

WSR 21-02-039

PERMANENT RULES

DEPARTMENT OF COMMERCE

[Filed December 29, 2020, 4:52 p.m., effective January 29, 2021]

Effective Date of Rule: Thirty-one days after filing.

Purpose: These rules ensure the proper implementation and enforcement of the Clean Energy Transformation Act (CETA), as provided for in RCW 19.405.100, and establish methodologies, reporting and planning requirements, and procedures for electric utilities subject to CETA. The rules: Establish reporting requirements for electric utilities to demonstrate compliance with CETA, establish content and process requirements for clean energy implementation plans, establish requirements for utilities to evaluate and track the equity and distributional effects of their clean energy transformation actions, provide a methodology for use if a utility exercises the cost limitation provision in RCW 19.405.060, provide a methodology for incorporating the cost of greenhouse gas emissions in resource evaluation and acquisition decisions, require that utilities adopt standards to ensure adequate and reliable electric service, establish verification approaches for various standards in CETA, provide standards for thermal renewable energy credits, and establish other requirements to ensure proper implementation and enforcement of CETA. The proposed rules apply to consumer-owned utilities, such as municipal utilities, public utility districts, and rural cooperative or mutual utilities. In some cases, the proposed rules also apply to investor-owned utilities.

Citation of Rules Affected by this Order: New 21.

Statutory Authority for Adoption: RCW 19.405.100, 19.405.060.

Adopted under notice filed as WSR 20-21-108 on October 21, 2020.

Changes Other than Editing from Proposed to Adopted Version: Corrected definition of "CEIP," clarified reporting of resources subject to WAC 194-40-340 by adding a cross-reference in WAC 194-40-040, clarified reporting by utilities using incremental cost compliance approach by adding a cross-reference in WAC 194-40-040, clarified requirement to retire renewable energy credits to verify claims of renewable energy use by adding a clarifying statement in WAC 194-40-400. The department made these changes in response to comments received, to ensure clarity, consistency, and understanding by regulated entities, and to meet the intent of the statute.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 21, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 29, 2020.

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OTS-2513.7

NEW SECTION

**WAC 194-40-022 Severability.** If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected.

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NEW SECTION

**WAC 194-40-030 Definitions.** Unless specifically provided otherwise, the terms defined in RCW 19.405.020 have the same meaning in this chapter.

"100% Clean electricity standard" means the standard established in RCW 19.405.050(1) and any requirements necessary for compliance with that standard.

"BPA" means the Bonneville Power Administration.

"CEIP" means a clean energy implementation plan prepared in compliance with RCW 19.405.060.

"GHG neutral compliance period" means each of the periods identified in RCW 19.405.040 (1)(a).

"GHG neutral standard" means the standard established in RCW 19.405.040(1) and any requirements necessary for compliance with that standard.

"Indicator" means an attribute, either quantitative or qualitative, of a condition, resource, program or related distribution investment that is tracked for the purpose of evaluating change over time.

"Interim performance period" means either of the following periods:

- (a) From January 1, 2022, until December 31, 2025; and
- (b) From January 1, 2026, until December 31, 2029.

"Interim target" means a target established in compliance with RCW 19.405.060 (2)(a)(i). An interim target may cover an interim performance period or a GHG neutral compliance period.

"REC" means renewable energy credit.

"Retail revenue requirement" means that portion of a utility's annual budget approved by its governing body that is intended to be recovered through retail electricity sales in the state of Washington in the applicable year. It includes revenues from any retail rate or charge that is necessary to receive electric service from the utility and does not include the effect of taxes imposed directly on retail customers.

"Verification protocol" means a procedure or method used, consistent with industry standards, to establish with reasonable certainty that a conservation, energy efficiency, or demand response measure was installed and is in service. Industry standards include a range of appropriate protocols reflecting a balance of cost and accuracy, such as tracking installation of measures through incentive payments and the use of on-site inspection of measures installed as part of a customer-specific project.

"WREGIS" means the Western Renewable Energy Generation Information System.

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NEW SECTION

**WAC 194-40-040 Performance and compliance reporting for the GHG neutral standard and 100% clean electricity standard.** (1) Each consumer-owned utility and each investor-owned utility must submit an interim performance report by July 1, 2026, and by July 1, 2030, documenting the utility's progress during the prior interim performance period in reaching compliance with the GHG neutral standard beginning in 2030.

