

LOTT Clean Water Alliance Comments on Draft Reclaimed Water Rule

Item No.	Page	Section	Initials	Comment
1	3	010 – definitions	WS	" Nonpotable reuse systems " means on-site treated nonpotable water systems as defined by WAC 51-56-1500. <i>This WAC does not make the meaning clear. Consider providing a definition in this rule.</i>
2		010 – definitions	WS	Recovery period: <i>Consider providing a definition for this term.</i>
3	4	010 – definitions	WS	Reclaimed water: <i>This definition indicates that reclaimed water is no longer considered a wastewater. We very much support this definition, but it raises a procedural question: In the case of a "spill" of reclaimed water, will the notification requirements change? Will spills of reclaimed water be treated differently than spills of wastewater?</i>
4	5	020 – scope	WS	2. Scope. This chapter implements chapter 90.46 RCW and establishes requirements for production, distribution, and use of reclaimed water as authorized by Ecology and Health. (p5). <i>It seems that the document would be made more clear if Ecology and Health were capitalized when referring to the specific agency. This change should be made throughout the document.</i>
5	6	030 – applicability	JR	b) <i>The correct RCW citation should be 90.46.010.</i>
6	6	030 – applicability	WS	(g) Reclaimed water facility operations and maintenance. The capture and redirection of wastewater effluent or reclaimed water for facility and internal purposes... <i>This change would account for facility uses that include operations and process purposes as well as maintenance.</i>
7	11	090 – water rights	JR	4. <i>The Purple Book (pg 31) states that the contents of an impairment analysis are provided in this section of the rule, but this draft does not include them. They are listed in chapter 4 of the draft Purple Book. If the intent is to describe the contents of the analysis in the rule, they should be added here to section 4.</i>

8	11	090 – water rights	WS	6) Notification and consultation. Ecology and the applicant will jointly notify and consult with affected tribes and the Washington State Department of Fish and Wildlife (WDFW) before Ecology makes its final determination of compliance with RCW 90.46.130. <i>Similar to Item #3, capitalization of agency names is suggested.</i>
9	13, 14	150 – noncompliance	WS	Immediate protection of public health or the environment. When it appears to the lead agency that immediate action is required to protect human health and safety or the environment, the lead agency may issue a written order or directive to the person or persons responsible without first issuing a notice of determination of violation pursuant to subsection (2) of this section. An order or directive issued pursuant to this subsection shall be served by registered mail or personally upon any person to whom it is directed. It shall direct the person or persons responsible to take immediate action, and shall also inform them of the process for requesting an adjudicative hearing. <i>Suggested change to clarify that the purpose of the order is to direct the entity to take corrective action, not just to notify them of the adjudicative process.</i>
10	14	150 – noncompliance	WS	3c) Direct the responsible person or persons to submit written notice to the lead agency within fourteen calendar days of: <i>This change suggested to keep language in the list consistent.</i>
11	16	180 – feasibility analysis	BT	1a) Entities proposing new reclaimed water projects must contact the lead agency early in the planning process to... <i>This language is vague. Suggest instead "...must notify the lead agency early in the project planning phase to..."</i>
12	17	180 – feasibility analysis	LDP	1c) vii - List of all potable water suppliers, potable water sources, storage, and distribution facilities within 1000 feet of all potential reclaimed water generation, reclaimed water storage, and inadequately treated water storage facility areas, as well as any proposed use areas. <i>It is not clear what level of detail would be acceptable. Identifying all distribution facilities in relation to all potential use areas is the part of this requirement that could be challenging, especially because all use areas may not have been identified at this point in the process.</i>

13	17	180 – feasibility analysis	LDP	1c) x - Identification of existing or proposed interlocal or interagency agreements, if any, with local governments or local potable water suppliers within the area... <i>Please specify the types of agreements (those related to the generation, distribution, and/or use of reclaimed water) because it currently reads as if all agreements must be provided, and we have many agreements in place with local government partners that are not relevant to reclaimed water and likely not of interest to the lead agency.</i>
14	19	200 – review standards	WS	(2) Review standards. The lead agency and nonlead agency, if applicable, must review all applications, plans, analyses, engineering reports, and operations and maintenance manuals to ensure they are reasonably consistent with the appropriate sections of the most recent edition of ecology's guidance, <i>Criteria for Sewage Works Design</i> (orange book) and ecology and health's guidance, <i>Reclaimed Water Facilities Manual</i> (purple book). Additional review references may include, but are not limited to, the documents listed in WAC 173-240-040. The purpose of the review is to evaluate whether the proposed reclaimed water facilities meet: <i>Stating that these documents are guidance helps to explain why the standard of "reasonably consistent" is appropriate.</i>
15	19	200 – review standards	BT	2d) All other applicable regulations and authorities. <i>This is vague and subject to interpretation.</i>

