

North Dakota

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.

To the best of my knowledge there is no definition in North Dakota statues or administrative rules.

- 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.

North Dakota Century Code 23.1-08-02

13. "Resource recovery" means the use, reuse, or recycling of materials, substances, energy, or products contained within or derived from solid waste.

North Dakota Administrative code 33.1-20-01.1

68. "Recyclable material" means a solid waste material that has been segregated for recycling or converted into a raw material, substitute for a raw material, or a commodity.

69. "Recycled agricultural material" means agricultural waste generated by a farming operation or agricultural processing operation that is recycled or applied to soils as a nutrient or as a fertilizer at appropriate agronomic rates, or that is left in place on soils during harvesting, grazing, or other similar agricultural activities. Recycled agricultural materials also include:

- a. **Material, including manure, generated by any animal feeding operation regulated under North Dakota Century Code chapter 61-28 or North Dakota Administrative Code chapter 33.1-16-03 that is stored in a feedlot or waste storage structure, provided that the material is stored in a manner that is not likely to pollute the waters of the state, and**

recycled or applied to soils as nutrients or fertilizers in accordance with an approved nutrient management plan; or

b. Material, including manure, generated by any agricultural processing operation that is stored in a manner that is not likely to pollute the waters of the state, and recycled or applied to soils as nutrients or fertilizers in accordance with an approved nutrient management plan. Recycled agricultural material does not include agricultural waste that is discarded as garbage, refuse, or other solid waste.

70. "Recycling" means collecting, sorting, or recovering material that would otherwise be solid waste and performing all or part of a method or technique, including processing, to create a recyclable material.

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.

N.D.C.C. §§61-04-01.1(13) & 61-01-01 "Water of the state" or "waters of the state" means all waters within the limits of the state from the following sources of water supply belong to the public:

1. Waters on the surface of the earth, excluding diffused surface waters but including surface waters whether flowing in well-defined channels or flowing through lakes, ponds, or marshes which constitute integral parts of a stream system, or waters in lakes

2. Waters under the surface of the earth whether such waters flow in defined subterranean channels or are diffused percolating underground water;

3. All residual waters resulting from beneficial use, and all waters artificially drained; and

4. All waters, excluding privately owned waters, in areas determined by the state engineer to be noncontributing drainage areas. A noncontributing drainage area is any area that does not contribute natural flowing surface water to a natural stream or watercourse at an average frequency more often than once in three years over the latest thirty-year period.

Comment: note the breadth of the definition; there is little water in North Dakota that is not owned by the state.

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

Same as i above

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

See 1. b. i. above

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

See 1.b. 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			x - mineral lease
Government	x	x	
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	x		
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.).

North Dakota Century Code 38-08-04 b.(5)

North Dakota Administrative Code 43-02-03-53, 53.1, 53.2, 53.3, 53.4

North Dakota Administrative Code 43-02-05 UNDERGROUND INJECTION CONTROL

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

1. By the producer

North Dakota Century Code 23.1-08-02

North Dakota Administrative code 33.1-20-01.1

2. By a different operator

North Dakota Century Code 23.1-08-02

North Dakota Administrative code 33.1-20-01.1

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

North Dakota Century Code 23.1-08-02

North Dakota Administrative code 33.1-20-01.1

4. State or Provincial Regulatory Agency

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

North Dakota Department of Environmental Quality

Contact information:

Waste Management

P: 701-328-5166

F: 701-328-5200

Division Email: waste@nd.gov

Solid Waste Email: solidwaste@nd.gov

Brief summary of areas of responsibilities:

See 1.b. i. above

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

EPA

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.

To the best of my knowledge there are none.

- b. Outside of the oilfield? If so, please describe.

To the best of my knowledge there are none.

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.



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- b. Does the quality of the produced water pose impediments to recycling and reuse?
Yes, see report above.

7. Other Information

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