(2) Each consumer-owned utility and each investor-owned utility must submit a compliance report by July 1, 2034, and within six months of the end of each subsequent GHG neutral compliance period, documenting the utility's compliance with the GHG neutral standard during the GHG neutral compliance period and its progress in reaching compliance with the 100% clean electricity standard beginning in 2045.

(3) Each consumer-owned utility and each investor-owned utility must submit a compliance report by July 1, 2046, and by July 1st of each year thereafter, documenting the utility's compliance with the 100% clean electricity standard.

(4) Each report required under subsections (1) and (2) of this section must be submitted using a form provided by commerce and must include the following information for the relevant interim performance period or GHG neutral compliance period:

(a) The amount of renewable resources and nonemitting electric generation used during the period, as a percentage of retail electric loads, compared to the target amount established and reported in the CEIP of the utility for that period.

(b) The amount of conservation and energy efficiency resources acquired during the period, compared to the target amount established and reported in the CEIP of the utility for that period.

(c) The amount of demand response resources acquired during the period, compared to the target amount established and reported in the CEIP of the utility for that period.

(d) The amount of electricity used from renewable resources, in megawatt-hours, compared to the target amount established and reported in the CEIP of the utility for that period.

(e) The amount of electricity used from nonemitting resources, in megawatt-hours over the period.

(f) Identification of any resources subject to the requirements of WAC 194-40-340 and acquired during the period and demonstration that the acquisition was consistent with the requirements of WAC 194-40-340.

(g) A detailed report of any use of each of the following alternative compliance options:

(i) Alternative compliance payments;

(ii) Unbundled renewable energy credits;

(iii) Credits from energy transformation projects;

(iv) Electricity from the Spokane municipal solid waste to energy facility (if it is determined to provide a net reduction in GHG emissions).

(h) A report to demonstrate whether and how, consistent with RCW 19.405.040(8) and the utility's CEIP for the period, all customers are benefiting from the transition to clean energy. The report must provide:

- (i) Results for each indicator established in the CEIP;
  - (ii) An explanation of how the specific actions taken by the utility are consistent with the requirements in RCW 19.405.040(8); and
  - (iii) An analysis of whether the forecasted distribution of benefits and reductions of burdens accrued or are reasonably expected to accrue to highly impacted communities, vulnerable populations, and all other customers.
- (i) For each specific action identified in the CEIP for the period, pursuant to WAC 194-40-200(1), a summary of the actions taken and their results.
- (j) For any measurement of achievement reported under (a) through (e) of this subsection that is less than the respective target established in the CEIP, an explanation of the variation from target and any intended actions to offset the variation in the next period.
- (k) The information required under WAC 194-40-230(4), if the utility relied on the incremental cost provision in RCW 19.405.060(4)(a) during the period.
- (l) Any other information necessary to demonstrate compliance with the requirements of CETA that are applicable during the period.

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#### NEW SECTION

##### **WAC 194-40-050 Submission of clean energy implementation plan.**

(1) Each utility must submit by January 1, 2022, and every four years thereafter, a CEIP for resources to be acquired and other actions to be undertaken during the next interim performance period or GHG neutral compliance period to comply with the GHG neutral standard and the 100% electricity clean standard. The CEIP must be submitted using a form provided by commerce.

(2) Each utility must submit with its CEIP a summary of the public input process conducted in compliance with WAC 194-40-220 and a description of how public comments were reflected in the specific actions under WAC 194-40-200(4), including the development of one or more indicators and other elements of the CEIP and the utility's supporting integrated resource plan or resource plans, as applicable.

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#### NEW SECTION

##### **WAC 194-40-060 Reporting fuel mix and greenhouse gas emission.**

(1) Each consumer-owned utility and each investor-owned utility must submit by July 1, 2021, and each year thereafter, a fuel mix source and disposition report for the previous calendar year, consistent with RCW 19.29A.140, using a form provided by commerce.

(2) Each utility must submit by July 1, 2021, and each year thereafter, a greenhouse gas content calculation for the previous calendar year.

(a) The greenhouse gas content calculation must be based on the quantities and fuel sources, including unspecified sources, of electricity identified in the source and disposition report required under subsection (1) of this section and must include all generating resources providing service to retail customers of that utility in Washington state, regardless of the location of the generating resource.

