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**WAC 173-219-100**

**Evaluation of potential  
impairment of existing water  
rights**

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# Applicability

This section applies to any reclaimed water facilities permitted under chapter 90.46 RCW where there are water rights downstream of any freshwater discharge point of those facilities.

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# The Evaluation Process

Applicant responsibilities –

- Request a preevaluation meeting
  - Work with affected water users, water right holders, water purveyors, tribes, Washington department of fish and wildlife (WDFW), and other affected parties
  - Submit a written request to ecology to begin the impairment evaluation process
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# The Evaluation Process

Dept of Ecology responsibilities –

- Notify affected tribes and the WDFW
  - Determine the appropriate scope of the impairment evaluation and necessary information submittals
  - Complete an impairment evaluation or determine the adequacy of an evaluation completed by the applicant
  - Provide for notice to the public
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# The Evaluation Process

Dept of Ecology responsibilities –

- Consult with affected tribes and the WDFW
  - Make a preliminary determination on impairment
  - Complete an impairment evaluation or determine the adequacy of an evaluation completed by the applicant
  - Notify the applicant, affected water right holders, affected tribes, WDFW, and other persons that submitted comment
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# Compensation or mitigation of potential impairment

The applicant may –

- Choose to negotiate compensation or mitigation with the water rights holder(s) identified by ecology as potentially impaired.
  - Request that ecology participate in the negotiations. Ecology's participation, as a third party, in any negotiation is at the agency's discretion.
  - Abandon the project.
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# Appeals

- Ecology's final determination of impairment is made as part of the final reclaimed water permit.
  - Formal opportunity to appeal the determination of impairment will be when the final reclaimed water permit decision is made.
  - A reclaimed water permit may be issued prior to construction.
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# Reclaimed water permit modification and renewals

A supplemental impairment evaluation and determination of impairment are required if the project is modified such that the original evaluation does not match the proposed modification or operation. A written request must be submitted to determine if a supplemental impairment evaluation is required.

The supplemental evaluation and determination apply only to the proposed changes.

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