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**ENGROSSED SUBSTITUTE SENATE BILL 5445**

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**State of Washington**

**69th Legislature**

**2025 Regular Session**

**By** Senate Environment, Energy & Technology (originally sponsored by Senators Boehnke, Hasegawa, and Slatter)

READ FIRST TIME 02/21/25.

1       AN ACT Relating to encouraging the development of distributed  
2 energy resources; amending RCW 84.34.020, 84.34.070, and 19.285.040;  
3 adding a new section to chapter 43.21F RCW; adding a new section to  
4 chapter 43.21C RCW; and creating a new section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6       NEW SECTION.       **Sec. 1.**       (1) The legislature finds that, as  
7 Washington works towards meeting its goals under the clean energy  
8 transformation act, we see many larger-scale renewable energy  
9 projects proposed. These projects can come with significant  
10 challenges. This act aims to incentivize the development of renewable  
11 energy on lands and structures that have minimal disruption to  
12 natural habitats, communities, cultural resources, and agriculture.  
13 This could include small-scale wind energy developments, solar energy  
14 developments on landfills, structures, and other developed lands, and  
15 the placement of solar panels on agricultural lands that ensure the  
16 continued viability of agriculture alongside energy production.  
17 Incentivizing distributed energy can help us protect our rich  
18 agricultural lands and meet our clean energy goals.

19       (2)(a) The legislature finds and declares that the Pacific  
20 Northwest utilities conference committee has estimated demand for  
21 electricity in the region will increase 30 percent over the next

1 decade. High-tech manufacturing, increasing electrification of  
2 buildings and transportation, and surging data center needs  
3 contribute to the expected increase in demand. Local economies  
4 benefit from projects that will help meet this demand and improve  
5 distribution system resilience with local resources and investments.

6 (b) The legislature further finds and declares that utilities are  
7 essential partners in achieving the state's decarbonization goals  
8 while meeting increasing demand and ensuring grid reliability. Such  
9 projects can create high quality jobs, provide opportunities for  
10 training apprentice workers, and help utilities leverage their own  
11 expertise, community relationships, and resources to address our  
12 energy challenges.

13 (c) The legislature intends to support utilities who make  
14 significant investments in energy resilience by establishing an  
15 alternate compliance pathway in the energy independence act for  
16 utilities who invest in distributed energy priority projects.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.21F  
18 RCW to read as follows:

19 (1) The following categories of clean energy facilities and  
20 nonproject activities that reduce environmental impacts are  
21 determined to constitute distributed energy priorities:

22 (a) Solar energy generation and accompanying energy storage and  
23 electricity transmission and distribution, including vehicle charging  
24 equipment, when such facilities are located:

25 (i) Within the easement, right-of-way, or existing footprint of  
26 electrical transmission facilities;

27 (ii) Within the easement, right-of-way, or existing footprint of  
28 a state highway or city or county road;

29 (iii) On structures over or enclosing irrigation canals, drainage  
30 ditches, and irrigation, agricultural, livestock supply, stormwater,  
31 or wastewater reservoirs or similar impoundments of state waters that  
32 do not host salmon or steelhead trout runs;

33 (iv) On elevated structures over parking lots;

34 (v) On lands within a transportation facility, including but not  
35 limited to airports and railroad facilities, or restricted from other  
36 developments by transportation facility operations;

37 (vi) On closed or capped portions of landfills;

38 (vii) On reclaimed or former surface mine lands or contaminated  
39 sites that have been remediated under chapter 70A.305 RCW or the

1 federal comprehensive environmental response, compensation, and  
2 liability act (42 U.S.C. Sec. 9601 et seq.) in a manner that includes  
3 an asphalt or soil cap;

4 (viii) As an agrivoltaic facility; and

5 (ix) On existing structures;

6 (b) Wind energy generation that is not a utility-scale wind  
7 energy facility as defined in RCW 70A.550.010, and accompanying  
8 energy storage and transmission and distribution equipment, including  
9 vehicle charging equipment;

