

CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE HOUSE BILL 2884

Chapter 279, Laws of 2006

59th Legislature
2006 Regular Session

RECLAIMED WATER

EFFECTIVE DATE: 6/7/06

Passed by the House March 8, 2006
Yeas 98 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 7, 2006
Yeas 46 Nays 0

BRAD OWEN

President of the Senate

Approved March 28, 2006.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 2884** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

Chief Clerk

FILED

March 28, 2006 - 2:52 p.m.

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 2884

AS AMENDED BY THE SENATE

Passed Legislature - 2006 Regular Session

State of Washington 59th Legislature 2006 Regular Session

By House Committee on Economic Development, Agriculture & Trade
(originally sponsored by Representatives Linville and McCoy)

READ FIRST TIME 01/31/06.

1 AN ACT Relating to reclaimed water; amending RCW 90.46.050,
2 90.46.010, 90.46.030, 90.46.040, 90.46.042, 90.46.044, 90.46.080,
3 90.46.090, and 90.46.100; adding a new section to chapter 90.46 RCW;
4 and creating new sections.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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

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

1 ecology shall amend or rescind any existing rules on reclaimed water in
2 conflict with the new rules.

3 (2) All rules required to be adopted pursuant to this section must
4 be completed no later than December 31, 2010, although the department
5 of ecology is encouraged to adopt the final rules as soon as possible.

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

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

11 The department of ~~((health))~~ ecology shall, before July 1, ~~((1995))~~
12 2006, form an advisory committee, in coordination with the department
13 of ~~((ecology))~~ health and the department of agriculture, which will
14 provide technical assistance in the development of standards,
15 procedures, and guidelines required by this chapter. ~~((Such))~~ The
16 advisory committee shall be composed of ~~((individuals from the public~~
17 ~~water and wastewater utilities, landscaping enhancement industry,~~
18 ~~commercial and industrial application community, and any other persons~~
19 ~~deemed technically helpful by the department of health))~~ a broad range
20 of interested individuals representing the various stakeholders that
21 utilize or are potentially impacted by the use of reclaimed water. The
22 advisory committee must also contain individuals with technical
23 expertise and knowledge of new advancements in technology.

24 NEW SECTION. **Sec. 3.** The department of ecology must present
25 interim reports to the appropriate committees of the legislature by
26 January 1, 2008, and January 1, 2009, that summarize the steps taken to
27 that date towards the final rule making required by section 1 of this
28 act. The reports must include, at a minimum, a summary of
29 participation in the advisory group and the topics considered by the
30 department.

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

33 The definitions in this section apply throughout this chapter
34 unless the context clearly requires otherwise.

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

5 (2) "Land application" means (~~application of treated effluent for~~
6 ~~purposes of~~) use of reclaimed water as permitted under this chapter
7 for irrigation or landscape enhancement for residential, business, and
8 governmental purposes.

9 (3) "Person" means any state, individual, public or private
10 corporation, political subdivision, governmental subdivision,
11 governmental agency, municipality, copartnership, association, firm,
12 trust estate, or any other legal entity whatever.

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

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

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

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

25 (8) "Beneficial use" means the use of reclaimed water, that has
26 been transported from the point of production to the point of use
27 without an intervening discharge to the waters of the state, for a
28 beneficial purpose.

29 (9) "Direct recharge" means the controlled subsurface addition of
30 water directly to the ground water basin that results in the
31 replenishment of ground water.

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

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

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

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

7 (14) "Surface percolation" means the controlled application of
8 water to the ground surface for the purpose of replenishing ground
9 water.

10 (15) "Wetland or wetlands" means areas that are inundated or
11 saturated by surface water or ground water at a frequency and duration
12 sufficient to support, and that under normal circumstances do support,
13 a prevalence of vegetation typically adapted to life in saturated soil
14 conditions. Wetlands generally include swamps, marshes, bogs, and
15 similar areas. Wetlands regulated under this chapter shall be
16 delineated in accordance with the manual adopted by the department of
17 ecology pursuant to RCW 90.58.380.

18 (16) "Constructed beneficial use wetlands" means those wetlands
19 intentionally constructed on nonwetland sites to produce or replace
20 natural wetland functions and values. Constructed beneficial use
21 wetlands are considered "waters of the state."

22 (17) "Constructed treatment wetlands" means those wetlands
23 intentionally constructed on nonwetland sites and managed for the
24 primary purpose of (~~wastewater or storm water treatment~~) polishing
25 reclaimed water or aesthetics. Constructed treatment wetlands are
26 considered part of the collection and treatment system and are not
27 considered "waters of the state."

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

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

36 (20) "Agricultural water use" means the use of water for irrigation
37 and other uses related to the production of agricultural products.
38 These uses include, but are not limited to, construction, operation,

1 and maintenance of agricultural facilities and livestock operations at
2 farms, ranches, dairies, and nurseries. Examples of these uses
3 include, but are not limited to, dust control, temperature control, and
4 fire control.

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

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

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

15 (b) Standards adopted under this section are superseded by any
16 rules adopted by the department of ecology pursuant to section 1 of
17 this act as they relate to the industrial and commercial use of
18 reclaimed water.

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

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

1 activities. The department of health shall not issue permits under
2 this section until a fee structure has been established.

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

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

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

7 (c) The holder of a waste discharge permit issued under chapter
8 90.48 RCW.

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

15 (6) 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 implement the requirements of this section through the department of
19 ecology by execution of a formal agreement between the departments.
20 Upon execution of such an agreement, the department of ecology may
21 issue reclaimed water permits for industrial and commercial uses of
22 reclaimed water by issuance of permits under chapter 90.48 RCW, and may
23 establish and collect fees as required for permits issued under chapter
24 90.48 RCW.

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

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

35 (1)(a) The department of ecology shall, in coordination with the
36 department of health, adopt a single set of standards, procedures, and

1 guidelines, on or before August 1, 1993, for land applications of
2 reclaimed water.

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

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

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

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

- 21 (a) A municipal, quasi-municipal, or other governmental entity;
- 22 (b) A private utility as defined under RCW 36.94.010; or
- 23 (c) The holder of a waste discharge permit issued under chapter
24 90.48 RCW.

25 (5) The authority and duties created in this section are in
26 addition to any authority and duties already provided in law. Nothing
27 in this section limits the powers of the state or any political
28 subdivision to exercise such authority.

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

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

37 (1) The department of ecology shall, in consultation with the

1 department of health, adopt a single set of standards, procedures, and
2 guidelines, on or before December 31, 1996, for direct recharge using
3 reclaimed water. The standards shall address both water quality
4 considerations and avoidance of property damage from excessive
5 recharge.

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

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

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

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

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

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

27 (2) If the state ground water recharge criteria as defined by RCW
28 90.46.010 do not contain a standard for a constituent or contaminant,
29 the department of ecology shall establish a discharge limit consistent
30 with the goals of this chapter, except as otherwise provided in this
31 section.

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

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

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

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

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

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

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

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

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

35 (2) Standards adopted under this section are superseded by any

1 rules adopted by the department of ecology pursuant to section 1 of
2 this act as they relate to discharge of reclaimed water for streamflow
3 augmentation.

4 NEW SECTION. **Sec. 12.** The code reviser shall alphabetize and
5 renumber the definitions in RCW 90.46.010.

Passed by the House March 8, 2006.

Passed by the Senate March 7, 2006.

Approved by the Governor March 28, 2006.

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