

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5925

Chapter 69, Laws of 2001

57th Legislature
2001 Regular Session

AGRICULTURAL INDUSTRIAL PROCESS WATER

EFFECTIVE DATE: 7/22/01

Passed by the Senate March 13, 2001
YEAS 47 NAYS 0

ROSA FRANKLIN
President of the Senate

Passed by the House April 5, 2001
YEAS 97 NAYS 0

FRANK CHOPP
**Speaker of the
House of Representatives**

CLYDE BALLARD
**Speaker of the
House of Representatives**

Approved April 18, 2001

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5925** as passed by the Senate and the House of Representatives on the dates hereon set forth.

TONY M. COOK
Secretary

FILED

April 18, 2001 - 1:44 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5925

Passed Legislature - 2001 Regular Session

State of Washington

57th Legislature

2001 Regular Session

By Senate Committee on Environment, Energy & Water (originally sponsored by Senators Jacobsen, Honeyford, Fraser, Rasmussen and Morton)

READ FIRST TIME 03/05/01.

1 AN ACT Relating to agricultural industrial process water; amending
2 RCW 90.46.005, 90.46.010, 90.46.130, 90.14.140, 90.03.252, and
3 90.44.062; and adding a new section to chapter 90.46 RCW.

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

5 **Sec. 1.** RCW 90.46.005 and 1997 c 355 s 1 are each amended to read
6 as follows:

7 The legislature finds that by encouraging the use of reclaimed
8 water while assuring the health and safety of all Washington citizens
9 and the protection of its environment, the state of Washington will
10 continue to use water in the best interests of present and future
11 generations.

12 To facilitate the use of reclaimed water as soon as is practicable,
13 the legislature encourages the cooperative efforts of the public and
14 private sectors and the use of pilot projects to effectuate the goals
15 of this chapter. The legislature further directs the department of
16 health and the department of ecology to coordinate efforts towards
17 developing an efficient and streamlined process for creating and
18 implementing processes for the use of reclaimed water.

1 It is hereby declared that the people of the state of Washington
2 have a primary interest in the development of facilities to provide
3 reclaimed water to replace potable water in nonpotable applications, to
4 supplement existing surface and ground water supplies, and to assist in
5 meeting the future water requirements of the state.

6 The legislature further finds and declares that the utilization of
7 reclaimed water by local communities for domestic, agricultural,
8 industrial, recreational, and fish and wildlife habitat creation and
9 enhancement purposes, including wetland enhancement, will contribute to
10 the peace, health, safety, and welfare of the people of the state of
11 Washington. To the extent reclaimed water is appropriate for
12 beneficial uses, it should be so used to preserve potable water for
13 drinking purposes. Use of reclaimed water constitutes the development
14 of new basic water supplies needed for future generations.

15 The legislature further finds and declares that the use of
16 reclaimed water is not inconsistent with the policy of antidegradation
17 of state waters announced in other state statutes, including the water
18 pollution control act, chapter 90.48 RCW and the water resources act,
19 chapter 90.54 RCW.

20 The legislature finds that other states, including California,
21 Florida, and Arizona, have successfully used reclaimed water to
22 supplement existing water supplies without threatening existing
23 resources or public health.

24 It is the intent of the legislature that the department of ecology
25 and the department of health undertake the necessary steps to encourage
26 the development of water reclamation facilities so that reclaimed water
27 may be made available to help meet the growing water requirements of
28 the state.

29 The legislature further finds and declares that reclaimed water
30 facilities are water pollution control facilities as defined in chapter
31 70.146 RCW and are eligible for financial assistance as provided in
32 chapter 70.146 RCW. The legislature finds that funding demonstration
33 projects will ensure the future use of reclaimed water. The
34 demonstration projects in RCW 90.46.110 are varied in nature and will
35 provide the experience necessary to test different facets of the
36 standards and refine a variety of technologies so that water purveyors
37 can begin to use reclaimed water technology in a more cost-effective
38 manner. This is especially critical in smaller cities and communities

1 where the feasibility for such projects is great, but there are scarce
2 resources to develop the necessary facilities.

3 The legislature further finds that the agricultural processing
4 industry can play a critical and beneficial role in promoting the
5 efficient use of water by having the opportunity to develop and reuse
6 agricultural industrial process water from food processing.

7 **Sec. 2.** RCW 90.46.010 and 1997 c 444 s 5 are each amended to read
8 as follows:

9 (~~Unless the context clearly requires otherwise,~~) The definitions
10 in this section apply throughout this chapter unless the context
11 clearly requires otherwise.

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

16 (2) "Land application" means application of treated effluent for
17 purposes of irrigation or landscape enhancement for residential,
18 business, and governmental purposes.

19 (3) "Person" means any state, individual, public or private
20 corporation, political subdivision, governmental subdivision,
21 governmental agency, municipality, copartnership, association, firm,
22 trust estate, or any other legal entity whatever.

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

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

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

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

35 (8) "Beneficial use" means the use of reclaimed water, that has
36 been transported from the point of production to the point of use
37 without an intervening discharge to the waters of the state, for a
38 beneficial purpose.

1 (9) "Direct recharge" means the controlled subsurface addition of
2 water directly to the ground water basin that results in the
3 replenishment of ground water.

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

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

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

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

17 (14) "Surface percolation" means the controlled application of
18 water to the ground surface for the purpose of replenishing ground
19 water.

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

28 (16) "Constructed beneficial use wetlands" means those wetlands
29 intentionally constructed on nonwetland sites to produce or replace
30 natural wetland functions and values. Constructed beneficial use
31 wetlands are considered "waters of the state."