10 (c) Energy storage, when such facilities are located:

11 (i) Within the easement, right-of-way, or existing footprint of  
12 electrical transmission facilities;

13 (ii) Within the easement, right-of-way, or existing footprint of  
14 a state highway or city or county road;

15 (iii) On lands within a transportation facility, including but  
16 not limited to airports and railroad facilities, or restricted from  
17 other developments by transportation facility operations;

18 (iv) On closed or capped portions of landfills;

19 (v) On reclaimed or former surface mine lands;

20 (vi) On contaminated sites that have been remediated under  
21 chapter 70A.305 RCW or the federal comprehensive environmental  
22 response, compensation, and liability act (42 U.S.C. Sec. 9601 et  
23 seq.) in a manner that includes an asphalt or soil cap; and

24 (vii) On or in existing structures;

25 (d) Programs that reduce electric demand, manage the level or  
26 timing of electricity consumption, or provide electricity storage,  
27 renewable or nonemitting electric energy, capacity, or ancillary  
28 services to an electric utility and that are located on the  
29 distribution system, any subsystem of the distribution system, or  
30 behind the customer meter, including conservation and energy  
31 efficiency; and

32 (e) Programs that reduce energy demand, manage the level or  
33 timing of energy consumption, or provide thermal energy storage.

34 (2) (a) The department must review and, when appropriate,  
35 periodically recommend to the legislature additional types of  
36 distributed energy priorities for inclusion on the list under  
37 subsection (1) of this section.

38 (b) The identification of distributed energy priorities in  
39 subsection (1) of this section applies to the maximum extent  
40 practical under state and federal law, but does not include any

1 development sites or activities prohibited under other state or  
2 federal laws.

3 (3) (a) For purposes of this section, "agrivoltaic facility" means  
4 a ground-mounted photovoltaic solar energy system that is designed to  
5 be operated coincident with continued productive agricultural use of  
6 the land or both the continued productive agricultural use of the  
7 land and the provision of ecological value, including habitat.

8 (b) Eligible agricultural products and uses include any  
9 combination of:

10 (i) Crop production;

11 (ii) Grazing;

12 (iii) Animal husbandry; and

13 (iv) Apiaries with pollinator habitat that have been designed and  
14 installed to enable the agricultural producer the flexibility to  
15 change what products are produced, raised, or grown at any point  
16 throughout the life of the facility.

17 (c) An agrivoltaic facility must not permanently or significantly  
18 degrade the agricultural or ecological productivity of the land after  
19 the cessation of the operation of the facility or involve the sale of  
20 a water right associated with the land.

21 (d) An agrivoltaic facility must be constructed, installed, and  
22 operated to achieve integrated and simultaneous production of both  
23 solar energy and marketable agricultural products by an agricultural  
24 producer:

25 (i) On land beneath or between rows of solar panels, or both; and

26 (ii) As soon as agronomically feasible and optimal for the  
27 agricultural producer after the commercial solar operation date, and  
28 continuing until facility decommissioning.

29 (e) Solar panel arrays must be designed and installed in a manner  
30 that supports the continuation of a viable farm operation for the  
31 life of the array, and must consider, as appropriate, the  
32 availability of light, water infrastructure for crops or animals, and  
33 panel height and spacing relative to farm machinery needs.

34 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.21C  
35 RCW to read as follows:

36 The following actions are categorically exempt from the  
37 requirements of this chapter, except when undertaken wholly or partly  
38 on lands covered by water:

1 (1) The construction of structures with a footprint of less than  
2 1,000 square feet that support solar energy generation panels or  
3 associated equipment;

4 (2) The construction of structures that support solar energy  
5 generation panels or associated equipment on elevated structures  
6 located wholly over parking lots; and

7 (3) Solar energy generation and accompanying energy storage and  
8 electricity transmission and distribution when such facilities do not  
9 involve penetration of an asphalt or soil cap, are served by and  
10 accessible to emergency fire response services, as determined by the  
11 entity that would be lead agency for purposes of the chapter, and are  
12 located wholly on:

13 (a) Closed or capped portions of landfills; or

14 (b) Reclaimed or former surface mine lands.

