

<u>Item</u>	<u>Who</u>	<u>Section & Subsection</u>	<u>Comment</u>	<u>Suggested language</u>
General/Policy/Legal				
Technical				
1	LOTT	015 (3) (a)	I appreciate the intent of this clause, but does Ecology really have the authority to “approve” a municipality’s ordinance?	
2	LOTT	090 Definitions	Water Right Mitigation – This definition is wrong. It ties mitigation exclusively to Water Right Impairment, which is very different. Impairment has nothing to do with it. The definition text needs to come from the section on “Use of Reclaimed Water for Water Right Mitigation” Section 110 (1) Applicability (a), which says that the section applies to the <u>use of reclaimed water for mitigation of new surface or groundwater rights and changes to existing surface or groundwater rights.</u>	Change the definition to: “Water right mitigation” means the use of reclaimed water for mitigation of new surface or groundwater rights and changes to existing surface or groundwater rights.”

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3	LOTT	105 (1) and (2) Evaluation of Potential Impairment of Existing Water Rights	These subsections specify a much broader applicability than the definition of “Water Rights Impairment” does. The definition applies it to situations “...caused by decreasing or ceasing a wastewater discharge in order to reclaim the water...” These sub-sections instead apply it to “...any existing water right downstream from any freshwater discharge points.” Based on that language, any groundwater recharge projects could be subject to this section even though we’re not “decreasing or ceasing a wastewater discharge” to any freshwater source (we discharge to marine waters). The end result could subject all groundwater recharge and wetland enhancement projects to Water Right Impairment analysis even when that water would otherwise go to marine discharge. While I realize sub-section (1) references statute language, (2) could certainly be revised to add clarification.	Add the definition language to the end of Sub-section (2) Applicability that says: “... that are affected by decreasing or ceasing a wastewater discharge in order to reclaim the water. ”
4	LOTT	105 (6) (c) Evaluation of Potential Impairment of Existing Water Rights	Mitigation, once accepted, should apply to the life of the project, not be limited to “the life of the permit.” The 5-year permit window is much too small to justify spending potentially millions of dollars for a project with that limited a life expectancy.	Change “...for the life of the permit” to “...for the life of the project.”

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5	LOTT	110 (2) (b) Use of Reclaimed Water for Water Right Mitigation	<p>The use of reclaimed water for water rights mitigation is completely separate and distinct from water rights impairment. Clause (b) should be deleted. An impairment analysis should not be required separately here when many projects will not have any impairment involved. If the generator is using water that is subject to a water rights impairment analysis, that analysis would already be covered through section 105.</p> <p>Example: In LOTT’s case, Lacey and Olympia are planning a project to use reclaimed water for water rights mitigation, but the water is from LOTT and there has been no “decreasing or ceasing a wastewater discharge” to any freshwater body in order to reclaim the water. Either this clause should be deleted or there should be an exemption from this requirement if an impairment evaluation is not required by section 105(2).</p>	<p>Option 1: Delete (2)(b)</p> <p>Option 2: Change (2)(b) to say “...under WAC 173-219-105” to “<u>if applicable under WAC 173-219-105.</u>”</p>
6	LOTT	110 (2) (d)	<p>Please clarify what is meant by a “separate” water right application. Is that the application for the water rights that’s being mitigated with the reclaimed water?</p>	

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7	LOTT	110(2) (d)& (f) (iii)	This may be related to the item above. It appears that both (d) and (f) imply that a water right will be needed for using reclaimed water for water rights mitigation. If so, this is a big change from previous policy that exempts reclaimed water uses from needing water rights. If these clauses are really referring to the water right that's being mitigated through the use of reclaimed water, some clarifying language would be helpful to avoid confusion. What is meant by "and" "a water right change" in (f) (ii) and (iii)? Why would a water right change be required?	Clarify what the water right references apply to throughout (2) and in relation to the "separate" water right application. Possibly delete "and" and (f) (iii), depending upon clarifications.
8	LOTT	160 (5) Site Management Plan	Asking for this level of detail at the Engineering Report stage is unrealistic. We had some concept of potential users, but no specific commitments at that stage of our two reclaimed water plant planning efforts. This information could be requested as part of the permit application. For users added later, it is currently required (per LOTT's permits), as part of the annual Water Reuse Summary Plans.	Since supplements are allowed, add text stating: as a supplement to the Engineering Report, it could be submitted prior to or in conjunction with the application for a permit.

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9	LOTT	160 (5) (c) (iv)	Not all irrigation is agricultural, especially in urban areas. As currently worded, this clause could imply that all irrigation has to be monitored based on agricultural use parameters. To clarify that this clause applies specifically to agricultural uses, I suggest some rewording.	<p>Option 1: Parameters to be monitored for <u>agricultural use</u>, to assure water quality is within acceptable limits for agricultural use.</p> <p>Option 2: For <u>agricultural use</u>, parameters to be monitored to assure water quality is within acceptable limits for agricultural use.</p>

