

within thirty (30) days of mailing the notification of re-determination (Notice to Base Year Employer - EMS 166).

(2) **Timely Response.** The commissioner may consider a request for relief of benefit charges that has not been received or postmarked within thirty (30) days as timely if the employer establishes good cause for the untimely response.

(3) **Additional Information.**

(a) The employer shall provide the information requested by the department within thirty (30) days of the mailing date of the department's request.

(b) It shall be the responsibility of the employer to provide all pertinent facts to the satisfaction of the department to make a determination of relief of benefits charges, or good cause for failure to respond in a timely manner.

(c) Failure to respond within thirty (30) days will result in a denial of the employer's request for relief of benefit charges unless the employer establishes good cause for the untimely response.

(4) **Denial and Appeal of Request.** Any denial of a request for relief of benefit charges shall be in writing and will be the basis of appeal pursuant to RCW 50.32.050.

[Statutory Authority: Chapter 34.05 RCW and RCW 50.20.020(2), 00-01-167, § 192-320-065, filed 12/21/99, effective 1/21/00.]

Title 194 WAC

DEPARTMENT OF COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT

Chapters

194-22 Washington state curtailment plan for electric energy.

Chapter 194-22 WAC

**WASHINGTON STATE CURTAILMENT PLAN FOR
ELECTRIC ENERGY**

WAC

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WAC 194-22-010 Purpose and goal. The purpose of this chapter is to establish the process by which the state of Washington and Washington state utilities will initiate and implement state-wide electric load curtailment when there is an insufficient supply of electric energy. This chapter constitutes the Washington state curtailment plan for electric energy (plan). The plan is not intended to be activated for relatively short-term emergencies such as those caused by extremely cold weather or the temporary loss of a major gen-

erating plant, but for regional, protracted shortages of electric energy. The plan will be activated by the department of community, trade, and economic development for regional emergencies for which regional curtailment is necessary. Such emergencies may or may not coincide with other emergencies for which other actions, such as repair of damaged facilities, are necessary.

The goal of this plan is to accomplish necessary curtailment while treating consumers fairly and equitably, minimizing adverse impacts from curtailment, complying with existing state laws and regulations, and providing for smooth, efficient, and effective curtailment administration.

[Statutory Authority: RCW 43.21F.045, 99-21-008, § 194-22-010, filed 10/8/99, effective 11/8/99; 94-20-103, § 194-22-010, filed 10/4/94, effective 11/4/94.]

WAC 194-22-020 Definitions. "Base billing period" is one of the billing periods comprising the base year. Base billing period data may be weather-normalized at each utility's discretion before being used to calculate the amount of curtailment required by consumers.

"Base year" is the period from which required curtailment is calculated. It is normally the twelve-month period immediately preceding imposition of state-initiated load curtailment.

"Critical load consumer" includes consumers that supply essential services relating to public health, safety, welfare, or energy production, and includes but is not limited to those consumers listed in RCW 43.21G.030.

"Curtailment" means electric load reduction, irrespective of the means by which that reduction is achieved.

"Curtailment target" is the maximum amount of energy that a consumer may use and still remain in compliance with the state curtailment request or order; the curtailment target is figured individually for each consumer.

"Direct service industries" means industries, primarily aluminum plants, that receive electric power directly from the Bonneville Power Administration (BPA).

"Excess power consumption" is that amount of electric energy consumed during any billing period which is above the consumer's calculated curtailment target. It is calculated as one of two values:

- *Actual or estimated load minus curtailment target; or
- *Weather-normalized load minus curtailment target.

Under mandatory curtailment, if a consumer's electric energy consumption exceeds the threshold consumption level, all excess power consumption is subject to penalty unless exempted (see WAC 194-22-110, mandatory curtailment enforcement).

"General use customer" refers to any nonresidential consumer who purchased and consumed five average megawatts or less during the base year.

"Major use consumer" refers to any consumer who purchased and consumed over five average megawatts during the base year.

"Minimum audit level" is the minimum percentage of consumers in each consuming sector that must be audited each billing period under mandatory curtailment. The minimum audit level is set by the state and subject to change.

"Region" includes the states of Washington, Oregon, Idaho, and those portions of Montana that are west of the continental divide and/or within the control area of the Montana Power Company.

