

ESHB 2884 - S COMM AMD

By Committee on Water, Energy & Environment

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 90.46 RCW
4 to read as follows:

5 (1) The department of ecology shall, in coordination with the
6 department of health, adopt rules for reclaimed water use consistent
7 with this chapter. The rules must address all aspects of reclaimed
8 water use, including commercial and industrial uses, land applications,
9 direct recharge, wetland discharge, surface percolation, constructed
10 wetlands, and stream flow augmentation. The department of health
11 shall, in coordination with the department of ecology, adopt rules for
12 greywater reuse. The rules must also designate whether the department
13 of ecology or the department of health will be the lead permitting or
14 regulatory agency responsible for a particular aspect of reclaimed
15 water use. In developing the rules, the departments of health and
16 ecology shall amend or rescind any existing rules on reclaimed water in
17 conflict with the new rules.

18 (2) All rules required to be adopted pursuant to this section must
19 be completed no later than December 31, 2010, although the department
20 of ecology is encouraged to adopt the final rules as soon as possible.
21 The department of ecology may not update the rules adopted under this
22 section unless specific legislative authority is provided to update the
23 standards.

24 (3) The department of ecology must consult with the advisory
25 committee created under RCW 90.46.050 in all aspects of rule
26 development required under this section.

27 **Sec. 2.** RCW 90.46.050 and 1995 c 342 s 9 are each amended to read
28 as follows:

29 The department of ((health)) ecology shall, before July 1, ((1995))

1 2006, form an advisory committee, in coordination with the department
2 of (~~ecology~~) health and the department of agriculture, which will
3 provide technical assistance in the development of standards,
4 procedures, and guidelines required by this chapter. (~~Such~~) The
5 advisory committee shall be composed of (~~individuals from the public~~
6 ~~water and wastewater utilities, landscaping enhancement industry,~~
7 ~~commercial and industrial application community, and any other persons~~
8 ~~deemed technically helpful by the department of health~~) a broad range
9 of interested individuals representing the various stakeholders that
10 utilize or are potentially impacted by the use of reclaimed water. The
11 advisory committee must also contain individuals with technical
12 expertise and knowledge of new advancements in technology.

13 NEW SECTION. Sec. 3. The department of ecology must present
14 interim reports to the appropriate committees of the legislature by
15 January 1, 2008, and January 1, 2009, that summarize the steps taken to
16 that date towards the final rule making required by section 1 of this
17 act. The reports must include, at a minimum, a summary of
18 participation in the advisory group and the topics considered by the
19 department.

20 **Sec. 4.** RCW 90.46.010 and 2002 c 329 s 3 are each amended to read
21 as follows:

22 The definitions in this section apply throughout this chapter
23 unless the context clearly requires otherwise.

24 (1) "Greywater" means wastewater having the consistency and
25 strength of residential domestic type wastewater. Greywater includes
26 wastewater from sinks, showers, and laundry fixtures, but does not
27 include toilet or urinal waters.

28 (2) "Land application" means (~~application of treated effluent for~~
29 ~~purposes of~~) use of reclaimed water as permitted under this chapter
30 for irrigation or landscape enhancement (~~for residential, business,~~
31 ~~and governmental purposes~~)).

32 (3) "Person" means any state, individual, public or private
33 corporation, political subdivision, governmental subdivision,
34 governmental agency, municipality, copartnership, association, firm,
35 trust estate, or any other legal entity whatever.

1 (4) "Reclaimed water" means effluent derived in any part from
2 sewage from a wastewater treatment system that has been adequately and
3 reliably treated, so that as a result of that treatment, it is suitable
4 for a beneficial use or a controlled use that would not otherwise occur
5 and is no longer considered wastewater.

6 (5) "Sewage" means water-carried human wastes from residences,
7 buildings, industrial and commercial establishments, or other places,
8 together with such ground water infiltration, surface waters, or
9 industrial wastewater as may be present.

10 (6) "User" means any person who uses reclaimed water.

11 (7) "Wastewater" means water and wastes discharged from homes,
12 businesses, and industry to the sewer system.

13 (8) "Beneficial use" means the use of reclaimed water, that has
14 been transported from the point of production to the point of use
15 without an intervening discharge to the waters of the state, for a
16 beneficial purpose.

17 (9) "Direct recharge" means the controlled subsurface addition of
18 water directly to the ground water basin that results in the
19 replenishment of ground water.

