



RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (December 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: January 23, 2018

TIME: 11:16 AM

WSR 18-03-166

Agency: Department of Ecology AO# 06-12

Effective date of rule:

Permanent Rules

31 days after filing.

Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

Yes No If Yes, explain:

Purpose: Ecology is adopting a new rule, Chapter 173-219 WAC Reclaimed Water. This rule will provide a regulatory framework for the generation, distribution, and use of reclaimed water. Chapter 173-219 WAC clarifies regulatory authorities and requirements, streamlines permit application and permitting processes, and provides clarity for permittees. The rule will codify existing practices, clarify statutory requirements, and replace 1997 Water Reclamation and Reuse Standards.

Citation of rules affected by this order:

New: Chapter 173-219 WAC - Reclaimed Water

Repealed:

Amended:

Suspended:

Statutory authority for adoption: Chapter 90.46.015 RCW

Other authority:

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 17-17-150 on August 23, 2017 (date).

Describe any changes other than editing from proposed to adopted version: The following content describes the changes from the proposed to the adopted version. Corrections were made (such as typos, formatting, or general grammatical corrections) and were not included in the list below.

WAC 173-219-010 Definitions, abbreviations, and acronyms

- Deleted definition of “ART” because not used in this chapter.
- Deleted reference to “reclaimed” irrigation uses in definitions.
- Added definition of “Constructed Treatment Wetland”
- Clarify definition of “Distributor”.
- Revised definition of “Domestic wastewater” to align with statutory (0.46 RCW) definition.
- Clarified definition of “Generator”.
- Clarified definition of “Nonpotable reuse system”.
- Added definition of “Recovery Period”
- Added definition of “T₁₀”

WAC 173-219-030 Applicability.

- Revised (2)(a) to match revised definition of nonpotable reuse system.
- Revised (2)(b) to correct incorrect citation.

WAC 173-219-060 Agency requirements and responsibilities.

- Revised (1)(e) and (d) to include references to Department of Health’s (Health) and Department of Ecology’s (Ecology) relevant fee regulations.

WAC 173-219-080 Applying for a reclaimed water permit.

- Revised this section to include a new (3) regarding permit application and review fees that describes the permit application and review fee charges for both Ecology and Health.

WAC 173-219-090 Water rights protection.

- Revised (3) to clarify that an existing water right does not include “claims” but instead “vested water rights asserted by a water right claim”.

WAC 173-219-130 Public hearing request.

- Revision to the section heading and the content of the section to remove the references to “public meetings”.

WAC 173-219-150 Regulatory action for noncompliance.

- Revised (1) to clarify that the order or directive is intended to inform the person(s) responsible “to take immediate action”, as well as the process from requesting an adjudicative proceeding.
- Revised (2)(a) and (c) and (3)(c) to align and make consistent with formatting and language in other subsections in this section.

WAC 173-219-180 Feasibility analysis.

- Revised (1)(a) to clarify that entities proposing reclaimed water projects must notify the lead agency early in the project planning to determine scope of the required feasibility analysis.
- Revised (1)(c)(vii) to clarify early identification and coordination planning and clarified the connection between this requirement and the requirement in WAC 173-219-210(2)(f).
- Revised (1)(c)(x) to clarify that the “identification of existing or proposed interlocal or interagency agreements” were specific to those related to reclaimed water and not all of these types of agreements in existence.
- Revised (2) to allow for “a list and summary of recommendations” from relevant planning documents produced under other planning requirements in state or local law to be submitted as part of feasibility analysis—when appropriate and approved by the lead agency as fulfilling the requirements of this section.
- Revised (2) by removing the not all-inclusive list in (a) – (g) and instead referencing RCW 90.48.112 and RCW 90.46.120. The removed list of relevant planning documents will be included in the soon to be updated guidance materials.
- Revised (3)(a) reference to now deleted text.

WAC 173-219-190 Timing and signature requirements.

- Revised (2)(a) to align the signature requirement with signature requirements in other water quality permitting regulations.

WAC 173-219-200 Plan review and review standards.

- Revised (2) to clarify that these review materials are Ecology and Health guidance documents.
- Revised to move (2)(d) as it was deemed too ambiguous and unclear.

WAC 173-219-210 Engineering report.

- Moved the text from (2)(g) to (2)(s)(iii) as it applies only when surface water augmentation is the beneficial use.
- Renumbered (h) through (w) and internal references as needed.
- Revised (2)(s)(i)-new (h) to clarify that design information for pressurized distribution system was only necessary “if applicable”.
- Revised (2)(s)(iv) to remove this subsection and the subsequent requirement for a mitigation plan for the beneficial use of instream flow per chapter 90.22 RCW.

