



# PRODUCED WATER: LEGISLATIVE AND RULEMAKING INITIATIVES IN NEW MEXICO

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Water and Natural Resources Interim Committee

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# LEGISLATIVE INITIATIVES

**2019 HB 546: Legislature enacts Produced Water Act and amends Water Quality Act and Oil and Gas Act**

**72-2-12.B.** The oil conservation division may make rules . . .

**(15)** to regulate the disposition, handling, transport, storage, recycling, treatment and disposal of produced water during, or for reuse in, the exploration, drilling, production, treatment or refinement of oil or gas, including disposal by injection ...;

**74-6-4** The [water quality control] commission: . . .

**Q.** shall adopt rules to be administered by the department for the discharge, handling, transport, storage, recycling or treatment for the disposition of treated produced water, including disposition in road construction maintenance, roadway ice or dust control or other construction, or in the application of treated produced water to land, for activities unrelated to the exploration, drilling, production, treatment or refinement of oil or gas;

# RULEMAKING INITIATIVES

## **NMED Produced Water Petition: WQCC No. 23-84 (R)**

- Fall 2023: NMED convenes Advisory Committee
- Dec. 27, 2023: NMED files Petition proposing new rule at 20.6.8 NMAC regulating discharge of treated and untreated produced water

# LEGISLATIVE INITIATIVES

- 2019 HB 546: Legislature enacts Produced Water Act and amends Water Quality Act and Oil and Gas Act
- **Dec. 5, 2023: Governor Lujan Grisham announces Strategic Water Supply Initiative**
  - Proposes \$500M over 2 years for State to purchase treated brackish and produced water through “advanced market commitments”
  - Jan. 22, 2024: NMED and other agencies give presentation to LFC subcommittee
  - No bill filed

# RULEMAKING INITIATIVES

## NMED Produced Water Petition: WQCC No. 23-84 (R)

- Dec. 27, 2023: NMED files Petition
- Mar. 20, 2024: NMED files Amended Petition
- May and August 2024: Evidentiary hearing before WQCC
- Supported by 5 NMED technical staff, NMED proposed:
  - Prohibition on discharge of treated and untreated produced water to ground and surface water
  - Allowing non-discharging “demonstration projects”
  - Allowing non-discharging “industrial projects”

Q. Mr. McCurdy, [NMED witness Dr. Hu] refers to a report from the NMSU Civil Engineering Department . . . That . . . concludes that while emerging technologies . . . have the potential to significantly reduce costs, **they're still in the development phase and not ready for full-scale implementation. To date there is still a lack of robust data concerning the characterization of raw and treated produced water treatment technologies, effluent quality and the management of waste streams.** And I take it from looking at the papers you submitted and from testimony today you agree with Dr. [Hu's] summary in that regard?

A. [Rick McCurdy:] **Yes, ma'am, I would agree with the summary.** And as I said, **many of the technologies** that he mentions here, and I think I mentioned this earlier today, **do not exist at scale today.** They exist perhaps in a pilot scale process, but not in a larger scale like a 10,000 barrel a day, **they're just not there yet.**

# LEGISLATIVE INITIATIVES

- 2019 HB 546: Legislature enacts Produced Water Act and amends Water Quality Act and Oil and Gas Act
- Dec. 5, 2023: Governor Lujan Grisham announces Strategic Water Supply initiative; no bill filed
- **2025 HB 137: Strategic Water Supply Act**
  - Originally proposed \$75M for treated brackish and produced water projects
  - Amended to take out produced water projects in House Energy and Natural Resources Committee and appropriation reduced to \$40M

# RULEMAKING INITIATIVES

## NMED Produced Water Petition: WQCC No. 23-84 (R)

- Dec. 27, 2023: NMED files Petition
- Mar. 20, 2024: NMED files Amended Petition
- May and August 2024: Evidentiary hearing before WQCC
- April 8-9 & May 13-14, 2025: WQCC deliberations
- WQCC votes unanimously to:
  - Prohibit discharge of treated and untreated produced water to surface and ground water
  - Allow non-discharging “pilot projects” to study characterization and treatment of produced water, subject to a permit issued by NMED
  - Sunset rule in 5 years, recognizing science is advancing
- June 23, 2025: NMOGA appeals the rule
- July 12, 2025: Rule becomes effective

# RULEMAKING INITIATIVES

- **NMED Produced Water Petition: WQCC No. 23-84 (R)**
  - Dec. 27, 2023-July 12, 2025
- **WATR First Produced Water Petition: WQCC No. 25-34 (R)**
  - June 20, 2025: WATR files petition
  - July 8, 2025: WQCC grants request for hearing
  - Sept. 15, 2025: *Santa Fe New Mexican* reports on July 7, 2025 executive branch emails
  - Nov. 13, 2025: WQCC dismisses petition
  - Dec. 29, 2025: WATR files motion for reconsideration
  - Mar. 6, 2026: WATR withdraws motion for reconsideration

# LEGISLATIVE INITIATIVES

- 2019 HB 546: Legislature enacts Produced Water Act and amends Water Quality Act and Oil and Gas Act
- Dec. 5, 2023: Governor Lujan Grisham announces Strategic Water Supply; no bill filed
- 2025 HB 137: Strategic Water Supply Act enacted with \$40M for brackish water projects and excludes produced water projects
- **2026 HB 207**
  - Proposed to require WQCC to pass rules to require discharge of treated produced water by December 31, 2026
  - Tabled in House Agriculture, Acequias and Water Resources Committee
- **2026 HM 45**
  - Proposed that WQCC consider reuse of treated produced water in a petition before the WQCC from Taos County (that had not been filed)
  - Tabled in House Agriculture, Acequias and Water Resources Committee

# RULEMAKING INITIATIVES

- **NMED Produced Water Petition: WQCC No. 23-84 (R)**
  - Dec. 27, 2023-July 12, 2025
- **WATR First Produced Water Petition: WQCC No. 25-34 (R)**
  - June 20, 2025-Nov. 19, 2025
- **WATR Second Produced Water Petition: WQCC No. 26-16 (R)**
  - Mar. 3, 2026: WATR files petition
  - May 12, 2026: WQCC grants request for hearing

22 Appendix 1

<u>Category</u>	<u>Analyte</u>	<u>effluent limit range (in mg/L, or as otherwise noted)</u>		<u>Suggested reference value</u>
		<u>Lower bound</u>	<u>Upper bound</u>	
<u>Metals/Elements</u>	<u>Aluminum</u>	----	----	----
<u>Metals/Elements</u>	<u>Antimony</u>	----	----	----
<u>Metals/Elements</u>	<u>Arsenic</u>	----	----	----
<u>Metals/Elements</u>	<u>Barium</u>	----	----	----
<u>Metals/Elements</u>	<u>Beryllium</u>	----	----	----
<u>Metals/Elements</u>	<u>Boron</u>	----	----	----

20.6.8 NMAC

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Attachment 1