15 **Sec. 4.** RCW 84.34.020 and 2014 c 125 s 2 are each amended to  
16 read as follows:

17 The definitions in this section apply throughout this chapter  
18 unless the context clearly requires otherwise.

19 (1) "Open space land" means (a) any land area so designated by an  
20 official comprehensive land use plan adopted by any city or county  
21 and zoned accordingly~~((τ))~~; or (b) any land area, the preservation of  
22 which in its present use would (i) conserve and enhance natural or  
23 scenic resources, or (ii) protect streams or water supply, or (iii)  
24 promote conservation of soils, wetlands, beaches or tidal marshes, or  
25 (iv) enhance the value to the public of abutting or neighboring  
26 parks, forests, wildlife preserves, nature reservations or  
27 sanctuaries or other open space, or (v) enhance recreation  
28 opportunities, or (vi) preserve historic sites, or (vii) preserve  
29 visual quality along highway, road, and street corridors or scenic  
30 vistas, or (viii) retain in its natural state tracts of land not less  
31 than one acre situated in an urban area and open to public use on  
32 such conditions as may be reasonably required by the legislative body  
33 granting the open space classification~~((τ))~~; or (c) any land meeting  
34 the definition of farm and agricultural conservation land under  
35 subsection (8) of this section. As a condition of granting open space  
36 classification, the legislative body may not require public access on  
37 land classified under (b)(iii) of this subsection for the purpose of  
38 promoting conservation of wetlands.

39 (2) "Farm and agricultural land" means:

1 (a) Any parcel of land that is (~~twenty~~) 20 or more acres or  
2 multiple parcels of land that are contiguous and total (~~twenty~~) 20  
3 or more acres:

4 (i) Devoted primarily to the production of livestock or  
5 agricultural commodities for commercial purposes;

6 (ii) Enrolled in the federal conservation reserve program or its  
7 successor administered by the United States department of  
8 agriculture; or

9 (iii) Other similar commercial activities as may be established  
10 by rule;

11 (b)(i) Any parcel of land that is five acres or more but less  
12 than (~~twenty~~) 20 acres devoted primarily to agricultural uses,  
13 which has produced a gross income from agricultural uses equivalent  
14 to, as of January 1, 1993:

15 (A) (~~One hundred dollars~~) \$100 or more per acre per year for  
16 three of the five calendar years preceding the date of application  
17 for classification under this chapter for all parcels of land that  
18 are classified under this subsection or all parcels of land for which  
19 an application for classification under this subsection is made with  
20 the granting authority prior to January 1, 1993; and

21 (B) On or after January 1, 1993, (~~two hundred dollars~~) \$200 or  
22 more per acre per year for three of the five calendar years preceding  
23 the date of application for classification under this chapter;

24 (ii) For the purposes of (b)(i) of this subsection, "gross income  
25 from agricultural uses" includes, but is not limited to, the  
26 wholesale value of agricultural products donated to nonprofit food  
27 banks or feeding programs;

28 (c) Any parcel of land of less than five acres devoted primarily  
29 to agricultural uses which has produced a gross income as of January  
30 1, 1993, of:

31 (i) (~~One thousand dollars~~) \$1,000 or more per year for three of  
32 the five calendar years preceding the date of application for  
33 classification under this chapter for all parcels of land that are  
34 classified under this subsection or all parcels of land for which an  
35 application for classification under this subsection is made with the  
36 granting authority prior to January 1, 1993; and

37 (ii) On or after January 1, 1993, (~~fifteen hundred dollars~~)  
38 \$1,500 or more per year for three of the five calendar years  
39 preceding the date of application for classification under this  
40 chapter. Parcels of land described in (b)(i)(A) and (c)(i) of this

1 subsection will, upon any transfer of the property excluding a  
2 transfer to a surviving spouse or surviving state registered domestic  
3 partner, be subject to the limits of (b) (i) (B) and (c) (ii) of this  
4 subsection;

