

**Building the New Reclaimed Water WAC  
Proposed Draft Rule Language - work in progress (WIP)  
for Rule Advisory Committee use only  
Wednesday, April 29, 2009**

***Part III PERMITS - version 1.0 (4-23-2009)***

***PART III RECLAIMED WATER PERMITS***

173-219- 200	Types of permits issued under this chapter.
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***Questions for the next section 200 Types of permits***

Note: Proposed text of subsection 1(a) and 1(b) on permitting private and public entities shows how it would be moved from Part I (section 080) of this rule?

- 1. In 2007, this RAC recommended 3 types of reclaimed water permits (individual permit, master generator permit, and general permit). Does this RAC still recommend this approach? If not, what changed your recommendation?*
- 2. In 2007, this RAC was divided on whether reclaimed water permits should be combined with NPDES or state waste discharge permits under chapter 90.48 RCW. Ecology recommends that individual permits be combined with the waste discharge permit for administrative convenience to the lead agency, the permittee and other interested parties. Ecology also recommends that the rule provide the flexibility to issue separate reclaimed water and waste discharge permits when it is the opinion of the lead agency that separate permits provide more effective regulation. Does the RAC support this recommendation?*
- 3. Ecology recommends that only public entities be permitted as Master Generators since these facilities will have responsibilities for several facilities producing reclaimed water. Does the RAC support this concept? Why or why not?*

4. *In 2007, this RAC recommended that this rule establish specific requirements for a reclaimed water general permit as separate from the requirements for an NPDES general permit under chapter 173-226 WAC. Does the RAC still recommend this approach? If not, what changed your recommendation?*

### **WAC 173-219- 200 Types of permits issued under this chapter**

The lead agency shall issue one of three types of permits for the generation, distribution and use of reclaimed water.

1. Individual Reclaimed Water Permit. Unless eligible for another type of permit under this section, the lead agency shall issue an individual permit to the facility generating reclaimed water using the administrative procedures established under this rule. Typically, the permit requirements under this rule and under the Water Pollution Control Act, chapter 90.48 RCW are contained in a single combined permit document.
  - (a). Private Entity. The lead agency may permit a privately owned facility to generate reclaimed water provided:
    - i. The uses of the reclaimed water are authorized under this chapter.
    - ii. The owner of the facility is one or more of the following:
      - (1). A private utility as defined in RCW 36.94.010.
      - (2). The holder of a waste discharge permit issued under chapter 90.48 RCW.
      - (3). A facility serving a single nonresidential industrial or commercial establishment. This does not include commercial/industrial complexes serving multiple owners or tenants or multiple residential dwelling facilities such as mobile home parks, apartments, and condominiums.
    - iii. Before deciding whether to issue a permit to a nonpublic entity, the lead agency may require information that is reasonable and necessary to determine whether the private entity has the financial and other resources to ensure the reliability, continuity, and supervision of the reclaimed water facility.
  - (b). Public Entity. All other facilities shall be owned by a public entity. Nothing in this rule precludes a public entity from contracting for operation and maintenance.
2. Master Generator Reclaimed Water Permit. When it is the opinion of the lead agency that a category of reclaimed water generation and use is more effectively regulated under a master generator permit than under individual permits, the lead agency may issue a master generator permit to a single public entity. The permitted entity must provide overall management and

operational responsibilities for multiple facilities producing reclaimed water without the necessity for a physical connection between such systems. The permittee must own or otherwise demonstrate direct control over all facilities covered under the master generator permit. The master generator permit shall be issued using the administrative procedures established for an individual permit under this rule.

3. General Reclaimed Water Permit. When it is the opinion of the lead agency that a category of reclaimed water generation or use is more effectively regulated under a general permit than under individual permits, the lead agency may issue a general permit using the administrative procedures established under this rule for a general permit. The lead agency may then accept and consider applications for coverage under the general permit, modify conditions of coverage, revoke and reissue coverage, or terminate coverage under the general permit. General permits may be written to cover categories of reclaimed water generation facilities with the same or substantially similar water quality requirements, uses of reclaimed water, types of treatment reliability features and operating conditions, best management practices, monitoring, recordkeeping and reporting requirements.