(b) The greenhouse gas content calculation must comply with the calculation requirements established by the department of ecology in chapter 173-444 WAC.

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#### NEW SECTION

**WAC 194-40-110 Methodologies to incorporate social cost of greenhouse gas emissions.** (1)(a) Each utility must incorporate the social cost of greenhouse gas emissions as a cost adder for all relevant inputs when evaluating and selecting conservation policies, programs, and targets; developing integrated resource plans and clean energy action plans; and evaluating and selecting intermediate term and long-term resource options.

(b) The greenhouse gas emissions cost adder may be adjusted to account for any explicit tax or fee on greenhouse gas emissions that is known or assumed in the resource analysis.

(2) A utility may comply with the requirements of subsection (1) of this section by using one of the following analytical approaches, as appropriate and consistent with the utility's overall analytical approach for resource planning, evaluation, and selection:

(a) Performing a resource analysis in which it increases the input cost of each fossil fuel by an amount equal to the social cost of greenhouse gas emissions value of that fuel;

(b) Conducting a resource analysis in which alternative resource portfolios are compared across multiple scenarios on the basis of cost, risk, and other relevant factors and the aggregate social cost of greenhouse gas emissions is added to the cost of each resource portfolio;

(c) If the utility does not use a comprehensive resource portfolio evaluation and optimization approach: Adding the social cost of greenhouse gas emissions to the expected market price of electricity, using an estimate of the emissions rate of marginal generating resources; or

(d) Using another analytical approach that includes a comprehensive accounting of the difference in greenhouse gas emissions and social cost of greenhouse gas emissions between resource alternatives.

(3) Any methodology used to comply with this rule may assume that the social cost of greenhouse gas emissions cost adder does not affect short-term operations or dispatch decisions after energy resources are acquired and placed into service.

(4) Any methodology used to comply with this rule must ensure that the social cost of greenhouse gas emissions cost adder is accounted for without unreasonable duplication or double counting.

(5) The social cost of greenhouse gas emissions values used to meet the requirements of this chapter are specified in WAC 194-40-100.

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NEW SECTION

**WAC 194-40-200 Clean energy implementation plan.** (1) **Specific actions.** Each utility must identify in each CEIP the specific actions the utility will take during the next interim performance period or GHG neutral compliance period to demonstrate progress toward meeting the standards under RCW 19.405.040(1) and 19.405.050(1) and the interim targets under subsection (2) of this section and the specific targets under subsection (3) of this section. Specific actions must be consistent with the requirements of RCW 19.405.060 (2)(a)(iv).

(2) **Interim target.** The CEIP must establish an interim target for the percentage of retail load to be served using renewable and nonemitting resources during the period covered by the CEIP. The interim target must demonstrate progress toward meeting the standards under RCW 19.405.040(1) and 19.405.050(1), if the utility is not already meeting the relevant standard.

(3) **Specific targets.** The CEIP must establish specific targets, for the interim performance period or GHG neutral compliance period covered by the CEIP, for each of the following categories of resources:

(a) **Energy efficiency.**

(i) The CEIP must establish a target for the amount, expressed in megawatt-hours of first-year savings, of energy efficiency resources expected to be acquired during the period. The energy efficiency target must comply with WAC 194-40-330(1).

(ii) A utility may update its CEIP to incorporate a revised energy efficiency target to match a biennial conservation target established by the utility under RCW 19.285.040 (1)(b) and WAC 194-37-070.

(b) **Demand response resources.** The CEIP must specify a target for the amount, expressed in megawatts, of demand response resources to be acquired during the period. The demand response target must comply with WAC 194-40-330(2).

(c) **Renewable energy.** The utility's target for renewable energy must identify the quantity in megawatt-hours of renewable electricity to be used in the period.

(4) **Specific actions to ensure equitable transition.** To meet the requirements of RCW 19.405.040(8), the CEIP must, at a minimum:

(a) Identify each highly impacted community, as defined in RCW 19.405.020(23), and its designation as either:

(i) A community designated by the department of health based on cumulative impact analyses; or

(ii) A community located in census tracts that are at least partially on Indian country.

