

**Building the New Reclaimed Water WAC
Proposed Draft Rule Language - work in progress (WIP)
for Rule Advisory Committee use only
Wednesday, July 22, 2009**

Part III PERMITS - version 1.2

Intent of Part III

1. Identify:
 - When a permit is required.
 - When a person must apply for a permit.
 - Who is eligible to apply for a permit.
 - The three types of permits that may be issued.
 - Forms required.
 - Signatures required.
 - Fees required.
 - Duration of a permit.

 2. Specify procedures to:
 - Issue or deny a permit.
 - Notify the non-lead agency and other applicable governments.
 - Provide opportunity for public comment or appeal.
 - Renew a permit.
 - Transfer the permit to another person.
 - Modify, revoke or suspend a permit.

 3. Specify the terms and conditions that must be included in a permit.
-

Proposed Sections:

- Content for review 6-24-09 in **bold**
- *Note: regulatory action for noncompliance (formerly 290) was moved to Part VII and will be discussed with Part VII.*
- Section numbers may change

200 Types of permits issued under this rule.

205 Eligibility to apply for a permit. (**subsection 205(4)**)

210 Process to apply for an individual or master generator reclaimed water permit.

215 Process to apply for coverage under a general reclaimed water permit.

220 Signature requirements on permits and permit related submittals.

230-Draft determination to issue or deny permit.

240-Process for public notice and comments.

250-

260-Procedures to transfer a permit.

270-Permit duration and replacement.

280. Permit modification, suspension or revocation

290 Permit terms and conditions (7-22-09)

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

The lead agency issues one of the following three types of permits for the generation, distribution and use of reclaimed water using the administrative procedures developed under this rule.

1. An individual permit is a permit tailored to regulate a specific facility generating reclaimed water for specified uses. Typically, the lead agency issues an individual reclaimed water permit concurrently with an individual wastewater discharge permit under chapter 90.48 RCW. The two permits may be combined within a single permit document.
2. A master generator permit is a special type of individual permit that may be issued to a specific entity that (a) provides overall management and operational responsibilities for multiple facilities generating reclaimed water and (b) owns or otherwise demonstrates direct control over all facilities included under the permit. The facilities do not have to be physically connected with each other.
3. A general permit is a type of permit that a lead agency may issue to cover a number of similar entities. Facilities included under a general permit must have the same or substantially similar (a) water quality requirements, (b) uses of reclaimed water, (c) types of treatment, (d) reliability features, (e) operating conditions, (f) best management practices, and (g) monitoring, recordkeeping and reporting requirements. Once a general permit is issued, the lead agency may accept and consider individual applications for coverage under the general permit. For a specific entity requesting coverage under the general permit, the lead agency may also modify the conditions of coverage, revoke an existing permit and reissue

Comment [KCC1]: Note: 6-3-2009 Ecology – the term generator (generating) needs to include master generator to be eligible under Ch. 90.46 RCW. Add to definitions list.

coverage under the general permit, or suspend or terminate their coverage under the general permit.

Question on Section 205, 4:

1. *Should all of the section 4 detail be in rule or should some of the detail be moved to guidance documents?*
2. *Does this content best fit under Part III – Permits or should Ecology incorporate it under Part II – Submittals.*

WAC 173-219- 205 Eligibility to apply for a permit - Permittee. (6-10-09)

State law (RCW 90.46.XXX) allows the lead agency to issue a reclaimed water permit only to the person generating the reclaimed water and meeting the requirements of subsection 1,2 or 3 of this section.

Comment [KCC2]: Under 2009 session law (5504 – section 9) and waiting for the code reviser to assign a section number to replace “XXX”.

- 1 A public entity. Nothing in this rule precludes a public entity from contracting for operation and maintenance of the facility.
- 2 A private utility as defined in [RCW 36.94.010](#) provided the lead agency determines that the private utility meets the requirements for financial and other resources to ensure the reliability, continuity, and supervision of the reclaimed water facility as specified in subsection 4 of this section.
- 3 Any entity currently holding an unexpired or administratively extended wastewater discharge permit issued under chapter 90.48 RCW. For new facilities, the lead agency may issue the wastewater discharge permit concurrently with the reclaimed water permit.

Comment [KCC3]: This could also include LOSS permits issued by WDOH.

Part III PERMITS - version 1.2 Section 205(4)

Note: The RAC has already commented regarding the need to clarify terms – public entity, non-public entity, and private utility. These remain to be address and the text has not been modified in this discussion draft.

