How to participate in the Produced Water Rule hearing:

The Water Quality Control Commission hearing resumes August 5, 2024

What is the Proposed Produced Water Rule?

The rule proposed by the New Mexico Environment Department:

- Would prohibit the discharge of untreated and treated produced water to:
  - Ground water, which is subsurface water in aquifers used for drinking water and other purposes. Produced water cannot be discharged to or disposed of on land because it can leach into aquifers from the surface, and contaminate ground water.
  - Surface waters, including rivers, streams, lakes, wetlands, and arroyos.

- Would establish requirements for produced water use in "demonstration projects" and "industrial projects," including banning produced water discharges to ground and surface waters. It would require project managers to develop spill prevention plans and pay for cleanup in case of a spill, accident, or discharge.

Produced water is a byproduct of oil and gas drilling and production, and contains many known and unknown toxic pollutants harmful to human health and the environment. Reuse of produced water in oil and gas operations is regulated by the Oil Conservation Division under Oil Conservation Commission rules. This rulemaking will govern discharge of produced water outside oil and gas operations.

The proposed rule can be found here. To learn more, please check out our Frequently Asked Questions. There will be a hearing before the Water Quality Control Commission on the proposed produced water rule.

Hearing details:

Date: The hybrid hearing resumes Monday, August 5th and will continue each week day until completed.

Location: Room 322 of New Mexico's State Capitol Building in Santa Fe and virtually via WebEx.

How to submit public comment:

- The public may provide oral comments at the hearing. Comments may be given in person or online during the hearing on August 5 at 9am and 1pm and each day thereafter at the same times the hearing is in session. Because it is not known how long the hearing will last, it is best to comment closer to the resumption of the hearing.
- The public may provide written comments now until the end of the hearing. Send comments via email to the Commission administrator at pamela.jones@env.nm.gov. Please reference docket number WQCC 23-84(R) in your email.
- The public notice for the hearing, with additional instructions on how to participate, can be found here.

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Suggestions for Public Comment
Tell the Commission:

- You support a clear, straightforward prohibition against the discharge of untreated and treated produced water to ground and surface water.

- A prohibition on the discharge of produced water is necessary because there is insufficient scientific evidence demonstrating that produced water can be treated to New Mexico water quality standards that protect the public and the environment.

- Industry proposals to weaken the prohibition and allow discharges of treated produced water should be rejected.

- Unnecessary definitions in the proposed rule should be removed. Many definitions are unnecessary because they are not included in the body of the rule and therefore serve no regulatory purpose. Definitions such as "agricultural application" and "food crop application" imply the rule permits discharge of produced water to land, which it does not. The unnecessary definitions of various land applications can lead to public confusion that the rule is not a prohibition on discharge to land.

- The rule should require NMED to publish notices of intent (NOIs) for demonstration and industrial projects on the agency's website, including approved and rejected NOIs.

- If there are spills of treated produced water during demonstration or industrial projects, NMED should promptly and effectively take enforcement action against the violator and require immediate corrective action and cleanup.

- You have serious concerns that the industrial projects will further entrench the oil and gas industry in New Mexico at a time when our top priority should be transitioning to clean and sustainable energy alternatives to protect our climate, watersheds, and communities.

  Amigos Bravos and Sierra Club's written direct testimony and proposed changes to the rule, filed by Western Environmental Law Center attorneys, is available here.