(b) Identify vulnerable populations based on the adverse socioeconomic factors and sensitivity factors developed through a public process established by the utility and describe and explain any changes from the utility's previous CEIP, if any;

(c) Report the forecasted distribution of energy and nonenergy costs and benefits for the utility's portfolio of specific actions,

including impacts resulting from achievement of the specific targets established under subsection (3) of this section. The report must:

(i) Include one or more indicators applicable to the utility's service area and associated with energy benefits, nonenergy benefits, reduction of burdens, public health, environment, reduction in cost, energy security, or resiliency developed through a public process as part of the utility's long-term planning, for the provisions in RCW 19.405.040(8);

(ii) Identify the expected effect of specific actions on highly impacted communities and vulnerable populations and the general location, if applicable, timing, and estimated cost of each specific action. If applicable, identify whether any resource will be located in highly impacted communities or will be governed by, serve, or otherwise benefit highly impacted communities or vulnerable populations in part or in whole; and

(iii) Describe how the specific actions in the CEIP are consistent with, and informed by, the utility's longer-term strategies based on the analysis in RCW 19.280.030 (1)(k) and clean energy action plan in RCW 19.280.030 (1)(l) from its most recent integrated resource plan, if applicable.

(d) Describe how the utility intends to reduce risks to highly impacted communities and vulnerable populations associated with the transition to clean energy.

(5) **Use of alternative compliance options.** The CEIP must identify any planned use during the period of alternative compliance options, as provided for in RCW 19.405.040 (1)(b).

(6) The CEIP must be consistent with the most recent integrated resource plan or resource plan, as applicable, prepared by the utility under RCW 19.280.030.

(7) The CEIP must be consistent with the utility's clean energy action plan developed under RCW 19.280.030(1) or other ten-year plan developed under RCW 19.280.030(5).

(8) The CEIP must identify the resource adequacy standard and measurement metrics adopted by the utility under WAC 194-40-210 and used in establishing the targets in its CEIP.

(9) If the utility intends to comply using the two percent incremental cost approach specified in WAC 194-40-230, the CEIP must include the information required in WAC 194-40-230(3) and, if applicable, the demonstration required in WAC 194-40-350(2).

(10) Any utility that is not subject to RCW 19.280.030(1) may meet the requirements of this section through a simplified reporting form provided by commerce.

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#### NEW SECTION

**WAC 194-40-210 Resource adequacy standard.** (1) Each utility that is required to prepare an integrated resource plan under RCW 19.280.030(1) must establish by January 1, 2022, a standard for resource adequacy to be used in resource planning, including assessing the need for and contributions of generating resources, storage resources, demand response resources, and conservation resources. The resource adequacy standard must be consistent with prudent utility

practices and relevant regulatory requirements and must include reasonable and nondiscriminatory:

(a) Measures of adequacy, such as peak load standards and loss of load probability or loss of load expectation;

(b) Methods of measurement, such as probabilistic assessments of resource adequacy; and

(c) Measures of resource contribution to resource adequacy, such as effective load carrying capability applicable to all resources available to the utility including, but not limited to, renewable, storage, hybrid, and demand response resources.

(2) Each utility not subject to subsection (1) of this section must identify by January 1, 2022, the resource adequacy standard relied on by the utility in preparing its resource plan and CEIP.

(3) In each CEIP submitted after 2022, each utility must identify and explain any changes to its resource adequacy standard.

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#### NEW SECTION

**WAC 194-40-220 Public input for planning.** (1) Each utility must provide reasonable opportunities for its customers and interested stakeholders to provide input to the utility during the development of, and prior to the adoption of, plans identifying actions to comply with RCW 19.405.040(8) and other requirements of RCW 19.405.040 and 19.405.050. A utility may use a single coordinated public input process in the development of its clean energy implementation plan, its integrated resource plan or resource plan, as applicable, and its clean energy action plan or 10-year action plan, as applicable.

(2) In assessing whether a public input opportunity is reasonable, the utility must consider barriers to public participation due to language, cultural, economic, technological, or other factors consistent with community needs.

