

Reclaimed Water Rule Making Committee Meeting
April 29, 2009
9:30 AM to 3:00 PM

- Welcome and introductions
- Meeting purpose and agenda
- Updates
- Review existing framework
- General requirements of the new rule
- Permits
- Technical standards – trace organics and pharmaceuticals
- Technical standards – adequate and reliable treatment
- Comments from audience
- Wrap-up

Meeting Attendees

Committee Members and Alternates	Ecology Staff
Dan Pingel, City of Lacey	Katharine Cupps, Agency Lead (Phone)
Frank Needham, City of Sequim	Tim Gaffney, Rule Writer
Bill Peacock, City of Spokane	Lynn Coleman
Tim Wilson, City of Tumwater	Kathleen Emmett, Notes
Ann Wick, WA Dept. of Agriculture	Bill Hashim, Facilitator
Doug Raines, WA Dept. of Corrections	Jim McCauley
Don Perry, Lakehaven Utility District	Paul Fabiniak (Video)
Clint Perry, Evergreen Valley Utilities	Department of Health Staff
Susan Kaufman-Una, King County (Video)	Craig Riley
Dave Monthie, King County	Stuart Glasoe
Karla Fowler, LOTT Alliance	
Allen de Steiguer, PNCWA	Guests
Heather Trim, People for Puget Sound (Video)	None
Walt Canter, WASWD	
Bruce Rawls Spokane County	
Gwenn Maxfield, Covington Wt. dist. (Video)	

Bill Hashim reviewed the meeting summary and asked for additions/changes to the agenda. None were requested. Updates from the RAC: Walt reported that HB 1532 passed, allowing Special Districts to construct, condemn and purchase, add to, maintain, and operate systems for wastewater reclamation. Karla thanked Craig Riley for advising LOTT on a reclaimed water project for the Hands-On Museum; Stuart Glasoe said DOH had received an appropriation of \$100,000 to finish the greywater rule by Dec 2010. Bill Hashim gave an update on Ecology grant proposal offers for reclaimed water projects. These reclamation projects were funded:

- City of Airway Heights, Water Reclamation and Recharge Project
- Spokane County Reclamation Plant
- City of Sequim, Water Reclamation Facility Upgrade and Expansion
- Mason County, Belfair Wastewater and Water Reclamation Facilities (partial funding)
- Lott Alliance reclaimed water distribution trunk line to Tumwater

Bill Peacock has final draft of golf course proposal in Spokane authorized for reclaimed water use.

Meeting purpose and agenda

Bill Hashim reviewed the agenda and stated the meeting goals.

Updates

SB 5504 Legislation

- SSB 5504 passed but a date for signing by Governor Gregoire has not been set.
- The Yakama Nation has requested that the governor veto the bill because it does not address the water rights impairment issues.
- Ecology must review comments and submit recommendations and stakeholder positions on the water rights impairment issue to the Legislature by November 30, 2009.
- RAC members may send letters to the Governor expressing their position on the bill.
- Ecology staff will meet with Director, Jay Manning on May 1, 2009 regarding the Yakama Nation's request.

Timeline coordination and transition to rule

- Joint time line for rule development and water rights report presented.
- Handout presented with the key components of the APA requirements and time lines for the rule.

Review of the existing framework

- No comments on the existing framework were made at the meeting.
- Final written comments on the existing framework are due May 6, 2009.
- King County intends to submit additional written comments.

Review of draft rule content – version 1

PART I GENERAL INFORMATION

(010) Authority and purpose:

RAC member suggestions:

- Consider ways to better include the water resources element of reclaimed water in the purpose statement.
- The statute uses the term 'all aspects' and this may need to be better defined in the purpose statement of the rule.

- Rephrase in terms that encourage or promote reclaimed water rather than traditional command and control regulatory language.
- Provide a statement on agency authority.
- Reword purpose statement to read as follows: The purpose of this chapter is to adopt a rule that encourages the production and beneficial use of reclaimed water while protecting human health and the environment
- Provide changes in track changes mode on document and post that way on the website.
- Decide whether the purpose statement should be more explicit or explicit.
- Request a legal opinion regarding case law related to the Yakama Nation’s proposed (stricken) amendment to SSB 5504.

RAC member agreements:

- Include a water resources element in purpose statement.
- The purpose statement should be positively phrased to encourage reclaimed water.

Ecology Action Items:

- Consider comments, rewrite language for purpose statement, post with track changes for RAC members.