Intent of section 205 (4) is to establish the process and requirements to address the capacity of a private utility to qualify for a permit.

Ecology requesta input regarding the proposed process and requirements.

WAC 173-219- 205 Eligibility to apply for a permit - Permittee.

- 4 Before issuing a permit, a non-public entity must submit adequate information to the lead agency to determine if the entity has the technical, managerial,

administrative, operational and financial capacity to qualify for issuance of a permit. The lead agency may require that changes be made, such as managerial or financial changes, before issuance of a permit. Information that may be required includes:

- (a) A brief, non-technical description of the proposed Reclaimed Water System and its customers, including major components, treatment type, volume at startup and maximum treatment capacity, beneficial uses to which the reclaimed water will be put.
- (b) A description of the administrative, managerial, operational, and technical capabilities of the entity that includes:
 - i. Type of ownership;
 - ii. Responsible managerial officials, such as board members and /or corporate officers, and the individual(s) in charge of long-term capital planning and capital repair and maintenance and a brief description of their qualifications;
 - iii. The certified primary operator and any other individual(s) directly responsible for achieving effective and reliable routine operations; and
 - iv. A list of all subcontracted services such as engineering, legal and accounting.
- (c) A description of the financial capabilities of the entity that includes:
 - i. A summary of past income and expenses;
 - ii. A five-year balanced operational budget;
 - iii. A twenty-year projected operational budget in which revenues meet or exceed expenses;
 - iv. A twenty-year capital improvements plan;
 - v. An explanation of the sources of revenue and the method that will be implemented to insure collection of the revenue necessary to maintain cash flow stability;
 - vi. An explanation of funding method that will be implemented for maintaining an operating cash reserve;
 - vii. An explanation of the funding for the capital improvement program and emergency repairs; and
 - viii. An explanation of user fees that includes evaluation of affordability and the procedure and frequency for review to ensure adequate revenue.
 - ix. Summary of Utilities and Trade Commission rates and rate setting process, as applicable

- (d) Any other information specifically requested by the lead agency that it may reasonably require to make a decision on issuance of a permit.

In the event the lead agency declines to issue a permit to a non-public entity based on a determination of inadequate technical, managerial or financial capacity, or lack of sufficient information on which to make a determination, the entity may establish adequate capacity by entering into an agreement with a public entity to serve as the primary management entity, or as the third party trust for a private management entity. Said agreement must be binding on both parties to remain in force until the lead agency determines that the entity has the technical, managerial, and financial capacity to qualify for issuance or renewal of a permit, or until the entity enters into an agreement with another public entity.

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

1. Application required. Any person proposing to generate reclaimed water for distribution or use must apply for a permit under this section or for coverage under a general permit under 173-219-215.
 - (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 must also meet 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 must be filed for any new or increased type of use not specifically authorized under a current permit.
 - (e) Any person generating reclaimed water under an unexpired permit issued by the department of ecology before this rule is adopted is considered to meet the application requirements of this subsection.
2. Filing the Application. The requirement to apply for a permit is satisfied when the applicant files the required forms with the lead agency at least 180 days before the permit is desired. The lead agency determines the application forms required for the type, category, or size of the 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: Persons generating reclaimed water do not require a permit or coverage under a general permit issued under this rule to use reclaimed water directly for wastewater conveyance or treatment plant purposes provided the uses are not subject to public exposure. The reclaimed water use must be under the direct control of the operator of the treatment facility generating the reclaimed water and described in an approved operations and maintenance manual.

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

1. The lead agency must 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 must make the application form available during the draft general permit public notice period.
2. Following issuance of a general permit, the lead agency must 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 must 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.

WAC 173-219- 220 Signature requirements

1. Signature on Application. All permit applications must 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.

Comment [KCC4]: Ask AAG about adding 'or designee' when delegated signature authority. How is different from a duly authorized representative?

- 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 other 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.
 3. *Duly Authorized Representative*. A person is a duly authorized representative only if the person described in subsection 1 of this section submits written authorization to the lead agency 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.
 4. *Changes to authorization*. If an authorization under 2(a) of this section is no longer accurate, a new authorization satisfying the requirements of 2(a) of this section must be submitted to the department prior to or together with any reports or other information.
 5. Certification. Any person signing a document under this rule must make the following certification, unless a different certification is applicable under another related section of this rule:

"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."