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#### NEW SECTION

**WAC 194-40-230 Compliance using two percent incremental cost of compliance.** (1) For any period in which a utility relies on RCW 19.405.060 (4)(a) to meet an interim target during an interim performance period or as the basis for compliance with the standard under RCW 19.405.040(1) or 19.405.050(1), the utility must:

(a) Document, as provided in this section, incremental costs that are directly attributable to actions necessary to comply with the requirements of RCW 19.405.040 and 19.405.050; and

(b) Demonstrate that the average annual incremental costs identified under (a) of this subsection are at least equal to an annual threshold amount that would result from a two percent revenue increase at the beginning of each year of the period, divided by the number of years in the period. For a period consisting of four years, the mathematical formula for the annual threshold amount is:

$$\text{Annual Threshold Amount} = \frac{(RR_0 \times 2\% \times 4) + (RR_1 \times 2\% \times 3) + (RR_2 \times 2\% \times 2) + (RR_3 \times 2\%)}{4}$$

Where *RR* indicates retail revenue requirement and the numerical subscript indicates the year of the period.

Example calculation of annual threshold amount:

Year	Retail Revenue Requirement	Annual Amount from Revenue Increase Equal to 2% of Prior Year Revenue Requirement	Number of Years in Effect	Threshold Amount over Four Years	Sum of Threshold Amounts	Annual Threshold Amount
0	\$100					
1	\$105	\$2.00	4	\$8.00	\$21.00	\$5.30
2	\$110	\$2.10	3	\$6.30		
3	\$115	\$2.20	2	\$4.40		
4	\$120	\$2.30	1	\$2.30		
Annual Threshold Amount as a Percentage of Average Retail Revenue Requirement						4.7%

(2) For the purposes of compliance using RCW 19.405.060 (4) (a), a cost is directly attributable to actions necessary to comply with the requirements of RCW 19.405.040 and 19.405.050 only if all of the following conditions are met:

(a) The cost is incurred during the period;

(b) The cost is part of the lowest reasonable cost and reasonably available portfolio of resources that results in compliance with RCW 19.405.040 and 19.405.050;

(c) The cost is additional to the costs that would be incurred for the lowest reasonable cost and reasonably available resource portfolio that would have been selected in the absence of RCW 19.405.040 and 19.405.050; and

(d) The cost is not required to meet any statutory, regulatory, or contractual requirement or any provision of chapter 19.405 RCW other than sections RCW 19.405.040 or 19.405.050.

(3) A utility using the compliance method in this rule must include in its CEIP for the period the following information:

(a) Identification of all costs that it intends to incur during the period in order to comply with the requirements of RCW 19.405.040 and 19.405.050;

(b) Demonstration that the costs identified in (a) of this subsection are directly attributable to actions necessary to comply with the requirements of RCW 19.405.040 and 19.405.050; and

(c) Documentation of the expected cost of the utility's planned resource portfolio and the expected cost of the alternative lowest reasonable cost and reasonably available portfolio.

(4) The utility must include in the compliance report required by WAC 194-40-040 the following:

(a) Documentation by year of the actual and lowest reasonable costs incurred during the period for the costs identified in subsection (1) (a) of this section.

(b) Documentation by year of the costs that the utility would have incurred to acquire the alternative lowest reasonable cost and reasonably available portfolio of investments.

(c) A calculation of the average annual incremental costs by summing the differences between costs reported in (a) of this subsection and costs reported in (b) of this subsection and dividing by the number of years in the period.

(d) A comparison demonstrating that average annual incremental costs for the period, calculated as specified in (c) of this subsection, equal or exceed the annual threshold amount calculated as specified in subsection (1)(b) of this section.

(5) If a resource included in an actual or alternative portfolio has a useful life or contract duration of greater than one year, the cost of that resource must be allocated over the expected useful life or contract duration using a levelized cost or fixed charge factor.

(6) The CEIP must substantiate the information required in subsection (3) of this section using a comprehensive assessment of alternative resource portfolios, such as an integrated resource plan prepared in compliance with chapter 19.280 RCW.

(7) A utility must include in all cost calculations under this rule the effects on resource selection and acquisition of the social cost of greenhouse gas emissions cost adder requirement under WAC 194-40-110. A utility may not include in the cost calculations any greenhouse gas emissions costs, fees, or taxes unless customers will pay those amounts through their electricity purchases.

(8) As used in this rule, "period" means the years covered by each CEIP developed in compliance with RCW 19.405.060(2).