(020) Applicability:

RAC member suggestions:

- Consider grandfathering permitted facilities related to water rights impairment determination.
- Existing facilities should not have to go back and redo their application according to this rule until it is renewed. A permit cycle or less may not be long enough. Allow for a compliance schedule.
- The standard to incorporate regulatory changes should be included within the permit.
- Planning, designing and operating are done by people, not by facilities. Rephrase accordingly.
- Part 2a – in the exemption for treatment plant uses, the term ‘bounds’ may be a bit too restrictive. Reclaimed water not meeting standards may be used at pump stations so the definition needs broadening.
- Include a statement that all permitted facilities shall be able to operate under their existing permit

RAC member agreements:

- The rule should clarify which requirements apply when the rule takes effect regarding permit applications, water rights impairment, and permit requirements.
- Give existing facilities adequate time to comply.

Ecology Action Items:

- Address the issue of existing facilities and how to establish compliance with new requirements. Consult with AAG.
- Consider implications of revising language “within the bounds” based on comments (2a).

(030) Scope:

RAC member suggestions:

- 2(b) clarify what a “planning document” is.
- 2(c) Establish the relationship between the rule and design criteria in guidance.
- 2(h) Water right impairment
 - Address downstream water rights impairment higher on the list than 2(h).
 - Delete the word “potential” from the phrase “plan to compensate any potential such impairment,” as compensation or mitigation is only required for actual impairment.
 - Add the words “and procedures” to read “Standards and procedures . . .”

RAC Member Agreements:

Clarify rule vs guidance hierarchies when inconsistencies exist between the two.

Ecology Action Items:

- Clearly delineate that rule has precedence over guidance. Address conflicts.
- Make reference to submittal section in relationship to planning documents.

(040) Definitions:

RAC member suggestions:

- Wait for a more complete version of the draft rule before addressing definitions.
- Move definitions to guidance that are not used elsewhere.

- RAC Member Agreements:

- Keep the definitions in one section.

Ecology Action Items:

- Determine the best way to deal with ongoing amending of definitions in Statutes or other Rules referenced in this rule.

(050) Division of responsibilities between the departments of ecology and health:

RAC Members Suggestions:

- Coordination between the two agencies needs to be described.
- Does health have the authority to carry out ecology’s functions?
- The table has question marks in impoundments. Landscape impoundments may be an area in which health takes the lead.
- Clarify in the table the lead agency for impoundments. The criteria for lead agency may be the same as for land application.

Ecology Action Items:

- Obtain AAG clarification as the extent of lead agency authority under SSB 5504.
- Resolve who is lead agency for impoundments between ecology and health

(060 and 070) Enforcement and Appeals:

RAC Members Suggestions:

- What other statutes apply when you use the phrase “not limited to”?
- Determine if the language is consistent with or similar to 90.48 for NPDES permits.

RAC Member Agreements:

- Move Content on enforcement and appeals to the back of the rule.

Ecology Action Items:

- Create a new Part VII to the rule to address compliance, enforcement and appeals.
- Provide a cross walk showing the connection between the various regulations in relationship to this rule. (The existing framework has such a crosswalk).

(080) Requirements for a Person Who Generates Reclaimed Water:

RAC Members Suggestions:

- Put permit requirements in permit section.
- A person shall only generate reclaimed water for distribution or use in accordance with applicable requirements.

RAC Member Agreements:

- Make the statement for generation and use in a positive format.

Ecology Action Items:

- Delete Permittee content from 080 and move it to Part III, Permits.

(100) Requirements for a Person Who Distributes or Transports Reclaimed Water:

RAC Members Suggestions:

- A person may only distribute reclaimed water in accordance with applicable requirements of this chapter...

RAC Member Agreements:

- Make the statement for distribution in a positive format.

(110) Requirements for a Person Who Uses Reclaimed Water:

RAC Members Suggestions:

- A person may only use reclaimed water in accordance with applicable requirements of this chapter...

RAC Member Agreements:

- Make the statement for use in a positive format.

PART III RECLAIMED WATER PERMITS (200-220)

RAC Members Suggestions:

- Do we have a definition for “master generator”?
- Consider rephrasing language regarding when to use a master or general permit to positively emphasize using the best permit to encourage reclaimed water rather than to meet a regulatory requirement.
- Pair the cycle of the Waste Water Permit with the cycle of the Reclaimed Water Permit; have them run concurrent with one another for review, issue and reissue.
- Define how far up the signatory authority goes. Who is in responsible charge of that facility?

