

Reclaimed Water Use Rule Advisory Committee

Department of Ecology Lacey, WA

Meeting Notes for December 16, 2009

9:15-3:15 P.M.

Attendees

RAC Members and Alternates

Don Perry, Lakehaven Utility District
Bill Peacock, City of Spokane
Karla Fowler, LOTT Alliance
John Kounts, WPUA (phone)
Kristina Westbrook, King County (phone)
Doug Raines, Department of Corrections
Frank Needham, City of Sequim
Donna Buxton, City of Olympia
Walt Canter, WA Water and Sewer District Association
Tim Wilson, City of Tumwater

DOH

Craig Riley, DOH / OSWP
Denise Lahmann DOH

Ecology

Kathleen Emmett
Tim Gaffney
Jim McCauley
Katharine Cupps (Phone)
Lynn Coleman

Public

Peter Schwartzman, Pacific Groundwater Group
Marc Horton, Skillings Connelly

Introductions and Agenda

- Reviewed previous meeting summary
- Ground water quality discussion – Bill Moore
- Presentation of Comments format and time lines
- Overview of all parts of the combined rule
- Ground water discussion (sections 800-830)
- Subcommittee Reports and Updates: Water Rights

Brief Update: A RAC meeting has been scheduled for discussion of the entire draft rule Wednesday, February 3, 2010.

Groundwater quality discussion

Bill Moore, Program Development Section Manager for the Water Quality Program, presented the Ecology decision from Ecology's Senior Management Team (SMT) to use both the groundwater and the drinking water standards criteria, whichever is more protective of the environment and human health, for all groundwater recharge uses authorized in Chapter 173.219 WAC. Ecology discussed this issue with legal counsel prior to the SMT decision. This interpretation of the standards is a technically defensible position. In all situations, the goal is to protect the resource.

Discussion items:

RAC members expressed the following concerns:

- This may set a precedent requiring stormwater to be cleaned to a higher standard. If you have an application of Reclaimed water as A, and applications of storm water as B, the public will say, why are you not up to A standards when you are doing B?
- This could be a stumbling block for surface percolation of reclaimed water.
- The MCL's are covered, but not this wide list of chemicals. The decision is making a backward step.
- Microconstituents may require meeting higher standards.
- The decision will have a substantive impact on water purveyors who cannot meet these standards; i.e., groundwater standards for irrigating lawns. It will be dead on arrival.

- What about the situation where you have an existing body of water, then you import other water into the system? The feedstock is different. The imported water is likely to be of a different quality than the existing water. This will create challenges in the normal course of business. ASR-directly blending may be a problem in the future.
- Management and measurement tools are more precise now. If a chemical is found, even in parts per quadrillion, it may be given an MCL. The groundwater standards are much more restrictive than the drinking water standards.
- You will get more comments in the later regarding constraints, but for starters, facilities may not attempt to do this at all, because they can get other water. I'd use it only in the last case.

Ecology Response: This decision is narrowly focused to this specific issue with groundwater recharge by percolation with reclaimed water. It should not affect the way we regulate other uses of reclaimed water, wastewater discharges, aquifer storage and recovery projects or groundwater quality. That has not changed. This decision is not punitive. It is a consistent resource protection message. Every project will have its own challenges that must be evaluated on its own merits. Ecology manages these implementation issues on a case by case basis.

RAC members suggested that Ecology be prepared to answer the following questions:

- How will this work? The use of both sets of standards creates ambiguity. Which one wins? Will you have a list of items, melding the two sets of criteria into one list?
- How will this affect existing permit holders? Referring to ASR, in the case of Walla Walla, this is a serious concern for on the groundwater side.
- How do you deal with the situation where background levels are higher than standards now in place?
- What roles do antidegradation, AKART, and/or OCPI play, if any, in this situation?
- We need a consistency in our messaging. It is there for a good, valid reason. If I consume this chemical over seven years, how will it affect me?

Overview of all parts of the combined rule

Ecology presented a comprehensive draft of the proposed rule for RAC member review and comments. Ecology explained how to use the comment forms and stated that comments need to be received no later than January 15, 2010 to be incorporated for the February 3, 2010 meeting.

RAC members suggested the following:

- Find a standardized method to clearly flag items that have changed. This will facilitate the review. One suggestion was to place the line-bar on the left side of the sheet of paper that indicates this is a revision to the document.
- Determine how to address indirect steamflow/ surface water augmentation in the draft rule.

Ecology staff asked the RAC for their suggestions on workshop locations. Spokane and “TriCities area” were preference for east side with Yakima as a back-up. Lacey and Everett were west side locations with Seattle mentioned as an alternative.

Discussion items:

Pg. 26, 2.f) Text refers to engineering report criteria for reverse osmosis treatment for direct aquifer recharge projects. Wasn't there an intent to provide an alternative to RO in Section 800?

Response: Correct, this section needs to be revised to agree with Section 800 to 830 language.

Pg. 51, 3 The table implies that the setback to on-site absorption system drainfields will be 500 feet.

Response: This section is specific to impoundments, storage pond and wetlands. Ecology staff will consult with DOH regarding appropriate setbacks in this table.

Pg. 68 Section 700 and 710 do not address indirect recharge of surface water by groundwater in hydraulic continuity. The LOTT/City of Lacey Woodland Park project is an example of this.