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10	LOTT	295 (8) Assessment of Emerging Contaminants of Interest	<p>Suggest removing “of interest” from the title of this clause. In some cases, it can be interpreted to mean agencies would require monitoring for anything that was “interesting.”</p> <p>We need to also consider reasonableness, including cost, of any proposed monitoring, since it would be punitive to hold treatment plants responsible for contaminants that should be addressed via source control if they’re that damaging in the environment.</p>	<p>“...must consider relevant scientific studies regarding the laboratory methodologies for detecting very small amounts of a contaminant, fate and transport of the contaminant within the environment, and potential impacts to human and aquatic health, <u>technical feasibility, and cost</u> in making decisions to require additional monitoring.</p>

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11	LOTT / Ben M	320 (5) Total coliform performance standards	<p>“sample maximum of 23 reported as MPN/100mL” – what is the purpose of this limitation? If we are allowed to ingest total coliform via the drinking water limitations why make maximum limit of total coliform and not fecal coliform?</p> <p>The drinking water MCL action requirements - WAC 246-290-310 – Maximum contaminant levels (MCLs) (a) The purveyor shall be responsible for complying with the standards of water quality identified in this section. If a substance exceeds its MCL or its maximum residual disinfectant level (MRDL), the purveyor shall take follow-up action under WAC 246-290-320.</p> <p>(b) When enforcing the standards described under this section, the department shall enforce compliance with the primary standards as its first priority.</p> <p>(2) Bacteriological.</p> <p>(a) MCLs under this subsection shall be considered primary standards.</p> <p>(b) If coliform presence is detected in any sample, the purveyor shall take follow-up action under WAC 246-290-320(2).</p> <p>(c) Acute MCL. An acute MCL for coliform bacteria occurs when there is:</p> <ul style="list-style-type: none"> (i) Fecal coliform presence in a repeat sample; (ii) <i>E. coli</i> presence in a repeat sample; or (iii) Coliform presence in any repeat samples collected as a follow-up to a sample with fecal coliform or <i>E. coli</i> presence. <p>(d) Nonacute MCL. A nonacute MCL for coliform bacteria occurs when:</p> <ul style="list-style-type: none"> (i) Systems taking less than forty routine samples during the month have more than one sample with coliform presence; or (ii) Systems taking forty or more routine samples during the month have more than 5.0 percent with coliform presence. 	<p>Total coliform performance standards. Total coliform must be measured in the final, disinfected reclaimed water prior to distribution. Grab samples must not exceed a 7-day median reported as 2.2 MPN/100mL. The lead agency may approve other standard methods and criteria that are equivalent to these MPN values.</p>

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12	LOTT	400 (1) Operational Storage or Diversion	Aquifer Storage and Recovery is a form of storage, but is not identified here. It should either be included or excluded from this section.	Add 720 to the list of provisions of WAC that apply in (1). ASR should also be included in 410 (2) waiver of chlorine residual.
13	LOTT	410	The previous rule draft (Section 420 (1) b)) included a clause allowing waiver of chlorine residual requirements during storage or conveyance to the point of use if justified. We recommend reinstating that.	Add to (2): Where justified due to the type of beneficial use, the lead agency may waive or modify the requirements for maintaining a chlorine residual during storage or conveyance to the point of use.
14	LOTT	700 Groundwater Recharge (4)(d)	Same reasoning as Item #11 above for this proposed rule. Keep the 7-day median of 1 MPN/100mL and eliminate the sample maximum of 5 MPN/100mL.	

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15	LOTT	700 Groundwater Recharge – Subsection (6)?	Given the widespread benefits of groundwater augmentation on wetlands and baseflows, groundwater recharge with reclaimed water should be promoted in cases where "net environmental benefit" is demonstrated. The "net environmental benefit" consideration is only referenced for category I and II wetlands presently.	A clause allowing consideration of net environmental benefit should be added to this section.
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16	LOTT	700 (7) Point of Compliance	<p>The Draft Rule will effectively derate LOTT’s existing Hawks Prairie Groundwater Recharge Basins. The draft requires that compliance with new water quality requirements must be established “up to but not exceeding the property boundary.” The Hawks Prairie Recharge Basins were built adjacent to the east edge of the property. Although the basins were shown to meet water quality criteria imposed at the time the facility was permitted, the recharged water at that site cannot possibly remain within the property boundary after it infiltrates. An alternative point in surface waters beyond the property boundaries is allowed in the Draft Rule (d), if necessary, but this Hawks Prairie facility doesn’t recharge any surface waters. The Draft Rule doesn’t allow any underground alternative point of compliance. Since water naturally moves through the ground, no recharge project could possibly confine it to the property boundaries at all depths.</p>	<p>Add a new subsection: (e) At an alternative point in the groundwater beyond the property boundary, if necessary, for the purpose of compliance with chapter 173-200 WAC.</p> <p>(NOTE: This would be consistent with 173-200-060 (a) (i) which allows an alternative point of compliance “When all known, available, and reasonable methods of prevention, control, and treatment result in an exceedance of the criteria at the point of compliance.</p>

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17	LOTT	720 Aquifer Storage and Recovery (2) Other Applicable Laws	If the generator has specified an intent to store and recover reclaimed water via ASR, that water should not be subject to someone else's ability to acquire water rights until the water is beyond the aquifer storage area where we can keep track of it and control it.	Add to (2): The provisions of this chapter do not limit a person's ability to submit an application for and acquire water rights appropriated under RCW 90.03.250 and RCW 90.44.060 <u>if the generator has relinquished its exclusive right or the water has flowed beyond the limits of the aquifer storage area.</u>

