or indirectly into ground water. The department shall not issue a discharge permit or a discharge permit modification that includes the discharg e of treated produced water.

B. Authorized pilot projects

Pilot projects determined by the department not to require a discharge permit because the pilot project will not discharge in a manner that may directly or indirectly affect ground or surface water, are subject to the following requirements:

(1) Persons intending to conduct a pilot project shall secure and comply with all applicable federal, state, and local statutes, permits, and certifications, including the Produced Water Act, Sections 70-13-1, et. seq NMSA 1978, and including payment of department fees and satisfying department financial assurance requirements.

(2) The pilot project shall be designed to provide information specific to untreated produced water quality, treatment technologies, treated produced water quality, treatment volumes, and toxicity studies for potential produced water reuse applications.

(3) Any person intending to conduct a pilot project shall submit to the ground water quality bureau of the department an application for a produced water pilot project permit prior to use.

(4) Pilot projects shall not commence until the department has issued a pilot project permit.

(5) Persons distributing, transporting, storing, treating, or utilizing untreated or treated produced water shall have written procedures at the locations where the pilot project is physically located to describe measures to prevent releases onto the ground, directly or indirectly into ground or surface water.

(6) All untreated and treated produced water shall be handled, transported, distributed, and stored in accordance with all applicable local, state, and federal regulations.

(7) Any release of untreated or treated produced water is subject to the notifications and corrective actions in 20.6.2.1203 NMAC except releases under the authority of the oil conservation commission pursuant to the provisions of the Oil and Gas Act, NMSA 1978, Section 70-2-12 and other laws conferring power on the oil conservation commission and the oil conservation division of the energy, minerals, and natural resources department to prevent or abate water pollution.

(8) Persons disposing of untreated or treated produced water, as part of the final disposition following a pilot project shall use an appropriate method approved by the department, which may include one of the following methods in accordance with the relative permit: discharge to a produced water disposal well permitted pursuant to the oil conservation commission's regulations for oil and gas injection at 19.15.26 NMAC, delivery to a surface waste management facility permitted pursuant to the oil conservation commission's regulations for oil and gas surface waste management facilities at 19.15.36 NMAC, or disposal in a permanent pit permitted pursuant to the oil conservation commission's regulations for oil and gas pits, closed-loop systems, below-grade tanks and sumps at 19.15.17 NMAC. The department may consider alternative disposal options on a case-by-case basis.

(9) Persons disposing of the components of a pilot project using untreated or treated produced water, as part of the final disposition must adhere to all local, state, and federal regulations, as applicable.

IT'S IMPORTANT TO KNOW THAT:

- The oil and gas industry is propos ing to change the 2025 produced water rule to allow discharge of treated produced water to ground and surface waters.

- The push for discharge is for economic reasons: The industry is awash in produced water while deep well disposal is expensive, injection space is becoming limited, and deep injection can cause seismic activity.

- The oil and gas industry does not publicly disclose 10-25% of fracking chemicals, which are present in produced water. Without disclosure, it's more difficult to test for and detect contaminants.

- New Mexico faces a water scarcity crisis. We should not risk this scarce resource without certainty that we can keep our waters clean.

TWO NEW WHITE PAPERS ANALYZE STATE O
SCIENCE SINCE 2025 RULEMAKING

A. Produced Water in New Mexico: A Critical Review of Recent Toxicity and Risk Assessment Literature by Dr. Christopher Lewis

B. Beneficial Reuse of Treated Produced Water: Assessing Feasibility and Sustainability by Daniel Mueller, PE

Mueller, “Assessing Feasibility and Sustainability”

Economically and technologically viable treatment technologies for produced water DO NOT exist and are NOT ready for implementation at scale.

- Produced water treatment involves long “treatment trains” that include pre -treatment, distillation, reverse osmosis, and polishing.
- Each step is energy intensive, creating highly concentrated waste requiring special disposal.
- Actual treatment costs, energy consumption, and emissions are unknown, but significant —We have not seen realistic cost estimates
- Many produced water treatment plants have failed, leaving legacy environmental problems:

Treated produced water discharge IS NOT already occurring in Texas. New Mexico IS NOT falling behind.

Texas has not permitted discharge of treated produced water in the Permian Basin. The Texas Commi ss ion on Environmental Quality, in fact, has not issued draft permits for public review although applications are pending, including on e submitted over two years ago .

Texas is NOT taking New Mexico's produced water for reuse.

New Mexico oil and gas companies pay Texas companies to dispose of produced water in disposal wells. Texas is not di scharg ing or reusing New Mexico's produced water or otherwise using our produced water for beneficial use .



There ARE NO water quality standards for many of the contaminants in produced water.

New Mexico does not have water quality standards for many contaminants found in produced water. Water quality standards should be established prior to discharge to protect human health and the environment.

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THANK YOU VERY MUCH

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