20 (10) "Ground water recharge criteria" means the contaminant
21 criteria found in the drinking water quality standards adopted by the
22 state board of health pursuant to chapter 43.20 RCW and the department
23 of health pursuant to chapter 70.119A RCW.

24 (11) "Planned ground water recharge project" means any reclaimed
25 water project designed for the purpose of recharging ground water, via
26 direct recharge or surface percolation.

27 (12) "Reclamation criteria" means the criteria set forth in the
28 water reclamation and reuse interim standards and subsequent revisions
29 adopted by the department of ecology and the department of health.

30 (13) "Streamflow augmentation" means the discharge of reclaimed
31 water to rivers and streams of the state or other surface water bodies,
32 but not wetlands.

33 (14) "Surface percolation" means the controlled application of
34 water to the ground surface for the purpose of replenishing ground
35 water.

36 (15) "Wetland or wetlands" means areas that are inundated or
37 saturated by surface water or ground water at a frequency and duration
38 sufficient to support, and that under normal circumstances do support,

1 a prevalence of vegetation typically adapted to life in saturated soil
2 conditions. Wetlands generally include swamps, marshes, bogs, and
3 similar areas. Wetlands regulated under this chapter shall be
4 delineated in accordance with the manual adopted by the department of
5 ecology pursuant to RCW 90.58.380.

6 (16) "Constructed beneficial use wetlands" means those wetlands
7 intentionally constructed on nonwetland sites to produce or replace
8 natural wetland functions and values. Constructed beneficial use
9 wetlands are considered "waters of the state."

10 (17) "Constructed treatment wetlands" means those wetlands
11 intentionally constructed on nonwetland sites and managed for the
12 primary purpose of wastewater or storm water treatment. Constructed
13 treatment wetlands are considered part of the collection and treatment
14 system and are not considered "waters of the state."

15 (18) "Agricultural industrial process water" means water that has
16 been used for the purpose of agricultural processing and has been
17 adequately and reliably treated, so that as a result of that treatment,
18 it is suitable for other agricultural water use.

19 (19) "Agricultural processing" means the processing of crops or
20 milk to produce a product primarily for wholesale or retail sale for
21 human or animal consumption, including but not limited to potato,
22 fruit, vegetable, and grain processing.

23 (20) "Agricultural water use" means the use of water for irrigation
24 and other uses related to the production of agricultural products.
25 These uses include, but are not limited to, construction, operation,
26 and maintenance of agricultural facilities and livestock operations at
27 farms, ranches, dairies, and nurseries. Examples of these uses
28 include, but are not limited to, dust control, temperature control, and
29 fire control.

30 (21) "Industrial reuse water" means water that has been used for
31 the purpose of industrial processing and has been adequately and
32 reliably treated so that, as a result of that treatment, it is suitable
33 for other uses.

34 (22) "Constructed wetlands" means those wetlands intentionally
35 constructed on nonwetland sites and managed for the primary purpose of
36 polishing reclaimed water or aesthetics. Constructed wetlands are not
37 considered "waters of the state."

1 (23) "Created wetlands" means those wetlands intentionally
2 constructed on nonwetland sites to produce or replace natural wetland
3 functions and values. Created wetlands are considered "waters of the
4 state."

5 **Sec. 5.** RCW 90.46.030 and 2005 c 59 s 1 are each amended to read
6 as follows:

7 (1)(a) The department of health shall, in coordination with the
8 department of ecology, adopt a single set of standards, procedures, and
9 guidelines on or before August 1, 1993, for the industrial and
10 commercial use of reclaimed water.

11 (b) Standards adopted under this section are superseded by any
12 rules adopted by the department of ecology pursuant to section 1 of
13 this act as they relate to the industrial and commercial use of
14 reclaimed water.

15 (2) Unless the department of ecology adopts rules pursuant to
16 section 1 of this act that relate to the industrial and commercial use
17 of reclaimed water specifying otherwise, the department of health may
18 issue a reclaimed water permit for industrial and commercial uses of
19 reclaimed water to the generator of reclaimed water who may then
20 distribute the water, subject to provisions in the permit governing the
21 location, rate, water quality, and purposes of use. Permits issued
22 after the adoption of rules under section 1 of this act must be
23 consistent with the adopted rules.