Introduced June 3, 2009 RAC (review June 24, 2009)

6-3-2009 Questions and Comments for the next section 230 Draft determination to issue or deny permit.

- *Note extra requirements for general permits under subsection 2 and 4.*
- *Should (legal question – could) any of the process requirements for a permit be moved from rule to guidance?*

WAC 173-219- 230 Draft determination to issue or deny permit.

1. **Individual Permits.** The lead agency must make a draft determination to issue or deny an individual permit or a master generator permit upon receipt and review of a complete and accurate application. The lead agency must prepare a fact sheet as described in subsection 3 of this section for every draft permit determination
2. **General Permits.** The lead agency may make a draft determination to develop a general permit. Interested persons may also petition the lead agency requesting that a category of reclaimed water be considered for the development of a general permit. The lead agency must respond to such a petition within ninety days of receipt. The lead agency must prepare a fact sheet as described in subsection 3 of this section for every draft general permit determination. The lead agency may be required to prepare an economic impact statement as described in subsection 4 of this section for a draft general permit intended to directly impact small businesses.
3. **Fact Sheets.** Fact sheets must, at a minimum, summarize the:
 - (a) Type and location of all proposed facilities.
 - (b) Purpose of use.
 - (c) Provisions for adequate and reliable treatment.
 - (d) Potential for human contact or health risk
 - (e) Water quality standards and limitations applied.
 - (f) Flow quantity and rate, including interruptibility.
 - (g) Other permit conditions including source control and handling of residual solids produced during treatment.
 - (h) Legal and technical grounds for the draft permit determination.
 - (i) Procedures for the formulation of final determinations, comments, requesting a hearing, and any other procedures by which the public may participate in the formulation of the final determinations.
 - (j) Fact sheets for permits combined with NPDES permits must also include the additional information required under WAC 173-220-060.
 - (k) The lead agency must notify the non-lead agency of each draft permit determination and must provide the non-lead agency an opportunity to submit their written views and recommendations

before the draft permit is released for public notice. Unless the non-lead agency waives or limits their review, the notification must include transmission of the application, fact sheet and draft permit for comment or objection within thirty days, or if requested up to a maximum of ninety days.

- (l) The lead agency must send the fact sheet to the applicant and, upon request, to any other person.

4. **Economic impact analysis for general permits**
(Not ready for RAC discussion)

Comment [KCC5]: Legal question for AAG as to how this would apply. Practice has been to address when needed for issuing a general permit rather than attempting to address it all within this rule.

(a) The lead agency may prepare an economic impact analysis on draft general permits intended to directly cover small business. The economic impact analysis must be prepared on the draft general permit for which public notice is being provided pursuant to WAC 173-219-240.

(b) The purpose of the economic impact analysis is to reduce the economic impact of the general permit on small business by doing one or more of the following when it is legal and feasible in meeting the stated objectives of chapter 90.46 RCW.

- i. Reduce monitoring requirements or frequencies.
- ii. Clarify, consolidate, or simplify the reporting requirements.
- iii. Establish performance rather than design standards
- iv. Exempt small businesses from parts of the general permit.

(c) The contents of an economic impact analysis for a proposed general permit must include the requirements under the Regulatory Fairness Act, [chapter 19.85 RCW](#) and the Administrative Procedures Act, [chapter 34.05 RCW](#).

6-3-2009 Questions and Comments for the next section 240 Public notice

- *In the contents for the public notice 3b and 3 c, should Ecology specifically list water right impairment under the master generator and general permit criteria.*
- *Does it help to restate statutory requirements*

WAC 173-219-240 Process for public notice and comments

1. **Notice of draft determination.** For every draft determination, the lead agency must provide notice by electronic or other means that:
 - (a) States the lead agency's determination to issue or deny an individual, master generator or general reclaimed water permit under this rule.
 - (b) Informs interested and potentially affected persons of the proposed reclaimed water quality, location, rate and purpose of use.
 - (c) Informs the public living within the geographical boundaries of the proposed project or service area.
 - (d) Notifies the non-lead agency, and other affected federal, state, county or local government agencies and Indian tribes of the determination.
 - (e) Notifies all government agencies required under WAC 173-220-070 when permits are subject to NPDES permit requirements. The department of Ecology is the lead agency for reclaimed water permits combined with NPDES permits.
 - (f) Notifies any other parties that requested notification.
 - (g) For general permits, request comments on whether a general reclaimed water permit is appropriate for the proposed category or whether individual permits are necessary.
2. **Comment Period.** The lead agency must:
 - (a) Provide a period of not less than thirty days following the date of the public notice during which time interested persons may submit their written views on a draft permit determination.
 - (b) Retain and consider all written comments submitted during the thirty-day comment period in the formulation of the lead agency's final determination with respect to the permit. The period for comment may be extended at the discretion of the lead agency.
3. **Contents of Public Notice.** The lead agency must prepare the contents of the public notice to include:
 - (a) For all permits issues under this chapter:

- i. **Name, address, phone number of the lead agency issuing the public notice.**
- ii. **Copies of the fact sheet and the draft permits.**
- iii. **The types and locations of facilities, activities and uses covered under the permit.**
- iv. **The geographical area for which the permit is valid.**
- v. **The tentative determination to issue or deny the permit.**
- vi. **The procedures for the formulation of final determinations, including the thirty-day comment period required and any other means by which interested persons may comment upon those determinations.**
- vii. **The address and phone number of state premises at which interested persons may obtain further information.**

(b) For all individual permits, the following additional information:

- i. **Name and address of each applicant, and if different, of the facility or activity to be regulated.**
- ii. **Whether this is a new or existing facility, activity or use.**
- iii. **The actual or proposed reclaimed water quality.**
- iv. **The actual or proposed locations, uses, and quantity of reclaimed water required.**
- v. **The potential for impairment of existing downstream water rights and compensation and mitigation proposed for such impairment.**

(c) For all master generator permits, the following additional information:

- i. **Name and address of each applicant, and if different, of the facility or activity to be regulated.**
- ii. **Whether this is a new or existing facility, activity or use.**
- iii. **The actual or proposed reclaimed water quality.**
- iv. **The actual or proposed locations, uses, and quantity of reclaimed water required.**
- v. **The criteria to approve coverage of new facilities under the master generator permit.**

(d) For all general permits, the following additional information:

- i. **A copy of the application for coverage under the general permit.**

- ii. **The criteria to approve coverage of new facilities under the master generator permit**
- iii. **A summary of the small business economic impact analysis if required.**

4. **Public access to information.**

(a) **Availability of records.** In accordance with chapter [42.17](#) RCW, the lead agency must make records relating to permits available to the public for inspection and copying. The lead agency must provide facilities for the inspection of information relating to the permits and must insure that employees honor requests for such inspection promptly without undue requirements or restrictions. The lead agency must provide a method to insure that requests for copies of non-confidential documents may be honored. The lead agency may require a reasonable fee for copying of documents.

(b) **Confidential Information.** Claims of confidentiality must be handled in accordance with the provisions of chapter. [42.17](#) RCW, [173-03](#) WAC, and RCW. [43.21A.160](#).

(c) For reclaimed water permits subject to NPDES permit requirements, any information accorded confidential status, whether or not contained in an application form, must be disclosed, upon request, to the USEPA regional administrator.

5. **Public hearings.** The applicant or any interested agency or person may request a public hearing with respect to a draft permit determination.

(a) Any such request for a public hearing must:

- i. Be filed with the lead agency within the thirty-day public notice period.
- ii. Indicate the interest of the party filing such request.
- iii. Indicate the reasons why a hearing is warranted.

(b) The lead agency must hold a hearing if it determines there is a significant public interest at a time and place deemed appropriate by the lead agency.. Instances of doubt will be resolved in favor of holding the hearing.

(c) At least thirty days in advance of the hearing, the lead agency must public notice of any hearing at least as widely as was the public notice of the determination.

(d) The notice of public hearing must include:

- i. **Name, address, and phone number of agency holding the public hearing.**
 - ii. **Time and location for the hearing.**
 - iii. **Nature and purpose of the hearing.**
 - iv. **Issues raised by the persons requesting the hearing, and any other appropriate issues which may be of interest to the public.**
 - v. **A reference to the public notice issued pursuant to WAC 173-219-4.6, including identification number and date of issuance;**
 - vi. **Contacts and locations where interested persons may obtain information.**
6. **Notification of Final Permit Decision.** The lead agency must notify the applicant and all persons who have submitted written comments or requested notice of the final permit decision. This notice must include response to comments received, the final determination, a copy of any permit issued and the procedures for contesting the decision.
7. **Appeal.** Any person may appeal a permit decision under the procedures established in Part VII of this rule within thirty days of notice of the lead agency determination,