32 (17) "Constructed treatment wetlands" means those wetlands
33 intentionally constructed on nonwetland sites and managed for the
34 primary purpose of wastewater or storm water treatment. Constructed
35 treatment wetlands are considered part of the collection and treatment
36 system and are not considered "waters of the state."

37 (18) "Agricultural industrial process water" means water that has
38 been used for the purpose of agriculture processing and has been

1 adequately and reliably treated, so that as a result of that treatment,
2 it is suitable for other agricultural water use.

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

7 (20) "Agricultural water use" means the use of water for irrigation
8 and other uses related to the production of agricultural products.
9 These uses include, but are not limited to, construction, operation,
10 and maintenance of agricultural facilities and livestock operations at
11 farms, ranches, dairies, and nurseries. Examples of these uses
12 include, but are not limited to, dust control, temperature control, and
13 fire control.

14 NEW SECTION. Sec. 3. A new section is added to chapter 90.46 RCW
15 to read as follows:

16 The permit to apply agricultural industrial process water to
17 agricultural water use shall be the permit issued under chapter 90.48
18 RCW to the owner of the agricultural processing plant who may then
19 distribute the water through methods including, but not limited to,
20 irrigation systems, subject to provisions in the permit governing the
21 location, rate, water quality, and purpose. In cases where the
22 department of ecology determines that a significant risk to public
23 health exists, in land application of the water, the department must
24 refer the application to the department of health for review and
25 consultation.

26 The owner of the agricultural processing plant who obtains a permit
27 under this section has the exclusive right to the use of any
28 agricultural industrial process water generated from the plant and to
29 the distribution of such water through facilities including irrigation
30 systems. Use and distribution of the water by the owner is exempt from
31 the permit requirements of RCW 90.03.250, 90.03.380, 90.44.060, and
32 90.44.100.

33 Nothing in this act shall be construed to affect any right to reuse
34 agricultural industrial discharge water in existence on or before the
35 effective date of this section.

36 **Sec. 4.** RCW 90.46.130 and 1997 c 444 s 4 are each amended to read
37 as follows:

1 (1) Except as provided in subsection (2) of this section,
2 facilities that reclaim water under this chapter shall not impair any
3 existing water right downstream from any freshwater discharge points of
4 such facilities unless compensation or mitigation for such impairment
5 is agreed to by the holder of the affected water right.

6 (2) Agricultural water use of agricultural industrial process water
7 under this chapter shall not impair existing water rights within the
8 water source that is the source of supply for the agricultural
9 processing plant and, if the water source is surface water, the
10 existing water rights are downstream from the agricultural processing
11 plant's discharge points existing on the effective date of this act.

12 **Sec. 5.** RCW 90.14.140 and 1998 c 258 s 1 are each amended to read
13 as follows:

14 (1) For the purposes of RCW 90.14.130 through 90.14.180,
15 "sufficient cause" shall be defined as the nonuse of all or a portion
16 of the water by the owner of a water right for a period of five or more
17 consecutive years where such nonuse occurs as a result of:

18 (a) Drought, or other unavailability of water;

19 (b) Active service in the armed forces of the United States during
20 military crisis;

21 (c) Nonvoluntary service in the armed forces of the United States;

22 (d) The operation of legal proceedings;

23 (e) Federal or state agency leases of or options to purchase lands
24 or water rights which preclude or reduce the use of the right by the
25 owner of the water right;

26 (f) Federal laws imposing land or water use restrictions either
27 directly or through the voluntary enrollment of a landowner in a
28 federal program implementing those laws, or acreage limitations, or
29 production quotas.

30 (2) Notwithstanding any other provisions of RCW 90.14.130 through
31 90.14.180, there shall be no relinquishment of any water right:

32 (a) If such right is claimed for power development purposes under
33 chapter 90.16 RCW and annual license fees are paid in accordance with
34 chapter 90.16 RCW;

35 (b) If such right is used for a standby or reserve water supply to
36 be used in time of drought or other low flow period so long as
37 withdrawal or diversion facilities are maintained in good operating
38 condition for the use of such reserve or standby water supply;

1 (c) If such right is claimed for a determined future development to
2 take place either within fifteen years of July 1, 1967, or the most
3 recent beneficial use of the water right, whichever date is later;

4 (d) If such right is claimed for municipal water supply purposes
5 under chapter 90.03 RCW;

6 (e) If such waters are not subject to appropriation under the
7 applicable provisions of RCW 90.40.030; (~~or~~)

8 (f) If such right or portion of the right is leased to another
9 person for use on land other than the land to which the right is
10 appurtenant as long as the lessee makes beneficial use of the right in
11 accordance with this chapter and a transfer or change of the right has
12 been approved by the department in accordance with RCW 90.03.380,
13 90.03.383, 90.03.390, or 90.44.100; or

14 (g) If such a right or portion of the right is authorized for a
15 purpose that is satisfied by the use of agricultural industrial process
16 water as authorized under section 3 of this act.

17 **Sec. 6.** RCW 90.03.252 and 1997 c 444 s 2 are each amended to read
18 as follows:

19 The permit requirements of RCW 90.03.250 do not apply to the use of
20 reclaimed water by the owner of a wastewater treatment facility under
21 the provisions of RCW 90.46.120 and do not apply to the use of
22 agricultural industrial process water as provided under section 3 of
23 this act.

24 **Sec. 7.** RCW 90.44.062 and 1997 c 444 s 3 are each amended to read
25 as follows:

26 The permit requirements of RCW 90.44.060 do not apply to the use of
27 reclaimed water by the owner of a wastewater treatment facility under
28 the provisions of RCW 90.46.120 and do not apply to the use of
29 agricultural industrial process water as provided under section 3 of
30 this act.

Passed the Senate March 13, 2001.

Passed the House April 5, 2001.

Approved by the Governor April 18, 2001.

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