24 (3) The department of health in consultation with the advisory
25 committee established in RCW 90.46.050, shall develop recommendations
26 for a fee structure for permits issued under subsection (2) of this
27 section. Fees shall be established in amounts to fully recover, and
28 not exceed, expenses incurred by the department of health in processing
29 permit applications and modifications, monitoring and evaluating
30 compliance with permits, and conducting inspections and supporting the
31 reasonable overhead expenses that are directly related to these
32 activities. Permit fees may not be used for research or enforcement
33 activities. The department of health shall not issue permits under
34 this section until a fee structure has been established.

35 (4) A permit under this section for use of reclaimed water may be
36 issued only to:

37 (a) A municipal, quasi-municipal, or other governmental entity;

1 (b) A private utility as defined in RCW 36.94.010; or

2 (c) The holder of a waste discharge permit issued under chapter
3 90.48 RCW.

4 (5) The authority and duties created in this section are in
5 addition to any authority and duties already provided in law with
6 regard to sewage and wastewater collection, treatment, and disposal for
7 the protection of health and safety of the state's waters. Nothing in
8 this section limits the powers of the state or any political
9 subdivision to exercise such authority.

10 (6) Unless the department of ecology adopts rules pursuant to
11 section 1 of this act that relate to the industrial and commercial use
12 of reclaimed water specifying otherwise, the department of health may
13 implement the requirements of this section through the department of
14 ecology by execution of a formal agreement between the departments.
15 Upon execution of such an agreement, the department of ecology may
16 issue reclaimed water permits for industrial and commercial uses of
17 reclaimed water by issuance of permits under chapter 90.48 RCW, and may
18 establish and collect fees as required for permits issued under chapter
19 90.48 RCW.

20 (7) Unless the department of ecology adopts rules pursuant to
21 section 1 of this act that relate to the industrial and commercial use
22 of reclaimed water specifying otherwise, and before deciding whether to
23 issue a permit under this section to a private utility, the department
24 of health may require information that is reasonable and necessary to
25 determine whether the private utility has the financial and other
26 resources to ((~~assure~~)) ensure the reliability, continuity, and
27 supervision of the reclaimed water facility.

28 **Sec. 6.** RCW 90.46.040 and 2005 c 59 s 2 are each amended to read
29 as follows:

30 (1)(a) The department of ecology shall, in coordination with the
31 department of health, adopt a single set of standards, procedures, and
32 guidelines, on or before August 1, 1993, for land applications of
33 reclaimed water.

34 (b) Standards adopted under this section are superseded by any
35 rules adopted by the department of ecology pursuant to section 1 of
36 this act as they relate to the land application of reclaimed water.

1 (2) A permit is required for any land application of reclaimed
2 water. The department of ecology may issue a reclaimed water permit
3 under chapter 90.48 RCW to the generator of reclaimed water who may
4 then distribute the water, subject to provisions in the permit
5 governing the location, rate, water quality, and purpose of use. The
6 department of ecology shall not issue more than one permit for any
7 individual land application of reclaimed water to a single generator.

8 (3) In cases where the department of ecology determines, in land
9 applications of reclaimed water, that a significant risk to the public
10 health exists, the department shall refer the application to the
11 department of health for review and consultation and the department of
12 health may require fees appropriate for review and consultation from
13 the applicant pursuant to RCW 43.70.250.

14 (4) A permit under this section for use of reclaimed water may be
15 issued only to:

- 16 (a) A municipal, quasi-municipal, or other governmental entity;
17 (b) A private utility as defined under RCW 36.94.010; or
18 (c) The holder of a waste discharge permit issued under chapter
19 90.48 RCW.

20 (5) The authority and duties created in this section are in
21 addition to any authority and duties already provided in law. Nothing
22 in this section limits the powers of the state or any political
23 subdivision to exercise such authority.

24 (6) Before deciding whether to issue a permit under this section to
25 a private utility, the department of ecology may require information
26 that is reasonable and necessary to determine whether the private
27 utility has the financial and other resources to (~~assure~~) ensure the
28 reliability, continuity, and supervision of the reclaimed water
29 facility.

30 **Sec. 7.** RCW 90.46.042 and 1995 c 342 s 6 are each amended to read
31 as follows:

32 (1) The department of ecology shall, in consultation with the
33 department of health, adopt a single set of standards, procedures, and
34 guidelines, on or before December 31, 1996, for direct recharge using
35 reclaimed water. The standards shall address both water quality
36 considerations and avoidance of property damage from excessive
37 recharge.

1 (2) Standards adopted under this section are superseded by any
2 rules adopted by the department of ecology pursuant to section 1 of
3 this act as they relate to direct recharge using reclaimed water.