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#### NEW SECTION

##### **WAC 194-40-300 Documentation concerning coal-fired resources.**

(1) Each utility must publish by June 1, 2027, and each year thereafter, an attestation by a properly authorized representative of the utility certifying that the utility's allocation of electricity for Washington retail electric load in the prior calendar year did not include any electricity generated at a coal-fired resource. The utility must provide additional documentation as the auditor may require.

(2) A transaction to purchase electricity, where the source is unknown at the time of purchase, for a term not to exceed thirty-one days, is not a coal-fired resource for the purposes of this rule.

(3) A utility must not engage in a series or combination of short-term transactions for unspecified electricity for the purpose of avoiding the restrictions on use of coal-fired resources under RCW 19.405.030(1).

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#### NEW SECTION

##### **WAC 194-40-310 Documentation of nonemitting electric generation.**

(1) Any utility using nonemitting electric generation to comply with a requirement under RCW 19.405.040 or 19.405.050 must demonstrate that it owns the nonpower attributes of that electricity and that it has committed to use the nonpower attributes exclusively for the stated compliance purpose.

(2) A utility may demonstrate ownership of nonpower attributes using contractual records or attestations of ownership and transfer by properly authorized representatives of the generating facility, all

intermediate owners of the nonemitting electric generation, and a properly authorized representative of the utility.

(3) A utility may demonstrate ownership of the nonpower attributes of the nuclear portion of BPA's electricity product by relying on a representation of a properly authorized representative of BPA stating the nonemitting percentage of its electricity product and verifying that BPA did not separate the nonpower attributes associated with the nuclear generation.

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#### NEW SECTION

### **WAC 194-40-330 Methodologies for energy efficiency and demand response resources. (1) Energy efficiency resources.**

#### **(a) Assessment of potential:**

(i) Any utility that is a qualifying utility under chapter 19.285 RCW must assess the amount of energy efficiency and conservation that is available using the conservation methodology established in RCW 19.285.040(1) and the rules implementing that subsection. The analysis must include the social cost of greenhouse gas emissions as specified in WAC 194-40-110.

(ii) Any utility that is not a qualifying utility under chapter 19.285 RCW must establish the amount of energy efficiency and conservation that is available using either of the following methods:

(A) Use the conservation methodology established in RCW 19.285.040(1) and the rules implementing that subsection; or

(B) Establish the reasonable utility-level proportion of a conservation potential assessment prepared at a regional or multi-utility level using a methodology that:

(I) Evaluates resource alternatives on a total resource cost basis, in which all costs and all benefits of conservation measures are included regardless of who pays the costs or receives the benefits; and

(II) Includes the social cost of greenhouse gas emissions as specified in WAC 194-40-110.

(b) **Target.** The energy efficiency target for any interim performance period or GHG neutral compliance period must equal or exceed the target that would be calculated using the pro rata share approach specified in RCW 19.285.040 (1)(b) and must be sufficient to ensure that the utility meets its obligation under RCW 19.405.040(6) to pursue all cost-effective, reliable, and feasible conservation and energy efficiency resources.

(c) **Measurement and verification.** All energy efficiency and conservation resources used to meet an energy efficiency target must be measured and verified using the measurement and verification requirements of WAC 194-37-080 (3) and (4).

#### **(2) Demand response resources:**

(a) **Assessment of potential.** Each utility must assess the amount of demand response resource that is cost-effective, reliable, and feasible.

(b) **Target.** The demand response target for any compliance period must be sufficient to meet the utility's obligation under RCW 19.405.040(6) and must be consistent with the utility's integrated re-

source plan or resource plan and any distributed energy resource plan adopted under RCW 19.280.100.

(c) **Measurement and verification.** Each utility must maintain and apply measurement and verification protocols to determine the amount of capacity resulting from demand response resources and to verify the acquisition or installation of the demand response resources being recorded or claimed. The utility must document the methodologies, assumptions, and factual inputs used in its measurement and verification of demand response resources.

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#### NEW SECTION

**WAC 194-40-340 Acquisition of new resources other than renewable resources and energy storage.** A utility that acquires a new fossil fuel generating resource or new nonemitting electric generation must document through its integrated resource plan and any other analysis relied on in making its decision that the resource acquisition is consistent with meeting the utility's targets under RCW 19.405.040 or the standard in RCW 19.405.050 at the lowest reasonable cost, considering risk. For the purposes of this chapter, a resource that commenced operation on or before May 7, 2019, is not a new resource.