Response: Some elements of this are covered in sections 810-830, but Ecology staff will considered adding additional language here for clarification. Certification and training CEU's for reclaimed water operators that oversee distribution systems may be provided by DOH if supported by RAC and others. Will it be added on to a current license as an endorsement? Typically meeting the necessary experience requirement is a challenge.

Response: DOH needs support for this program. Experience can be on the job training or perhaps existing qualified operators may be grandparented into this program. It is envisioned as an endorsement for an existing certification, not a new category.

Ecology action item: Clarify the licensing issue.

Groundwater discussion (Sections 800-830)

Ecology staff presented significantly revised groundwater recharge rule language. It was reformatted into four separate sections. A general section applies to all recharge projects, and then a separate section for surface percolation, direct aquifer, and artificial storage and recovery were created. The general section requires a minimum of Class A treatment plus ability to meet adequate and reliable standards. Water quality must meet either the groundwater quality standards (173-200 WAC) or drinking water MCLs (246-290 WAC), whichever is more protective.

A list of items that will be considered on a case-by-case basis for enforcement limits was presented. This is taken from the groundwater quality rule. These criteria establish protective standards but allow flexibility where background water quality may exceed numerical criteria.

Ecology action item: Compile and send to the RAC the DW MCL list with contaminant candidates and groundwater quality criteria.

Sec. 810 Percolation recharge

Discussion items:

Is Sec. 810 percolation recharge for both surface and vadose zone?

Response: Yes.

Section 820 has specificity; can you construct parallel language in Section 810?

Response: Yes, addition language will be added to clarify this section

Does “at a minimum” mean an annual nitrogen average of 5mg/L or less than/ more than 5?
Where is point of compliance?

Response: Ecology will clarify the Nitrogen levels will be based on AKART and with the capacity of current technologies.

Sec. 820 Direct recharge

Discussion items:

Question to the RAC: Should this section be placed here or in Part 2 engineering report requirements?

RAC response was to place in part 2 but perhaps make a reference in General recharge section 800.

In a. and b. under pilot study, convert negative statements to positive. "Shall occur when authorized by the lead agency" This should be done throughout the rule wherever feasible.

Do you use reclaimed water in the pilot testing or potable water?

Response: Since the purpose of pilot testing is to develop design parameters and the suitability of a specific treatment for a full scale project, the test should include a trial with reclaimed water. It may be necessary to operate the pilot with potable water initially until it is safe to proceed with reclaimed water.

Section 830 Aquifer storage and recovery

Question to the RAC: Does this section fit here or should it be located elsewhere in the rule?

RAC Replies: OK here, just cross reference it in other places as necessary.

Discussion items:

830 (1) change registered hydrogeologist to licensed.

In addition to a licensed hydrogeologist, DOH believes an engineer may be qualified to sign off on the report. Others disagreed with this.

Ecology action item: Determine if an engineer can sign off. This may require an AAG opinion.

830 (2) assumes the generator and injector of the reclaimed water is the same as the withdrawer of the water.

What about other water withdrawals under separate water rights or exempt wells? Would all withdrawals be treated?

Response: Single family and other small water systems not under Drinking Water regulation may not be treated so it is important to have some retention and setback requirements.

(2) a Does RO technology filter out viruses?

Response: Yes, but even Class A reclaimed water should meet virus standards.

(2) c i is six months necessary? Recommends the language be changed to say:

“The reclaimed water shall be retained underground for a time to be established by the lead agency”

(2) c ii DOH does not believe we need to say 2,000 feet. This would exclude the Spokane Valley area.

Another suggestion was to leave 2. C. i and ii as is, and add a third section iii that would allow exceptions to the 6 months retention and 2000 horizontal feet when justified.

Ecology action item: Check the ASR standards for this topic and clarify language as necessary.

Only the public water supplies are covered under the DW regs.

Subcommittee Reports and Updates: Water Rights

Section 150 covers impairment, in addition a Section 155 for mitigation may also be added.

Report to the legislature on reclaimed water and water rights impairment is still at OFM for review and decision.

Impairment review should have a specified amount of time for due process. The agency has X amount of time to deny or approve the impairment documents, and the facility has Y amount of time to appeal a determination. (90 days is an example in place now for other determinations)

Once the impairment review is done, what is a reasonable length of time for the impairment analysis to be valid? What is a reasonable amount of time for the agency to get a permit in place, and what provisions are adequate for granting and extension for “due diligence”?

Some substantive issues include what to do with out of basin water transfers. Issues include lost revenues, noxious weeds, etc...

Some WRAC committee members don't want indirect use of reclaimed water at all.

De-minimis level: Some small transfers from septic systems to sewer utilities may be exempted from the impairment analysis. What do you think?

Section 150 Roles and responsibilities delineated: What is the scope of service? Does the project proponent give out an assessment analysis of the impairment, then have the lead agency and/or a consultant working with the lead agency, provide a cost estimate to the proponent?

It was pointed out that as the statute now reads, only impairment is only available for water right holders down gradient from the reclaimed water site.

Announcements:

Next meeting is Wednesday, February 3, 2009.

Ecology will send a revised version of the rule and the comments document to the RAC ASAP.

Comments on the rule are due back to Ecology by January 15, 2010.

Meeting Adjourned at 3:00 P.M.