4 **Sec. 8.** RCW 90.46.044 and 1995 c 342 s 7 are each amended to read
5 as follows:

6 (1) The department of ecology shall, in consultation with the
7 department of health, adopt a single set of standards, procedures, and
8 guidelines, on or before June 30, 1996, for discharge of reclaimed
9 water to wetlands.

10 (2) Standards adopted under this section are superseded by any
11 rules adopted by the department of ecology pursuant to section 1 of
12 this act as they relate to discharge of reclaimed water to wetlands.

13 **Sec. 9.** RCW 90.46.080 and 1997 c 444 s 6 are each amended to read
14 as follows:

15 (1) Except as otherwise provided in this section, reclaimed water
16 may be beneficially used for surface percolation provided the reclaimed
17 water meets the ground water recharge criteria as measured in ground
18 water beneath or down gradient of the recharge project site, and has
19 been incorporated into a sewer or water comprehensive plan, as
20 applicable, adopted by the applicable local government and approved by
21 the department of health or department of ecology as applicable.

22 (2) If the state ground water recharge criteria as defined by RCW
23 90.46.010 do not contain a standard for a constituent or contaminant,
24 the department of ecology shall establish a discharge limit consistent
25 with the goals of this chapter, except as otherwise provided in this
26 section.

27 (3) Except as otherwise provided in this section, reclaimed water
28 that does not meet the ground water recharge criteria may be
29 beneficially used for surface percolation where the department of
30 ecology, in consultation with the department of health, has
31 specifically authorized such use at such lower standard.

32 (4) The provisions of this section are superseded by any rules
33 adopted by the department of ecology pursuant to section 1 of this act
34 as they relate to surface percolation.

1 **Sec. 10.** RCW 90.46.090 and 1997 c 444 s 7 are each amended to read
2 as follows:

3 (1) Reclaimed water may be beneficially used for discharge into
4 constructed beneficial use wetlands and constructed treatment wetlands
5 provided the reclaimed water meets the class A or B reclaimed water
6 standards as defined in the reclamation criteria, and the discharge is
7 incorporated into a sewer or water comprehensive plan, as applicable,
8 adopted by the applicable local government and approved by the
9 department of health or department of ecology as applicable.

10 (2) Reclaimed water that does not meet the class A or B reclaimed
11 water standards may be beneficially used for discharge into constructed
12 treatment wetlands where the department of ecology, in consultation
13 with the department of health, has specifically authorized such use at
14 such lower standards.

15 (3)(a) The department of ecology and the department of health must
16 develop appropriate standards for discharging reclaimed water into
17 constructed beneficial use wetlands and constructed treatment wetlands.
18 These standards must be considered as part of the approval process
19 under subsections (1) and (2) of this section.

20 (b) Standards adopted under this section are superseded by any
21 rules adopted by the department of ecology pursuant to section 1 of
22 this act as they relate to discharge into constructed beneficial use
23 wetlands and constructed treatment wetlands.

24 **Sec. 11.** RCW 90.46.100 and 1995 c 342 s 5 are each amended to read
25 as follows:

26 (1) Reclaimed water intended for beneficial reuse may be discharged
27 for streamflow augmentation provided the reclaimed water meets the
28 requirements of the federal water pollution control act, chapter 90.48
29 RCW, and is incorporated into a sewer or water comprehensive plan, as
30 applicable, adopted by the applicable local government and approved by
31 the department of health or department of ecology as applicable.

32 (2) Standards adopted under this section are superseded by any
33 rules adopted by the department of ecology pursuant to section 1 of
34 this act as they relate to discharge of reclaimed water for streamflow
35 augmentation.

1 NEW SECTION. **Sec. 12.** A new section is added to chapter 90.46 RCW
2 to read as follows:

3 The use of reclaimed water, consistent with the standards and
4 criteria developed under the authority of this chapter, may be
5 considered by the department as a mitigation measure if proposed for
6 such use by an applicant for a new water right under RCW 90.03.255, or
7 a water right change under RCW 90.03.380.

8 NEW SECTION. **Sec. 13.** The code reviser shall alphabetize and
9 renumber the definitions in RCW 90.46.010."

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10 On page 1, line 1 of the title, after "water;" strike the remainder
11 of the title and insert "amending RCW 90.46.050, 90.46.010, 90.46.030,
12 90.46.040, 90.46.042, 90.46.044, 90.46.080, 90.46.090, and 90.46.100;
13 adding new sections to chapter 90.46 RCW; and creating new sections."

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