In 2019, House Bill 546 amended the Water Quality Act and gives NMED jurisdiction over treatment and use of produced water for purposes *outside* the oil and gas sector.

In addition, HB 546:

- Removes barriers to recycling of produced water by the oil and gas sector, thereby incentivizing a shift away from freshwater for fracking;
- Requires a person to obtain a permit from the department of environment before using the produced water, the recycled or treated water or treated product or any byproduct of the produced water for any purpose outside the oilfield; and
- Requires the Water Quality Control Commission (WQCC) to adopt regulations for NMED to implement that address the “discharge, handling, transport, storage, and recycling or treatment” of produced water or byproduct thereof outside the oilfield.
Investing in Science and Innovation

- MOU with New Mexico State University launched the New Mexico Produced Water Research Consortium to fill science and technology gaps for off-field reuse of treated produced water (details available at [https://nmpwrc.nmsu.edu/](https://nmpwrc.nmsu.edu/)).

- Examples of NMED’s broad research questions:
  - What contaminants are in the produced water generated in NM?
  - How can the produced water be treated to be safe for other uses?
  - What changes are needed to our state water quality standards to protect water resources and human health?

- NMED will look to results of Consortium efforts to inform future science-based regulations for treatment and reuse of produced water while protecting our most precious natural resource: fresh water.
In adopting regulations, the Water Quality Act requires the WQCC to consider:

- **Character and degree** of injury to or interference with health, welfare, environment and property;
- **Public interest**, including the social and economic value of the sources of water contaminants;
- **Technical practicability and economic reasonableness** of reducing or eliminating water contaminants from the sources involved and previous experience with equipment and methods available to control the water contaminants involved;
- **Successive uses**, including domestic, commercial, industrial, pastoral, agricultural, wildlife and recreational uses;
- **Feasibility** of a user or a subsequent user treating the water before a subsequent use;
- **Property rights** and accustomed uses; and
- **Federal water quality requirements**.
NMED has identified two phases for produced water regulations:

- **Phase 1**: Near-term narrow rulemaking to prohibit untreated produced water use outside of the oil and natural gas industry (e.g., other industries, agriculture, road construction) and increase information available to NMED about the chemical constituents in produced water.

- **Phase 2**: Over time and as the science dictates, develop rules for the “discharge, handling, transport, storage, and recycling or treatment of produced water or byproduct thereof outside the oilfield.”

- NMED will conduct public outreach to gather input prior to submitting a rulemaking petition to the WQCC.
Supporting Consortium Research

- Balancing research to fill critical science and technology gaps with ongoing protection of the environment and public health
- **No discharges** of produced water associated with NM Produced Water Research Consortium pilot projects during CY2021
- NMED is developing guidance for permit writers and future pilot project participants (post-2021) on getting permit coverage for research involving discharge, such as land application in a research plot, under current groundwater protection regulations.
NMED Produced Water Timeline

2019
- NM Produced Water Act
- NMED Produced Water Team Formed
- NMED, OCD, and OSE Statewide Public Engagement and Targeted Tribal Outreach
- NMED and NMSU launch NM Produced Water Research Consortium (PWRC)

2020
- Publish Summary of Initial Public Input
- Publish FAQs on Produced Water in NM, with OCD and OSE
- Collaborate with PWRC and technical experts to fill science and technology gaps

2021
- PWRC Initial Call for Pilot Projects (no discharge allowed)
- PWRC selects first round of Pilot Projects (no discharge allowed)
- NMED develops Pilot Project Guidance and adds new staff positions
- PWRC/NMED Statewide Public Education and Outreach (details TBD)

TBD
- NMED Phase 2 Rulemaking:
  Over time and as research dictates, develop science-based regulations for "discharge, handling, transport, storage, and recycling or treatment of produced water or byproduct thereof outside the oilfield"

2022
- NMED finalizes Interim Pilot Project Guidance
- PWRC Second Round of Pilot Projects (discharge potentially allowed)
- NMED Phase 1 Rulemaking: Prohibit untreated produced water use outside of the oil and natural gas industry

https://www.env.nm.gov/new-mexico-produced-water
https://nmpwrc.nmsu.edu/
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