**6-3-2009 Questions and Comments for the next section 260 Fees
(Not ready for RAC Discussion)**

- *Note: Agencies are attempting to clarify permit fees. RAC agreed that permit fees should be addressed under the permit fee rule Ch 173-224 WAC when it is updated.*
- *Is subsection 1 only for Ecology or should WDOH permit fees also be established under Ch.173-224 WAC?*
- *How can we clarify the intent of subsections 2 and 3. Is this confusing?*
- *How can Ecology recover costs for review and consultation on water right impairment issues?*

WAC 173-219-260 Fees

1. **When Ecology is the lead agency, the applicant must pay the applicable permit fees under chapter [173-224](#) WAC.**

2. The department of health may establish fees under chapter 90.46.030 and may require fees appropriate for review ,consultation and permit issuance from the applicant pursuant to RCW [43.70.250](#).
3. Review and consultation work performed by the non-lead agency for a project or permit may be billed in the same manner as the other provisions in this section, or under chapter 246-290.

6-3-2009 Questions and Comments for the next section 270 Transfer Permits

- *Note: Allows for automatic transfer of a permit with advance notification unless the lead agency acts. Parallels requirement in state waste discharge permits chapter 173-216 WAC.*
- *Who should notify the non-lead agency (proposed subsection 3)?*

Is 30 days sufficient notification? Some RAC members have suggested sixty day minimum to provide sufficient time for the agency to respond. As currently written, the lead agency could respond at any time.

WAC 173-219-270 Procedures to transfer a permit.

1. A permit, or coverage under a general permit, may be automatically transferred provided a written agreement between the old and new owners and Permittees, if different, is submitted to the lead agency at least sixty days before the proposed change takes place. The agreement must specify the date for transfer of permit responsibility, coverage and liability. The transfer is effective on the date specified in the written agreement unless the lead agency notifies the parties of their intent to modify or revoke and reissue the permit.
2. Permits that are not automatically transferred under subsection (1) of this section may be transferred only if modified or revoked and reissued by the lead agency.
3. Notice of transfer shall be given to the non-lead agency.

6-3-2009 Questions and Comments for the next section 275 Permit duration and replacement.

- *Parallels wastewater discharge permit cycle under chapter 90.48 RCW.*
- *Allows lead agency to issue a permit for a shorter term.*

WAC 173-219-275 Permit Duration and Replacement

1. Individual and Master Generator Permits

- (a) The lead agency **issues** a permit for a fixed term not exceeding five years from the effective date stated on the cover of the permit.
- (b) Permittees must file an application for replacement of the permit at least one hundred eighty days prior to the permit expiration date stated on the cover of the permit.
- (c) When a permittee has made timely and sufficient application for the renewal of a permit, an expiring permit remains in effect and enforceable until the lead agency either denies the application or issues a replacement permit.
- (d) **If a permittee fails to submit a timely and sufficient application, coverage expires on the expiration date of the individual or master generator permit.**
- (e) The lead agency must review the renewal application to insure:
 - i. The permittee is in substantial compliance with all of the terms, conditions, requirements and schedules of compliance of the expired permit.
 - ii. The department has up-to-date information.
 - iii. The reclaimed water quality is consistent with applicable water quality standards and limitations and other legally applicable requirements.
- (f) Public notice and participation procedures specified in section 240 of this rule apply to each draft replacement permit.

2. **General Permits**

- (a) The lead agency **issues** a general permit for a fixed term not exceeding five years from the effective date stated on the cover of the general permit.
 - (b) When a permittee has made timely and sufficient application for the renewal of coverage under a general permit,
 - i. Coverage under an expiring general permit remains in effect and enforceable until the lead agency denies the application, issues a new general permit, or cancels the expired permit.
 - ii. Coverage under a newly issued general permit will automatically commence on the effective date of the new permit unless the lead agency notifies the permittee otherwise.
 - (c) **If a permittee fails to submit a timely and sufficient application, coverage expires on the expiration date of the general permit.**
-

WAC 173-219-**280** Cause to modify, suspend, or revoke a permit.

Note: Content about regulatory action for noncompliance has tentatively been moved to Part VII based on comments received to date.

A permit may be modified or revoked in whole or in part during its terms for cause including, but not limited to, the following:

1. Violation of any term or condition of the permit.
2. Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts.
3. A change in any condition that requires either a temporary or permanent reduction or cessation of generation, distribution or use of the reclaimed water.
4. A determination that the permitted activity endangers human health or the environment, or contributes to water quality standards violations.
 5. Failure or refusal of the permittee to allow entry for permit compliance inspection.
6. Nonpayment of assessed permit fees.

