

**WAC 296-140-001 Definitions.** (1) The following definitions apply to the entire chapter:

(a) "Community workforce agreement (CWA)" means a prehire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific construction project and is an agreement described in 29 U.S.C. Sec. 158(f). To establish the terms and conditions for employment on a single construction project, the CWA must be a single agreement covering all labor organizations representing the building and construction employees involved in the project and covers all contractors and subcontractors working on the project.

(b) "Department" means the department of labor and industries.

(c) "Good faith efforts" means the efforts by the project developer or its designated principle contractor that maximize the likelihood that the project will be built in compliance with the standards for certification, but are unable to meet these standards based on availability of qualified businesses or workers. The totality of the circumstances and factors will be reviewed to determine good faith. Good faith efforts are not necessary when the standard requirements have been met.

(d) "Labor hours" means the total hours of laborers, workers, or mechanics receiving an hourly wage who are directly employed by the contractor and all subcontractors working upon the project. Labor hours does not include hours worked by foremen, superintendents, or owners except where the hours worked are counted in satisfying the required apprentice to journey supervision ratio as required by apprenticeship standards.

(e) "Local resident" means Washington laborers, workers, or mechanics receiving an hourly wage who live within 50 miles of the project being constructed unless the project is being constructed in a rural county, then it is defined as Washington workers who live within 200 miles of the project.

(f) "Minority-owned business" means a business certified with the office of minority and women's business enterprises (OMWBE) as a minority business enterprise (MBE) or a minority women business enterprise (MWBE) under chapter 326-20 WAC.

(g) "Person" has the same meaning as in RCW 82.04.030.

(h) "Project labor agreement (PLA)" means a prehire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific construction project and is an agreement described in 29 U.S.C. Sec. 158(f). To establish the terms and conditions for employment on a single construction project, the PLA must be a single agreement covering all labor organizations representing the building and construction employees involved in the project and covers all contractors and subcontractors working on the project.

(i) "Registered apprentice" means an apprentice registered in an apprenticeship program approved by the Washington state apprenticeship and training council according to chapters 49.04 RCW and 296-05 WAC.

(j) "Rural county" has the same definition as RCW 82.14.370(5).

(k) "Women-owned business" means a business certified with the office of minority and women's business enterprises (OMWBE) as a women business enterprise (WBE) or a minority women business enterprise (MWBE) under chapter 326-20 WAC.

(l) "Veteran-owned business" means a business certified by the Washington state department of veteran affairs under RCW 43.60A.190.

(2) The following definitions apply to WAC 296-140-002 through 296-140-004:

(a) "Category 1 clean energy project" means a project under RCW 82.08.962 and 82.12.962 to:

(i) Develop a facility capable of generating not less than 1,000 watts AC of electricity using any of the following principal sources of power: Fuel cells, wind, biomass energy, geothermal resource, tidal or wave energy, or technology that converts otherwise lost energy from exhaust;

(ii) Develop solar energy systems capable of generating not less than 500 kilowatts AC of electricity.

(b) "Category 2 clean energy project" means a project under RCW 82.08.962 and 82.12.962 to develop solar energy systems capable of generating more than 100 kilowatts AC, but no more than 500 kilowatts AC of electricity.

(c) "Machinery and equipment" means fixtures, devices, and support facilities that are integral and necessary to the generation of electricity using fuel cells, wind, sun, biomass energy, tidal or wave energy, geothermal resources, or technology that converts otherwise lost energy from exhaust. "Machinery and equipment" does not include:

(i) Hand-powered tools;

(ii) Property with a useful life of less than one year;

(iii) Repair parts required to restore machinery and equipment to normal working order;

(iv) Replacement parts that do not increase productivity, improve efficiency, or extend the useful life of machinery and equipment;

(v) Buildings; or

(vi) Building fixtures that are not integral and necessary to the generation of electricity that are permanently affixed to and become a physical part of a building.

(3) The following definitions apply to WAC 296-140-005 and 296-140-006:

(a) "Eligible investment project" means an investment project of at least \$2,000,000 in either qualified buildings or qualified machinery and equipment, or both, for any of the following new, renovated, or expanded:

(i) Manufacturing operations;

(ii) Facilities to produce clean fuels, subject to the limitations in RCW 82.89.010 (8)(d), renewable hydrogen, green electrolytic hydrogen, or green hydrogen carriers; or

(iii) Storage facilities.

(b) "Green electrolytic hydrogen" means hydrogen produced through electrolysis and does not include hydrogen manufactured using steam reforming or any other conversion technology that produces hydrogen from a fossil fuel feedstock.

(c) "Green hydrogen carrier" means a chemical compound, created using electricity or renewable resources as energy input and without use of fossil fuel as a feedstock, from renewable hydrogen or green electrolytic hydrogen for the purposes of transportation, storage, and dispensing of hydrogen.

(d)(i) "Initiation of construction" means the date that a building permit is issued under the building code adopted under RCW 19.27.031 for:

(A) Construction of the eligible investment project, if the underlying ownership of the building vests exclusively with the person receiving the economic benefit of the deferral;

(B) Construction of the eligible investment project, if the economic benefits of the deferral are passed to a lessee as provided in RCW 82.89.020;

(C) Tenant improvements for the eligible investment project, if the economic benefits of the deferral are passed to a lessee as provided in RCW 82.89.020.