- Revised (2)(t)(ii)(E) to clarified the mitigation plan is required only as needed by the lead agency.
- Revised (2)(x) – new (w) to remove reference to a conveyance report and instead require that the engineering report include the technical basis for the proposal.

WAC 173-219-220 Plans and specifications.

- Revised (2)(b) to remove reference to the most recent edition of Ecology’s and Health’s Reclaimed Water Facilities Manual (purple book).

WAC 173-219-250 Certified operators.

- Revised (2)(a)-(c) to clarify which certifications are necessary and allowable to generators and distributors.

WAC 173-219-270 Reclaimed water permit terms and conditions.

- Revision made to correct a missing sub-section number following (7)(e). Numbered paragraph (f).
- Revision made to (11) to remove language regarding determination of adequacy of compensation or mitigation to align with the intent of 90.46 RCW.

WAC 173-219-280 Fact sheet.

- Revised (2)(f) into a new subsection (g) and renumbered subsequent subsections.

WAC 173-219-290 Use agreements.

- Revised to clarify that (2)(b) and (d) are only required in use agreements when applicable.
- Revised this section to include a new (3) and (4) regarding template use agreements and adding new users.

WAC 173-219-310 Cross-connection control.

- Revisions made throughout this section to clarify roles and responsibilities.
- Revision made to (8)(a)(ii) to ensure assemblies will not become submerged “due to equipment failure or” weather related conditions such as flooding.

WAC 173-219-320 Class A and B reclaimed water.

- Revisions made to (2)(a), (b), and (c) to clarify the minimum 4-log virus removal or inactivation standard is across the treatment train following biological oxidation.

WAC 173-219-330 Performance standards.

- Revision made to clarify that the reclaimed water permits issued pursuant to this chapter may specify alternative monitoring locations and water limits to ensure compliance with performance standards, and any additional use based requirements as listed in Table 3.
- Revision made to footnote 3 in Table 2 Class A and B Performance Standards to correct an error to the applicability of the Total Nitrogen standard.

WAC 173-219-340 Disinfection process standards.

- Revisions made to (1) to clarify the disinfection process must, “in combination with treatment processes following biological oxidation” result in a minimum of 4-log virus removal or inactivation.
- Revision to (1)(a) to clarify minimum chlorine standard can be measured as “total chlorine residual of at least 1 mg/L, after a T₁₀ contact time of at least thirty minutes, based on a peak day design flow” and that the lead agency may require a tracer study to determine contact times.
- Revisions to (2) to clarify the necessity to document the performance of the combined treatment processes following biological oxidation.
- Revisions to (2)(c) to clarify when existing facilities must demonstrate compliance with the validation requirements, to include when a disinfection system is modified, replaced or the facility expects an

increase in hydraulic capacity—or with the application for permit renewals, unless the lead agency issues an extension under WAC 173-219-040(1)(e).

- Revision to clarify requirements for Class B reclaimed water, adding new (3) that describes the disinfection process.

WAC 173-219-360 Storage and distribution system requirements.

- Revision to remove (2) in the section because these facilities should be identified and communicated through the feasibility analysis and engineering report. This removed ~~and this was~~ a redundant, unnecessary, and confusing requirement.
- Revisions to (10)(c) to clarify that vehicles used to deliver potable water for potable use are never used to transport reclaimed water, unless they stop transporting potable water for potable purposes.

WAC 173-219-390 Specific use-based requirements.

- Revisions to the table to consolidate repetitive requirements that were better combined, for example, (5) was deleted and “public water features” were included in (2). Subsequent renumbering of sub-sections was done.
- Revision to (10) Irrigation of orchards or vineyards, to add the restriction that Class B irrigation water must not come in contact with the fruit within 15 days of harvest.
- Revision made to remove (19) (revised to (18)) Depressional Wetlands and instead to include a footnote that applies to (16) and (17). This revision is to more clearly express the proper categorization application related to “depressional wetlands”.
- Revision to (21) - new (19) to more expressly include “treatment” wetlands to this beneficial use, as well as to include the additional requirement information necessary for this use.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

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Web site: <https://www.ecology.wa.gov/programs/wq/ruledev/wac173219/0612/0612timedocs.html>

Other:

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	<u>39</u>	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted on the agency’s own initiative:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New 39 Amended Repealed

The number of sections adopted using:

Negotiated rule making: New Amended Repealed
Pilot rule making: New Amended Repealed
Other alternative rule making: New Amended Repealed

Date Adopted: January 23, 2018

Name: Maia Bellon

Title: Director

Signature:

