

Chapter 3c Wastewater Reuse Act

Part 1 General Provisions

73-3c-101 Title.

This chapter is known as the "Wastewater Reuse Act."

Enacted by Chapter 179, 2006 General Session

73-3c-102 Definitions.

As used in this chapter:

- (1) "Director" means the director of the Division of Water Quality appointed under Section 19-5-106.
- (2) "Domestic wastewater" or "sewage" means:
 - (a) a combination of the liquid or water-carried wastes from:
 - (i) structures with installed plumbing facilities; and
 - (ii) industrial establishments; and
 - (b) any groundwater, surface water, and storm water that is present with the waste.
- (3) "Industrial facility" means a factory, mill, plant, mine, refinery, warehouse, or building or collection of buildings, including the land on which the facility is located, and the machinery and equipment located at or within the facility used in connection with the operation of the facility in an industrial business.
- (4) "POTW" means a publicly owned treatment works as defined by Section 19-5-102.
- (5) "Public agency" means a public agency as defined by Section 11-13-103 that:
 - (a) owns or operates a POTW;
 - (b) collects and transports domestic wastewater;
 - (c) holds legal title to a water right;
 - (d) is delegated the right to the beneficial use or reuse of water by the legal title holder of the water right;
 - (e) is a water supplier; or
 - (f) sells wholesale or retail water.
- (6) "Return flow requirement" means return flow required under a water right.
- (7)
 - (a) "Reuse authorization contract" means a contract or contracts among:
 - (i) a public agency proposing a water reuse project;
 - (ii) the owner or operator of a POTW that treats domestic wastewater proposed for use in a reuse project;
 - (iii) the owner of a domestic wastewater collection or transportation system if the reuse project will divert domestic wastewater directly from that entity's collection or transportation system;
 - (iv) the legal title holder of the water right designated for use in the reuse project, unless the legal title holder of the water right has delegated to another the right to the beneficial use or reuse of the water;
 - (v) each water supplier not holding legal title to the water right designated for use in the reuse project that sells or delivers water under the water right designated for use in the reuse project;

- (vi) each entity that will engage in the wholesale or retail sale of water from the water reuse project; and
- (vii) the retail water supplier retailing water that will be replaced by reuse water supplied under the proposed reuse project.
- (b) A reuse authorization contract shall:
 - (i) provide that a water supplier that is a party to the agreement consents to the use of reuse water under each water right, in which the water supplier has an interest, that is identified for use in the water reuse project; and
 - (ii) provide that any proposed water reuse project based on the contract shall be consistent with the underlying water right.
- (8) "Reuse water" means domestic wastewater treated to a standard acceptable under rules made by the Water Quality Board under Section 19-5-104.
- (9)
 - (a) "Water reuse project" or "project" means a project for the reuse of domestic wastewater that requires approval by the director under Section 19-5-106 and the state engineer under Section 73-3c-302.
 - (b) "Water reuse project" or "project" does not include water reused at or by an industrial facility for operating or processing purposes.
- (10) "Water right" means:
 - (a) a right to use water evidenced by any means identified in Section 73-1-10; or
 - (b) a right to use water under an approved application:
 - (i) to appropriate;
 - (ii) for a change of use; or
 - (iii) for the exchange of water.
- (11) "Water supplier" means an entity engaged in the delivery of water for municipal purposes.

Amended by Chapter 176, 2023 General Session

73-3c-103 Water reuse projects and the Great Salt Lake -- Exception.

- (1) Except as provided in Subsection (3) and notwithstanding the other provisions of this chapter, the director and the state engineer may not approve a water reuse project if the water related to the water reuse project would have otherwise been discharged into a tributary of the Great Salt Lake.
- (2) The state engineer may, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, define what is a tributary of the Great Salt Lake.
- (3) This section does not apply to:
 - (a) a water right owned by the federal government;
 - (b) a water reuse project to supply water to the Great Salt Lake;
 - (c) a water reuse project approved subject to a water replacement plan; or
 - (d) water reuse project applications filed with the director and the state engineer before November 1, 2023, including any future renewals required under Section 19-5-108 for the water reuse project that are submitted after November 1, 2023.

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Part 2

Permissible Reuse

73-3c-201 Reuse by a public agency owning underlying water right.

- (1) A public agency owning or operating a POTW that treats domestic wastewater consisting of water supplied under a water right the public agency owns may use, or contract for the use of, reuse water if:
 - (a) the water right is administered by the state engineer as a municipal water right;
 - (b) the reuse is consistent, under Subsection 73-3c-302(5), with the underlying water right; and
 - (c) the public agency receives approval in accordance with Sections 73-3c-301 and 73-3c-302.
- (2) A change application shall be filed in accordance with Section 73-3-3 if the public agency proposes a water reuse that is inconsistent with the underlying water right.

Enacted by Chapter 179, 2006 General Session

73-3c-202 Reuse by a public agency under a contract authorizing the use of water.

- (1) A public agency may use or contract for the use of reuse water if:
 - (a) the domestic wastewater consists of water for which the public agency has a reuse authorization contract;
 - (b) the water right is administered by the state engineer as a municipal water right;
 - (c) the reuse is consistent, under Subsection 73-3c-302(5), with the underlying water right; and
 - (d) the public agency receives approval in accordance with Sections 73-3c-301 and 73-3c-302.
- (2) A change application shall be filed in accordance with Section 73-3-3 if the public agency proposes a water reuse that is inconsistent with the underlying water right.

Enacted by Chapter 179, 2006 General Session

Part 3 Approval Process

73-3c-301 Application to the director.

- (1)
 - (a) A public agency proposing a water reuse project shall apply to the director.
 - (b) Before applying for approval by the director of a water reuse project, the public agency shall obtain conditional approval of the water reuse project by the state engineer under Section 73-3c-302.
- (2) The Water Quality Board may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the consideration and approval by the director of water reuse applications and administration of water reuse construction and operating permits.
- (3) Rules made under Subsection (2) shall require that water reuse meet standards and requirements for water quality set by the Water Quality Board in accordance with Title 19, Chapter 5, Water Quality Act.
- (4) The director shall issue a written decision for each water reuse application.
- (5) The director may approve a water reuse project only after the state engineer has conditionally approved the water reuse project under Section 73-3c-302.

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73-3c-302 Application to the state engineer.

- (1)
 - (a) A public agency proposing a water reuse project shall apply to the state engineer.
 - (b) The state engineer's approval of a water reuse project application filed under this section is conditioned on the approval of the director under Section 73-3c-301.
- (2) An application for water reuse under Subsection (1) shall be made upon forms furnished by the state engineer and shall include:
 - (a) the name of the applicant;
 - (b) a description of the underlying water right;
 - (c) an evaluation of the underlying water right's diversion, depletion, and return flow requirements;
 - (d) the estimated quantity of water to be reused;
 - (e) the location of the POTW;
 - (f) the place, purpose, and extent of the proposed water reuse;
 - (g) an evaluation of depletion from the hydrologic system caused by the water reuse; and
 - (h) any other information consistent with this chapter that is requested by the state engineer.
- (3) An application under Subsection (1) shall include a copy of a reuse authorization contract for water reuse proposed by a public agency for any underlying water right not owned by the public agency.
- (4) In considering an application for water reuse, the state engineer shall comply with:
 - (a) Section 73-3-6;
 - (b) Section 73-3-7;
 - (c) Section 73-3-10; and
 - (d) Section 73-3-14.
- (5) In determining whether a proposed water reuse is consistent with the underlying water right, the state engineer shall conclude that a proposed water reuse is consistent with the underlying water right if:
 - (a) the use of the reuse water does not enlarge the underlying water right; and
 - (b) any return flow requirement of the underlying water right is satisfied.
- (6)
 - (a) The state engineer shall approve a water reuse application if the state engineer concludes that the proposed water reuse:
 - (i) is consistent with the underlying water right; and
 - (ii) for an application in which the water would have otherwise been discharged into a tributary of the Great Salt Lake, includes an adequate replacement plan provided by the applicant.
 - (b) The state engineer may:
 - (i) deny an application if the proposed water reuse is inconsistent with the underlying water right; or
 - (ii) approve the application in part or with conditions to assure consistency with the underlying water right.
- (7)
 - (a) For an application in which the water would have otherwise been discharged into a tributary of the Great Salt Lake, the applicant shall submit a water replacement plan that provides an equivalent amount of water to the Great Salt Lake.
 - (b) The state engineer may:
 - (i) approve the application in part or with conditions to assure equivalent replacement of water to the Great Salt Lake; or

- (ii) deny an application if the replacement plan cannot assure equivalent replacement of water to the Great Salt Lake.
- (8) A public agency with an approved reuse application shall submit a report, as directed by the state engineer, concerning the ongoing water reuse operation.
- (9) The state engineer may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this chapter.

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73-3c-303 Inflow of unappropriated water -- Application to appropriate.

If domestic wastewater inflow to a POTW consists of any unappropriated infiltration water, a person may apply to the state engineer to appropriate the unappropriated infiltration water to a beneficial use in accordance with Section 73-3-8.

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73-3c-304 Change in point of discharge.

- (1) The point of discharge of water from a POTW may be changed if the director determines that a change is necessary:
 - (a) for treatment purposes;
 - (b) to enhance environmental quality;
 - (c) to protect public health, safety, or welfare; or
 - (d) to comply with:
 - (i) rules created by the Water Quality Board in accordance with Section 19-5-104; or
 - (ii) the POTW's discharge permit.
- (2) Before changing the point of discharge from a POTW under Subsection (1), the director shall consult with the state engineer.

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Part 4
Effect of Reuse

73-3c-401 Priority of reuse water.

If the use of reuse water is consistent with the underlying water right, the priority of the reuse water is the same as the priority of the underlying water right.

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