RAC Member Agreements:

- Three types of permits are still ok.

Ecology Action Items:

- Add the term ‘master generator’ to the definition list for consideration.
- Develop requirements for the three types of permits (individual, master generator, general). Move language on who is the “Permittee” from Part I to this Part of the rule.
- Define authority and determine need for restrictions on private entities. Should it be the same for wastewater facilities given that this is a requirement to get a Ch 90.48 RCW permit?
- Investigate revising the permit section to include the recommendation that the NPDES permit or state discharge permit and the Reclaimed Water Permit have the same cycle for issuance and review, paired but separate.

PART IV ADEQUATE AND RELIABLE TREATMENT

Trace Organics and/or Pharmaceutical and Personal Care Products (PPCPs) Discussion

- Ecology staff emphasized that it wants to be protective of the environment and public health, but not discourage reclaimed water use by adopting standards more stringent than current drinking water or surface and groundwater water quality standards.
- The Technical Advisory Panel (TAP) endorsed the WERF talking points “[Report on Trace Organic Compounds Urges Watchful Caution, Not Alarm](#)”. This summarizes the latest scientific data on trace organic compounds (TOrc) in the wastewater treatment environment authored by Dr. Paul Anderson.
- The TAP does not recommend specific water quality criteria for trace organics or PPCPs at this time.
- The TAP encourages voluntary monitoring.
- The TAP recommends that the rule be written to permit flexibility for future guidance on this subject.
- Ecology wants the RAC to recommend how we can best incorporate narrative requirements or best management practices into the rule.

RAC Members Suggestions:

- The recommendation that voluntary monitoring is sufficient in the rule is not acceptable by the environmental community. Treatment technologies must address these chemicals.
- Risk for many chemicals has not been established. No speculation should go in the reuse rule.
- If treatment standards for reclaimed water are higher than other sources of water for the same use, it will discourage the use of reclaimed water.
- Reclaimed water trace organic compound standards should mirror whatever is developed for wastewater discharge standards or guidance under NPDES permitting.

Ecology Action Items:

- Form a subcommittee to look into these issues regarding pretreatment, and chemical to be tracked.

(300) Requirements for Adequate and Reliable Treatment:

RAC Members Suggestions:

- 2 b Explain what is “higher than Class A treatment”.

Ecology Action Items:

- Clarify what is higher than Class A treatment.
- The table of contents Section numbers and the text need to be revised for accuracy.

(310) Requirements for Source Control and pretreatment:

RAC Members Suggestions:

- Ecology staff suggested modifying 2. from “industries” to “significant industrial users”. A RAC member concurred.
- Is item 3. an addition to federal law and rule requirements for wastewater systems?

Ecology Action Items:

- Research items 2. and 3. for consistency with federal rule and law.

(320) and (325) and (330) Class A, Class B and Use Based Treatment Requirements

- No RAC suggestions at this time.

(340) Comments on Requirements for Treatment Process Disinfection:

RAC Members Suggestions:

- Add an introductory paragraph under disinfection to clarify.
- Clarify the exception for use of chlorine.
- Ecology Action Items:
- Compile the additional paragraph on disinfection.

(350) Comments on Requirements for Treatment Facility Reliability:

RAC Members Suggestions:

- Determine what should be in guidance and what should be in rule.
- Plain talk both 1 and 2. For 2. “Unless the applicant demonstrates to the satisfaction of the departments that a proposed alternative to the list of requirements listed below will assure and equal degree of reliability...”

Ecology Action Items:

- Plain talk paragraphs 1 and 2. Changes as needed in next iteration.
- Clarify the point that ABCDEF are required unless you have an alternative that is approved.

(360) Comments on Requirements for Operational Reliability:

No comments were made on this section.

(370) Comments on Requirements for Sampling and Analysis Reliability:

- No comments were made on this section.

Overall Action Items:

- Update the table of contents and the rule sections to reflect changes as they are made.
- Add suggested definitions to the definitions list.
- Set agency coordination with other affected agencies, Fish & Wildlife, Agriculture, counties, etc.

Meeting Closure

- A RAC member asked when we going to post notes? Yes, ASAP. Written comments and revised draft documents will be posted as soon as they are completed.
- The next RAC meeting is scheduled for Wednesday, June 3, 2009.