

# New Mexico

## 1. Definitions

- a. Produced Water – Water brought to the surface during oil or gas well drilling, completion, and production operations, which may include formation water, injected water, and flowback water.

- i. If your state defines the term “produced water,” please provide that definition below.

***"produced water" means a fluid that is an incidental byproduct from drilling for or the production of oil and gas;***

**NMSA 1978 §§70-2-33(K) (Oil and Gas Act); 70-13-2(B) (Produced Water Act); 74-6-2(S) (Water Quality Act)**

- b. Recycle/Reuse – To process or treat produced water or its constituent substances for beneficial use.

- i. If your state defines the term “recycle” or “reuse,” please provide the definition(s) below.

***"recycled water" or "recycled produced water" means produced water that is reconditioned by a recycling facility permitted by the oil conservation division of the energy, minerals and natural resources department; NMSA 1978 §70-13-2(C) (Produced Water Act)***

***"treated water" or "treated produced water" means produced water that is reconditioned by mechanical or chemical processes into a reusable form***

**NMSA 1978 §70-13-2(D) (Produced Water Act)**

***"Recycling facility" is a stationary or portable facility used exclusively for the treatment, re-use or recycling of produced water intended for disposition by use. A recycling facility does not include oilfield equipment such as separators, heater treaters and scrubbers in which produced water may be used. 19.15.34.7(A) NMAC (oil and gas rules)***

***"Recycling containment" is a storage containment which incorporates a synthetic liner as the primary and secondary containment device and is used solely in conjunction with a recycling facility for the storage, treatment or recycling of produced water only for the purpose of drilling, completion, production or plugging of wells used in connection with the development of oil or gas or both. 19.15.34.7(B) NMAC (oil and gas rules)***

## 2. Ownership

a. Please describe the authority (deed, lease, contract, statute, regulation, case law, common law etc..) and include any relevant citations under which any of the following occurs.

i. The right to produce water during well completion and oil and gas production operations.

***“all produced water that is produced from an oil or gas well is the responsibility of and under the control of the working interest owners and operator of that oil or gas well. The working interest owners and operator shall have a possessory interest in the produced water, including the right to take possession of the produced water and to use, handle, dispose of, transfer, sell, convey, transport, recycle, reuse or treat the produced water and to obtain proceeds for any such uses”***  
NMSA 1978, §70-13-4(A)(1) (Produced Water Act)

ii. Ownership of produced water from oil or gas wells after it has been brought to the surface.

All natural water belongs to the public:

***“The unappropriated water of every natural stream, perennial or torrential, within the state of New Mexico, is hereby declared to belong to the public and to be subject to appropriation for beneficial use, in accordance with the laws of the state. Priority of appropriation shall give the better right.”*** N.M. Const. art. XVI, §2

***“The water of underground streams, channels, artesian basins, reservoirs or lakes, having reasonably ascertainable boundaries, is declared to belong to the public and is subject to appropriation for beneficial use.”*** NMSA 1978, §72-12-1

iii. Use and/or reuse of produced water in the oilfield.

**See (i) above.**

iv. Use and/or reuse of produced water outside of the oilfield.

**See (i) above.**

- b. Place an “x” in each box to indicate who holds the right to each of the following regarding water that has not yet been produced.

Who	Possession	Use	Other rights (please specify)
Landowner			
Operator			
Government			
Other (please specify)			

- c. Place an “x” in each box to indicate who holds the right to each of the following regarding produced water after it has been brought to the surface.

Who	Possession	Use	Other rights (please specify)
Landowner			
Operator	X	X	
Government			
Other (please specify)			

- d. Does the quality of the produced water play a role in the ownership of the water?

**No.**

### 3. Liability

- a. Please provide the cite to any relevant state statute/case law/regulation regarding liability for:

- i. Produced water handling (extraction, transportation, sale, etc.).

***“all produced water that is produced from an oil or gas well is the responsibility of and under the control of the working interest owners and operator of that oil or gas well.” NMSA 1978, §70-13-4(A)(1) (Produced Water Act)***

- ii. Use and/or reuse of produced water in the oilfield:

1. By the producer

**See (i) above**

2. By a different operator

***“when produced water is transferred, sold or conveyed to another operator, transporter, pipeline, midstream company,***

*plant, processing facility, refinery or entity that provides recycling or treatment services for produced water, the transferee shall have control of and responsibility for the produced water until the water is transferred to another operator, transporter, pipeline, midstream company, plant, processing facility, refinery or recycling or treatment facility.”*  
**NMSA 1978, §70-13-4(A)(2) (Produced Water Act)**

- iii. Use and/or reuse of produced water outside of the oilfield.  
See above

#### **4. State or Provincial Regulatory Agency**

- a. State or provincial agencies charged with regulating the use/reuse of produced water:

**NM Energy, Minerals and Natural Resources Department, Oil Conservation Division (OCD)**

**NM Environment Department (NMED)**

Contact information:

**OCD: Adrienne Sandoval ([adrienne.sandoval@state.nm.us](mailto:adrienne.sandoval@state.nm.us))**

**NMED: Rebecca Roose ([Rebecca.roose@state.nm.us](mailto:Rebecca.roose@state.nm.us))**

Brief summary of areas of responsibilities:

**OCD is authorized “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 pursuant to authority delegated under the federal Safe Drinking Water Act” NMSA 1978, §70-2-12(B)(15)**

**NMED will administer “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”. NMSA 1978, §74-6-4(P)**

- b. Federal agencies charged with regulating the use and/or reuse of produced water: If available, please provide appropriate contact information.

**5. Incentives**

- a. Does your state or province have any incentives to use and/or reuse produced water in the oilfield? If so, please describe.
- b. Outside of the oilfield? If so, please describe.

**6. Innovations and Successes**

- a. Do you have any innovative or unique approaches to addressing use and/or reuse of produced water? If so, please provide a brief description.
- b. Does the quality of the produced water pose impediments to recycling and reuse?

**7. Other Information**

- a. Please provide any additional notes or commentary below.