"Regional curtailment plan for electric energy, May 22, 1992" is the model document on which this plan is based. The regional curtailment plan for electric energy and appendices are a policy document the state will use to guide implementation of this plan. Where there are discrepancies, this chapter applies.

"Regional load" is the electric load placed by ultimate consumers within the region on their respective utility suppliers.

"State" means the department of community, trade, and economic development. Other state agencies which may participate in curtailment activities include: The office of the governor; the utilities and transportation commission; and the joint senate and house energy and utilities committee established during energy emergencies.

"State contacts" refers to individuals who represent the state of Washington in connection with curtailment issues.

"State-initiated" refers to actions taken by the state to implement load curtailment.

"Threshold consumption level" is the maximum amount of energy that a consumer can use during mandatory load curtailment without being subject to enforcement measures (see WAC 194-22-110, mandatory curtailment enforcement) taken under this plan. The threshold consumption level is set by the state and subject to change.

"Utility contacts" refers to individuals representing utilities in connection with curtailment issues.

"Utility coordinator" is the director of the northwest power pool.

"Utility curtailment reports" are reports summarizing curtailment data, which must be submitted monthly to the state and the utility coordinator. Reporting requirements are provided by the state to utilities.

"Weather-normalization" is the procedure used to reflect the impact of weather on utility load levels, sometimes referred to as "weather-adjustment."

[Statutory Authority: RCW 43.21F.045. 99-21-008, § 194-22-020, filed 10/8/99, effective 11/8/99; 94-20-103, § 194-22-020, filed 10/4/94, effective 11/4/94.]

WAC 194-22-120 Curtailment administration—Exemptions and adjustments. (1) Utilities will inform consumers how to apply for exemption from plan requirements and for adjustments of base billing period data. Utilities may elect to process exemptions and adjustments only for audited consumers. Consumers seeking an exemption or adjustment shall apply first to their utility and then, if dissatisfied with that outcome, to the state.

(2) No automatic consumer exemptions will be granted under mandatory state-initiated load curtailment. Critical load consumers may be exempted once they have demonstrated to their utility that they have eliminated all nonessential energy use and are using any reliable, cost-effective backup energy resources. Exempted consumers should be

informed that exemption may not protect them from Stage 5 black-outs.

(3) Exemptions for consumers not qualifying as critical load consumers under this plan will be evaluated based on whether curtailment would result in unreasonable exposure to health or safety hazards, seriously impair the welfare of the affected consumer, cause extreme economic hardship relative to the amount of energy saved, or produce counterproductive results.

(4) Utilities will maintain a list of all consumers applying for exemption, noting the account, the nature of the requested exemption (base year adjustment or exemption from the mandatory curtailment order), the rationale provided by the consumer, and the action taken by the utility with respect to the request. Records regarding exemption determinations will be made available to the department of community, trade, and economic development upon request.

[Statutory Authority: RCW 43.21F.045. 99-21-008, § 194-22-120, filed 10/8/99, effective 11/8/99; 94-20-103, § 194-22-120, filed 10/4/94, effective 11/4/94.]

WAC 194-22-130 Curtailment administration—State appeals board. (1) In the event that mandatory curtailment is ordered, the state shall form an electricity curtailment appeals board (board) to process consumer requests for either exemption or adjustment of base year data where the consumer is appealing a utility determination. The board shall consist of twelve members: The director of the department of community, trade, and economic development or designee who shall serve as chair, the chair of the Washington utilities and transportation commission or designee, and one representative from each of the following groups as appointed by the governor; public utility districts, cooperative, municipal, and investor-owned utilities, county and municipal government, commercial and industrial users, and two citizens at large.

(2) The board will:

(a) Develop its own plans and procedures for hearing appeals;

(b) Initiate communications with utilities for receiving appeals; and

(c) Provide information to the governor for any case in which the board refuses to grant the requested exemption or adjustment.

(3) Throughout the appeals process, the state will periodically inform the appealing consumers and their respective utilities of the status of the appeals.

[Statutory Authority: RCW 43.21F.045. 99-21-008, § 194-22-130, filed 10/8/99, effective 11/8/99; 94-20-103, § 194-22-130, filed 10/4/94, effective 11/4/94.]