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#### NEW SECTION

**WAC 194-40-350 Use of alternative compliance options by utilities using two percent incremental cost threshold.** (1) Except as provided in subsection (2) of this section, a utility may not use any alternative compliance option under RCW 19.405.040 (1)(b) in any GHG neutral compliance period if it relies on RCW 19.405.060 (4)(a) as the basis for compliance with the standard under RCW 19.405.040(1) or 19.405.050(1).

(2) A utility relying on RCW 19.405.060 (4)(a) may use an alternative compliance option if:

(a) The utility demonstrates that no renewable resources or nonemitting electric generation was reasonably available; or

(b) The utility uses renewable resources and nonemitting electric generation in an amount equal to at least eighty percent of its annual retail electric load during the period.

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#### NEW SECTION

**WAC 194-40-360 Temporary exemption, demonstration of plan to achieve full compliance.** (1) A utility must notify commerce at least thirty days prior to consideration of action by the governing body to authorize a temporary exemption under RCW 19.405.090 (5)(a). The no-

tice must provide all information that the governing body will rely on in making a decision whether to authorize a temporary exemption.

(2) If the governing body of a utility authorizes a temporary exemption under RCW 19.405.090 (5) (a), the governing body must notify commerce within thirty days of the action. The governing body's notice must include a plan to take specific actions to achieve full compliance with RCW 19.405.040(1).

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#### NEW SECTION

**WAC 194-40-400 Documentation and retirement of renewable energy credits.** (1) The Western Renewable Energy Generation Information System is the renewable energy credit tracking system for purposes of verification of RECs under chapter 19.405 RCW.

(2) (a) Except as provided in (b) of this subsection, each utility must verify and document by the retirement of RECs all electricity from renewable resources used to meet a target in an interim performance period or to comply with the requirements of RCW 19.405.040 or 19.405.050.

(b) A utility is not required to comply with (a) of this subsection for electricity from renewable resources used to meet a target in an interim performance period if:

(i) The energy source for the generating facility is water;

(ii) The generating facility is not registered in WREGIS or the WREGIS account holder for the generating facility verifies that no RECs have been created for the electricity used to meet CETA requirements; and

(iii) The utility owned the generating facility or purchased the electricity directly from the owner of the facility or, in the case of federal generating facilities, from BPA.

(3) Each utility using a REC under this chapter must document the following:

(a) The REC represents the output of a renewable resource;

(b) The vintage of the REC is a year within the applicable performance period or compliance period; and

(c) The utility has retired the REC to a retirement subaccount of the utility within WREGIS using the following values in the certificate transfer:

(i) Retirement type: Used by the account holder for a state-regulated renewable portfolio standard/provincial utility portfolio standard;

(ii) State/province: Washington; and

(iii) Compliance year: Within the applicable performance period or compliance period.

(4) A utility may use any REC retired to comply with RCW 19.285.040 for the purposes identified in subsection (2) of this section if the compliance year indicated in the retirement documentation of the REC is within the compliance period of the standard or target identified in subsection (2) of this section.

(5) This rule does not require the retirement of RECs identified in a CEIP and not otherwise used to meet an interim target or to comply with the requirements of RCW 19.405.040 or 19.405.050.

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NEW SECTION

**WAC 194-40-430 Thermal RECs—Applicability.** (1) A thermal renewable energy credit may be used as an unbundled REC under RCW 19.405.040 (1)(b) if it is created in association with the generation of qualifying thermal energy for a secondary purpose at a facility that generates electricity from biomass energy. For multiple-fuel facilities, only the portion of thermal energy generated from eligible biomass sources is eligible for the generation of a thermal REC.

(2) Thermal energy may not be used to create a thermal REC if the thermal energy:

(a) Is used to operate the generating facility or process the facility's fuel;

(b) Is returned to the biomass conversion device that initially created the eligible thermal resource;

(c) Bypasses the electricity generation device; or

(d) Is produced while the electricity generation equipment is out of service.

