

### Reclaimed Water Rule Adoption

Legislation in 2006 and 2007 amended the Reclaimed Water Use Act, Chapter 90.46 RCW. It directed the Washington Department of Ecology (Ecology) to coordinate with the Department of Health, form a stakeholder Rule Advisory Committee (RAC), and adopt a comprehensive rule for reclaimed water use by December 2010. The overall goal is to develop a Reclaimed Water Program through rule, guidance, and statute that runs smoothly and consistently while protecting public health and the environment. Adoption of Chapter 173-219 WAC is on track to be completed on time.

#### Hot topics

Issues that came to the forefront during rule development included:

- Removing barriers to the use of reclaimed water.
- Streamlining the permitting process.
- Funding.
- Technical standards.
- Water rights issues.

Ecology formed task forces to investigate each of these areas. Then, Ecology carried forward recommendations from these task forces in reports to the Legislature in 2007, 2008, and 2009. Some of this work led to amendments of Chapter 90.46 RCW in 2009. The recommendations highlighted below are those that have been carried forward in the draft rule.

#### Framework of the rule

The draft rule, Chapter 173-219 WAC, is divided into seven parts. The rule describes the division of responsibilities between Ecology, the Department of Health, and the reclaimed water provider. The rule includes technical standards and best management practices as well as procedures for the submittal and review of planning documents, engineering documents, water rights impairment assessments, and management of operating permits.

#### Recommendations to remove barriers

The recommendations brought forward into the rule to remove barriers have general stakeholder support and they include:

- Clarification of lead and non-lead regulatory agency.
- Requirements for reclaimed water planning.
- Streamlined application and operating permit requirements.

#### WHY IT MATTERS

The Legislature intends that reclaimed water be made available to help meet the future water requirements of Washington State.

#### 2010 Rule Adoption Milestones

**March** - Develop draft rule and incorporate stakeholder comments

**April** - Incorporate any new legislative directives

**May** - Conduct workshops

**June** - File the CR 102

**August** - Conduct hearings

**October** - Develop concise explanatory statement

**December** - Adopt the rule

#### Contact information

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#### Special accommodations

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**Technical standards**

The RAC recommended that Ecology form a panel of technical experts to address technical standards for public health and environmental protection.

Ecology formed the panel in January 2008, and the Technical Advisory Panel (TAP) prepared recommendations on:

- Source control.
- Pathogen removal.
- Treatment technology and its reliability.
- Regulation of pharmaceuticals/personal care products (PPCPs) and endocrine disrupting compounds (EDCs).
- Urban and agricultural uses.
- Groundwater recharge.
- Wetlands.
- Surface water augmentation.
- Best management practices for all types of reclaimed water use.

Two areas of technical standards emerged: 1.) Regulation of groundwater recharge, and 2.) regulation of PPCPs and EDCs. The TAP recommended that groundwater and drinking water standards should apply to all types of groundwater recharge, whichever is more protective of human health and the environment. There is insufficient scientific research data to develop numeric reclaimed water quality standards for PPCPs and EDCs at this time.

The RAC recommended that Ecology form a second task force to reconsider the TAP recommendations PPCPs and EDCs. This task force concluded that it is too early to require monitoring for PPCPs and EDCs as a permit requirement. The task force recommended that the proposed rule allow future monitoring requirements to be placed in operating permits. The draft rule language reflects these recommendations.

**Reclaimed water and water rights**

A significant issue for reclaimed water is consideration of potential impacts on existing water users by decreasing a wastewater discharge to reclaim the water and put it to a new or additional beneficial use. Impacts on existing water users from putting wastewater to a new beneficial use may be a positive impact, no impact, or a negative impact.

For example, if wastewater is currently discharged into marine water, is then reclaimed for a new upland beneficial use, there is no effect on water right holders by changing the discharge. In other situations, the discharged water was already “reused” by a water right holder downstream from the wastewater discharge point. In that case, reclaiming the water and putting it to a new use may affect existing water users.

In certain situations, a negative impact is called a water right impairment. Simply stated, this is when one party putting water to a new beneficial use prevents an existing water right holder from partially or fully using their water right (there are some caveats to this). The different kinds of water rights that might be impaired are: tribal treaty rights, water rights to divert the water for a beneficial use, and instream flows (flows established by the state to provide human and environmental instream benefits).

Ecology convened a committee of stakeholders to advise the agencies on this issue. Ecology developed a process to:

1. Evaluate the potential for impairment for the different types of water rights.
2. Provide a way to address impairment in many situations.

The process focuses on early notification of water right holders that might be impaired and the opportunity to bring parties together to create successful projects that can be supported by all. There may be some reclaimed water projects that cannot be built because there isn't enough water for all uses, including the reclaimed water use.

### **Links for more information**

Reclaimed Water Resources and Guidance:

[www.ecy.wa.gov/programs/wq/reclaim/ResourcesGuidance.html](http://www.ecy.wa.gov/programs/wq/reclaim/ResourcesGuidance.html)

Reclaimed Water Rule Advisory Committee:

[www.ecy.wa.gov/programs/wq/reclaim/ruledevelpmnt.html](http://www.ecy.wa.gov/programs/wq/reclaim/ruledevelpmnt.html)