Introduced: June 24, 2009 for discussion on July 22, 2009

Part III PERMITS - version 1.2 Section 290

Intent of Section 290

Specify the terms and conditions that must be included in all reclaimed water permits.

Note: This is a very important section as it determines the content of the regulatory permits. The standardized permit conditions are written directly from this section.

WAC 173-219- 290 Permit terms and conditions

1. Any Each permit issued by the lead agency must specify the terms and conditions necessary to ensure that the Permittee maintains control over and is responsible for all facilities and activities inherent to the generation of reclaimed water including the protection of public health and the environment.
2. Each permit must state that all reclaimed water generation; distribution and use authorized by the permit must be consistent with the terms and conditions

of the permit.

3. *Each permit must require that* any facility expansions, production increases, or process modifications that would cause reclaimed water quality, water quantity or use limitations in the permit to be exceeded or beyond ~~which was~~ *the levels* reported in the application, must be reported to the lead agency by submission of a new application or supplement thereto.

4. ~~The~~ *Each* permit must include, but is not limited to, conditions that:
 - (a.) Specify the location, rate and use of reclaimed water generated by the Permittee.
 - (b.) Ensure adequate and reliable treatment that, at all times, produces reclaimed water quality *meeting the standards established in Part V and VI of this rule as* appropriate for the permitted uses.

 - (c.) Control impacts from industrial and toxic discharges that may affect reclaimed water quality through either a delegated pre-treatment program with the department of Ecology or by assuring that all applicable discharges have permits issued in accordance with Ch 90.48 RCW, WAC 173-220-150 and sections 204(b), 307, and 308 of the FWPCA.

Ecology requests additional input on subsection (c) regarding the use of the terms "industrial and toxic" discharges per stakeholder comments received July, 2009.
 - (d.) Protect public health throughout the distribution and use of reclaimed water.
 - (e.) Prevent or control the introduction of pollutants into waters of the state.
 - (f.) Require any person who generates reclaimed water for distribution, storage or use by others to ensure through written enforceable contracts or ordinances that all applicable requirements are met.
 - (g.) Require proper facility operation and maintenance necessary to achieve compliance with the permit.
 - (h.) Provide a sufficient number of qualified personnel to operate the facility effectively including an operator, certified under chapter 173-230 WAC¹, in responsible charge of the day to day operation of the facility.
 - (i.) Establish a detailed self-monitoring and testing schedule including sampling type, method for determining compliance and frequency of monitoring that verify that the treatment process is functioning correctly and that the facility is achieving the required reclaimed water quality. Specified monitoring frequencies may consider the quantity and variability

¹ Statutory authority Ch 78.95 RCW.

of the reclaimed water, the treatment method, past compliance, significance of pollutants, and cost of monitoring.

- (j.) Require the use of laboratories accredited under Ch 173-50 WAC for the submission of analytical data required for compliance with the permit.
- (k.) Provide minimum requirements for reporting routine compliance monitoring, preventative maintenance and noncompliance events. Unless the permit specifies otherwise, reports shall be filed monthly with the lead agency and a copy sent to the non-lead agency.

~~(k.)~~ Ecology requests input on (k) regarding the need to send a copy of the monthly compliance report to the nonlead agency for all permits.

Formatted: Bullets and Numbering

- (l.) Allow entry to inspect or investigate compliance with permit requirements. The departments or their authorized representatives may
 - i. Enter at all reasonable times in or upon any property, public or private in which reclaimed water is generated, distributed, used, or discharged subject to any access restrictions due to the nature of the project.
 - ii. Enter upon premises where records are kept, have access to and copy at reasonable cost, any records required under terms and conditions of the permit.
 - iii. Inspect any construction, monitoring equipment or method required in the permit.
 - iv. Sample any reclaimed water or discharge of pollutants.
- (m.) Require the permittee to promptly respond to noncompliance events including:
 - i. Immediate action to stop, contain, and cleanup unauthorized discharges or otherwise stop the violation, and correct the problem.
 - ii. Immediate notification of the lead agency (and the non-lead agency if required by the permit) of the failure to comply.
 - iii. Submission of a detailed written report to the lead agency within thirty days, unless requested earlier, describing the nature of the violation, corrective action taken and/or planned, steps to be taken to prevent a recurrence, and any other pertinent information.