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NEW SECTION

**WAC 194-40-440 Thermal RECs—Measuring.** (1) Qualifying thermal energy must be measured and tracked using the following methods:

(a) **Large facilities:** Facilities with the capacity to generate one or more thermal RECs per hour of operation must install a thermal energy measurement system to continually measure qualifying thermal energy. The thermal energy delivered to the secondary purpose must be metered. All parameters needed to determine thermal energy delivered to the secondary purpose must be directly measured.

(b) **Small facilities:** Facilities with the capacity to generate less than one thermal REC per hour of operation must install a thermal energy measurement system to measure qualifying thermal energy delivered to the secondary purpose. Calculation parameters, such as heat capacity, and directly measured parameters, such as temperature and pressure, that do not vary more than two percent for the full range of expected operating conditions may be evaluated on an annual basis and used in the calculation methodology as a constant. These parameters may be based on such sources as manufacturers' published ratings or one-time measurements, but must be clearly defined and explained in the thermal energy measurement plan required under subsection (2) of this section. All other parameters used to determine the amount of qualifying thermal energy must be continually measured. The generating facility must assess the significance of any potential error that the methodology parameters have on the total annual quantity of qualifying thermal energy and include this analysis in the thermal energy measurement plan. The generating facility must also submit to the department for approval in the thermal energy measurement plan an appropri-

ate discount factor to be applied to the qualifying thermal energy calculation methodology, and the department may revise this discount factor to account for variance due to parameters that are not continually measured.

(c) Any thermal energy measurement system used to comply with this rule must capture sufficient data, and make necessary calculations or provide all necessary data for calculations to be made using standard engineering calculation procedures, to determine the net thermal energy used by the secondary purpose over an interval specified in the thermal energy measurement plan.

(d) The components of a thermal energy measurement system must be installed in accordance with the manufacturer's specifications.

(2) The operator of a thermal energy generating facility must submit to the department for its approval a thermal energy measurement plan that:

(a) Describes the thermal energy generating equipment, secondary purposes, data measurements to be collected, all associated measurement devices, data formats and storage, data gathering techniques, measurement system calibration, calculation methodology, discount factors, and other relevant equipment and activities that will be used to determine the quantity of qualifying thermal energy.

(b) Includes documentation, including drawings, specifications, piping and instrumentation diagrams, and other information, sufficient to verify the compliance of the system with the requirements of this rule.

(c) Is prepared by or under the supervision of a licensed professional engineer, as indicated by the engineer's stamp.

(3) The operator of a thermal energy generating facility must submit an updated thermal energy measurement plan and documentation for review and approval to the department upon the following:

(a) Installation, removal or changes in the configuration of the thermal energy measurement system and its components;

(b) Installation of new thermal energy generation equipment or changes in thermal energy generation capacity;

(c) Installation or removal of secondary purpose equipment, changes to secondary purpose use, or changes in the secondary purpose maximum thermal energy demand; or

(d) Indications the thermal energy measurement system is not performing in accordance with the thermal energy measurement plan.

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#### NEW SECTION

**WAC 194-40-450 Thermal RECs—Tracking.** (1) Where continual measurements are required to determine the quantity of qualifying thermal energy, the operator of the thermal energy generating facility must take data readings at least once per hour, or more frequently as necessary to capture irregular or frequently varying parameters. For all facilities, the qualifying thermal energy produced must be totaled for each twenty-four-hour period, each month, and each quarter.

(2) The operator of the generating facility must retain measured data and related thermal energy calculations on-site for five calendar years and make records available for audit.

(3) Prior to measuring qualifying thermal energy for the purpose of generating thermal RECs, the operator of the generating facility must perform, or have performed, an initial calibration of the thermal energy measurement system and all associated measurement devices, or demonstrate that a calibration has been performed as specified by system component manufacturers or within the last three hundred sixty-five days of the application date for certification as compliant with these rules. All measurement devices shall be recalibrated annually or as specified by system component manufacturers to maintain specified accuracy. Calibrations must be performed using the calibration procedures specified by the meter manufacturer, calibration methods published by a consensus-based standards organization, or other industry accepted practice.

(4) Individuals designing, installing, operating, and maintaining the thermal energy measurement system must have appropriate training and certification. The generating facility must maintain documentation of maintenance and calibration activities.

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#### NEW SECTION

**WAC 194-40-460 Thermal RECs—Reporting.** All thermal RECs are subject to the requirements of WAC 194-40-400.

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