(ii) "Initiation of construction" does not include soil testing, site clearing and grading, site preparation, or any other related activities that are initiated before the issuance of a building permit for the construction of the foundation of the building.

(iii) If the investment project is a phased project, "initiation of construction" applies separately to each phase.

(e) "Investment project" means an investment in either qualified buildings or qualified machinery and equipment, or both, including labor and services rendered in the planning, installation, and construction of the project.

(f) "Manufacturing" has the same meaning as "to manufacture" in RCW 82.04.120.

(g) "Manufacturing operation" means manufacturing tangible personal property exclusively incorporated as an ingredient or component of or used in the generation of:

(i) Passenger cars, light duty trucks, medium duty passenger vehicles, buses, commercial vehicles as defined in RCW 46.04.140, or motorcycles that emit no exhaust gas from the onboard source of power, other than water vapor;

(ii) Charging and fueling infrastructure for electric, hydrogen, or other vehicle types that emits no exhaust gas from the onboard source of power, other than water vapor;

(iii) Renewable and green electrolytic hydrogen, including preparing renewable and green electrolytic hydrogen for distribution or converting it to a green hydrogen carrier;

(iv) Clean fuel with associated greenhouse gas emissions not exceeding 80 percent of the 2017 levels established under RCW 70A.535.020 or its successor statute under chapter 70A.535 RCW;

(v) Electricity from renewable resources; or

(vi) Storage facilities.

(h) "Operationally complete" means the eligible investment project is capable of being used for its intended purpose as described in the application.

(i) "Qualified buildings" means construction of new structures, and expansion or renovation of existing structures for the purpose of increasing floor space or production capacity, used for manufacturing, including plant offices and warehouses or other buildings for the storage of raw materials or finished goods if the facilities are an essential or an integral part of a factory, mill, plant, or laboratory used for manufacturing. If a qualified building is used partly for manufacturing and partly for other purposes, the applicable tax deferral must be determined by apportionment of the costs of construction under rules adopted by the department.

(j) "Qualified machinery and equipment" means all new industrial fixtures, equipment, and support facilities that are an integral and necessary part of a manufacturing operation. "Qualified machinery and equipment" includes: Computers; software; data processing equipment; laboratory equipment; manufacturing components such as belts, pulleys, shafts, and moving parts; molds, tools, and dies; operating structures; and all equipment used to control, monitor, or operate the machinery.

(k) "Recipient" means a person receiving a tax deferral under chapter 82.89 RCW.

(l) "Renewable resource" has the same meaning as in RCW 82.08.816.

(m) "Storage facility" means a facility that:

(i) Accepts electricity as an energy source and uses a chemical, thermal, mechanical, or other process to store energy for subsequent delivery or consumption in the form of electricity; or

(ii) Stores renewable hydrogen, green electrolytic hydrogen, or green hydrogen carrier for subsequent delivery or consumption.

(4) The following definitions apply to WAC 296-140-007 and 296-140-008:

(a) "Eligible area" means a qualifying commercial center.

(b) "Eligible investment project" means an investment project that is located, as of the date the application required by RCW 82.90.030, is received by the department, in an eligible area.

(c)(i) "Initiation of construction" means the date that a building permit is issued under the building code adopted under RCW 19.27.031 for:

(A) Construction of the eligible investment project, if the underlying ownership of the building vests exclusively with the person receiving the economic benefit of the deferral;

(B) Construction of the eligible investment project, if the economic benefits of the deferral are passed to a lessee as provided in RCW 82.90.080; or

(C) Tenant improvements for the eligible investment project, if the economic benefits of the deferral are passed to a lessee as provided in RCW 82.90.080.

(ii) "Initiation of construction" does not include soil testing, site clearing and grading, site preparation, or any other related activities that are initiated before the issuance of a building permit for the construction of the foundation of the building.

(iii) If the investment project is a phased project, "initiation of construction" applies separately to each phase.

(d) "Investment project" means an investment in a qualified solar canopy including labor and services rendered in the planning, installation, and construction of the project.

(e) "Operationally complete" means the solar canopy has received its final electrical inspection and is connected to the electrical grid.

(f) "Qualified solar canopy" means construction of a new solar canopy that has an area of at least 50,000 square feet.

(g) "Qualifying commercial center" means a property currently used for retail, industrial, office, or other commercial purposes, containing a parking area or other area dedicated for both vehicle use and placement of a solar canopy.

(h) "Recipient" means a person receiving a tax deferral under chapter 82.90 RCW.

(i) "Solar canopy" means an elevated structure, or multiple structures, containing a solar energy system, as defined in RCW 82.16.110, with a nameplate capacity of at least one megawatt of alternating current.

"Solar canopy" includes the solar energy system, power lines, and any equipment required to connect the solar canopy to the electrical grid.

[Statutory Authority: RCW 82.08.962, 82.12.962, 89.82.070, and 89.90.060. WSR 23-11-125, § 296-140-001, filed 5/23/23, effective 6/23/23. Statutory Authority: RCW 82.08.962 and 82.12.962. WSR 21-21-043, § 296-140-001, filed 10/13/21, effective 11/13/21.]