16	22	210 – engineering report	WS	<p>(u) Groundwater/aquifer recharge. If a proposed beneficial use of the reclaimed water is for aquifer recharge, the engineering report must also include the following:</p> <p>(i) Information requested by the lead agency necessary to assess the specific treatment and use of reclaimed water for application to recharge groundwater.</p> <p>(ii) Site-specific information presented in the following:</p> <p>(A) Project operation plan.</p> <p>(B) Conceptual model of the hydrogeologic system.</p> <p>(C) Description of the legal framework.</p> <p>(D) Environmental assessment and analysis of any potential adverse conditions or potential impacts to the surrounding ecosystem.</p> <p>(E) Project mitigation plan.</p> <p>(F) Project monitoring plan.</p> <p>(G) Pilot demonstration of project performance.</p> <p><i>Please clarify what is meant by “legal framework” in (C).</i></p>
17	22	210 – engineering report	JR	<p>2u) G. <i>The Purple Book notes that a pilot study should be completed for ASR projects but it does not appear that the intention is to require pilot projects for all other recharge projects. Consequently, (u)(G) should be deleted to be consistent with the Purple Book.</i></p>
18	22	210 – engineering report	JR	<p>2u) E. <i>Neither the draft Rule nor the Purple Book are clear about the contents for the mitigation plan required in (u)(E). The Purple Book states that the mitigation plan should include “actions to be taken to prevent adverse impacts to the environment,” but the need for a plan would be determined by the outcome of the assessment and analysis required in (u)(D). In other words, requiring a mitigation plan should be at the discretion of Ecology, but does not necessarily need to be required for all projects. Suggest revising (u) (E) to, “Project mitigation plan, if needed.” If the engineering report is thorough, and the permit adequately addresses potential environmental impacts, then it is not clear what would be addressed by a separate mitigation plan.</i></p>
19	26	250 – certified operators	JR	<p>2. <i>The list of “allowable” certifications could be clearer about which certifications would be allowed for a distributor vs. a generator (as opposed to highlighting who issues them). According to the Purple Book, the certifications listed in section 2a) would be allowed for distributors, those allowed for generators are listed in section 2b), and a combination of both could be required for generator/distributors.</i></p>
20	29	270 – permit terms	WS	<p>For storage of reclaimed water in an aquifer and/or recovery of the water, the permit must include the recovery period of the reclaimed water based on the hydrogeologist report. Ecology may modify or ask health to modify the reclaimed water permit and the recovery period based on later, supplemental documentation. <i>It appears this section should be numbered 7f?</i></p>

21	30	280 – fact sheet	WS	(f) For existing reclaimed water treatment facilities, the compliance history of the reclaimed water facility. <i>Suggest inserting a break and a new bullet (g) for the following text:</i> The need for monitoring and recordkeeping to document compliance. <i>(The latter is not necessarily associated with an existing facility; this applies to new facilities also.)</i>
22	31	290 – use agreements	LDP	2 b), c), and d) Content of use agreements – requirement to include b, c, and d – <i>All three of these bullets should be qualified with “if applicable” as it does not appear that content would be relevant to users</i>
23	32	310 – cross-connection control	JR	<i>This section looks good. We appreciate our previous comments were incorporated, especially in 1 f) and ask that you consider also adding that information to the Purple Book (it’s not specifically mentioned in the guidance).</i>
24	36	330 – performance standards	JR	Table 1. <i>Table 6-2 in the Purple Book does not include CBOD5; please ensure that the tables are consistent.</i>
25	36	330 – performance standards	JR	Table 2. <i>Please clarify whether Total Nitrogen means TKN or TN (TKN+NO3 and NO2)</i>
26	37	340 – disinfection process standards	LDP	1a) ... a minimum chlorine residual of at least 1 mg/L – <i>Add “measured in total chlorine” to clarify it is acceptable to meet this requirement with total chlorine, rather than free chlorine. Comments in previous rounds of rule review have detailed the challenges and problems created by a free chlorine standard.</i>
27	39	360 – storage and distribution	WS	(2) Notice of facility location(s). The entity must provide distribution system information as described in the operations and maintenance manual, per WAC 173-219-240. – <i>It is unclear who should receive this information and at what point in the process. Is the distribution system information supposed to be provided to the owners of potable water suppliers? And when in the process is this supposed to happen?</i>
28	44	Table 3	DB	Footnote 3. <i>The intent of this footnote is not clear - should it refer to beneficial uses 1-5 instead of 1-15? It also refers to Use-Based Requirements when it seems it should refer instead to Performance Standards (to be consistent with the title of the Table)?</i>