**Questions for the next section 210 - Individual or master generator permit application.**

1. *Should Ecology separate individual and master generator permit applications into two separate sections of this rule?*
2. *Do RAC members have any questions regarding the purpose or content of this section?*
3. *Are RAC members comfortable with the requirements for an exemption as stated under subsection 3?*
4. *How could Ecology improve this section?*

**WAC 173-219-210 Application for an individual or master generator permit.**

1. Application required. Except as exempted under subsection (3) of this section or when covered under a reclaimed water general permit issued under this rule, any person generating or proposing to generate reclaimed water for distribution or use must apply for an individual permit or a master generator permit for the generation, distribution and final use of the reclaimed water.
  - (a).It is a violation of this chapter for a facility to fail to submit a permit application to the department as required by these rules.
  - (b).No distribution or use of reclaimed water is authorized until such time as a permit has been issued consistent with the terms and conditions of this chapter.

- (c). Projects that include a point source discharge into any surface water of the state shall also be subject to the permitting requirements under the national pollutant discharge elimination system permit program, chapter 173-220 WAC.
  - (d). A new application or a supplement to the most recent application shall be filed for any new or increased type of use not specifically authorized under a current permit.
  - (e). For the purpose of satisfying the requirements of this subsection, any person generating reclaimed water under a permit issued by the department of Ecology prior to the time this rule is adopted shall be considered as meeting this requirement.
2. Filing the Application. The requirement for an application shall be satisfied provide the applicant files the required form with the lead agency at least 180 days before the permit is required. The lead agency shall prescribe the application form appropriate for the type, category, or size of facility and any additional information required by either the lead or non-lead agency pertaining to the water quality, location, rate or purpose of use.
3. Permitting exemptions: Facilities generating reclaimed water do not require a permit or coverage under a general permit issued under this chapter provided all of the following conditions are met:
- (b). The reclaimed water is not distributed or transported beyond the boundaries of the wastewater treatment facility generating the reclaimed water.
  - (c). The reclaimed water is only used for treatment plant purposes within the bounds of the wastewater treatment facility generating the reclaimed water.
  - (d). A permit under this chapter is not otherwise required in order to comply with the Federal Clean Water Act or the state Water Pollution Control Act.
  - (e). A permit under this chapter is not otherwise required to protect public health.

**Questions for the next section 215 - Application for coverage under a general permit.**

1. *Should Ecology include this new section to incorporate general permits into this rule?*
2. *Do RAC members have any questions regarding the purpose or content of this section?*
3. *How could Ecology improve this section?*

**WAC 173-219- 215 Application for coverage under a reclaimed water general permit.**

1. The lead agency shall develop an application form for each general permit appropriate for the type, category, or size of facility and any additional information required by the lead or non-lead agency pertaining to the water quality, location, rate or purpose of use. The lead agency shall make the application form available during the draft general permit public notice period.
2. Following issuance of a general permit, the lead agency shall consider the requirement to apply for coverage under the general permit satisfied if the applicant files a complete and accurate application on the form prescribed by the lead agency. Coverage under a general permit commences on the date established by the lead agency.
3. Where the lead agency determines that a reclaimed water generator should not be covered under a general permit, it shall respond in writing within sixty days of receipt of an application for coverage stating the reason(s) why coverage cannot become effective and any actions needed to be taken by the applicant in order for coverage under the general permit to become effective.

**Questions for the next section 220 Signature requirements.**

*Note: This section has not changed from the content in the "Existing Practices Framework" presented to this RAC in January and February 2009.*

1. *Do all private utilities fit under one of these headings?*
2. *Do RAC members have any additional comments or questions on this section?*
3. *How could Ecology improve this section?*

**WAC 173-219- 220 Signature requirements**

1. Signature on Application. All permit applications shall be signed as follows:
  - (a). Corporations. By a responsible corporate officer. For the purposes of this section, a responsible corporate official includes either of the following:
    - i. A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy-making or decision-making functions for the corporation.
    - ii. The manager of one or more manufacturing, production, or operating facilities if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
  - (b). Partnership. By a general partner.
  - (c). Sole Proprietorship. By the proprietor.

(d). Public Agency. By either the principal executive officer or ranking elected official.

2. Signature on Other Submittals. All submittals required by permits, and other information requested by the department must be signed by a person described under subsection 1 of this section, or by their duly authorized representative.

(a). *Duly Authorized Representative*. A person is a duly authorized representative only if the person described in subsection 2 submits written authorization to the department specifying an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters.

(b). *Changes to authorization*. If an authorization under (a) of this subsection is no longer accurate, a new authorization satisfying the requirements of (a) of this subsection must be submitted to the department prior to or together with any reports or other information.

(c). Certification. Any person signing a document under this rule shall make the following certification, unless a different certification is applicable under another related section of this chapter:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

**Ecology will present more sections of the Part III – Permits for RAC consideration at the June 3 and June 24 meetings.**