5 (d) Any parcel of land that is five acres or more but less than  
6 (~~twenty~~) 20 acres devoted primarily to agricultural uses, which  
7 meet one of the following criteria:

8 (i) Has produced a gross income from agricultural uses equivalent  
9 to two hundred dollars or more per acre per year for three of the  
10 five calendar years preceding the date of application for  
11 classification under this chapter;

12 (ii) Has standing crops with an expectation of harvest within  
13 seven years, except as provided in (d) (iii) of this subsection, and a  
14 demonstrable investment in the production of those crops equivalent  
15 to one hundred dollars or more per acre in the current or previous  
16 calendar year. For the purposes of this subsection (2) (d) (ii),  
17 "standing crop" means Christmas trees, vineyards, fruit trees, or  
18 other perennial crops that: (A) Are planted using agricultural  
19 methods normally used in the commercial production of that particular  
20 crop; and (B) typically do not produce harvestable quantities in the  
21 initial years after planting; or

22 (iii) Has a standing crop of short rotation hardwoods with an  
23 expectation of harvest within (~~fifteen~~) 15 years and a demonstrable  
24 investment in the production of those crops equivalent to (~~one~~  
25 ~~hundred dollars~~) \$100 or more per acre in the current or previous  
26 calendar year;

27 (e) Any lands including incidental uses as are compatible with  
28 agricultural purposes, including wetlands preservation, provided such  
29 incidental use does not exceed (~~twenty~~) 20 percent of the  
30 classified land and the land on which appurtenances necessary to the  
31 production, preparation, or sale of the agricultural products exist  
32 in conjunction with the lands producing such products. Agricultural  
33 lands also include any parcel of land of one to five acres, which is  
34 not contiguous, but which otherwise constitutes an integral part of  
35 farming operations being conducted on land qualifying under this  
36 section as "farm and agricultural lands";

37 (f) The land on which housing for employees and the principal  
38 place of residence of the farm operator or owner of land classified  
39 pursuant to (a) of this subsection is sited if: The housing or  
40 residence is on or contiguous to the classified parcel; and the use

1 of the housing or the residence is integral to the use of the  
2 classified land for agricultural purposes;

3 (g) Any land that is used primarily for equestrian related  
4 activities for which a charge is made, including, but not limited to,  
5 stabling, training, riding, clinics, schooling, shows, or grazing for  
6 feed and that otherwise meet the requirements of (a), (b), or (c) of  
7 this subsection; (~~or~~)

8 (h) Any land primarily used for commercial horticultural  
9 purposes, including growing seedlings, trees, shrubs, vines, fruits,  
10 vegetables, flowers, herbs, and other plants in containers, whether  
11 under a structure or not, subject to the following:

12 (i) The land is not primarily used for the storage, care, or  
13 selling of plants purchased from other growers for retail sale;

14 (ii) If the land is less than five acres and used primarily to  
15 grow plants in containers, such land does not qualify as "farm and  
16 agricultural land" if more than (~~twenty-five~~) 25 percent of the  
17 land used primarily to grow plants in containers is open to the  
18 general public for on-site retail sales;

19 (iii) If more than (~~twenty~~) 20 percent of the land used for  
20 growing plants in containers qualifying under this subsection (2)(h)  
21 is covered by pavement, none of the paved area is eligible for  
22 classification as "farm and agricultural land" under this subsection  
23 (2)(h). The eligibility limitations described in this subsection  
24 (2)(h)(iii) do not affect the land's eligibility to qualify under (e)  
25 of this subsection; and

26 (iv) If the land classified under this subsection (2)(h), in  
27 addition to any contiguous land classified under this subsection, is  
28 less than (~~twenty~~) 20 acres, it must meet the applicable income or  
29 investment requirements in (b), (c), or (d) of this subsection; or

30 (i) Lands identified in (a) through (h) of this subsection on  
31 which an agrivoltaic facility is located.

32 (3) "Timberland" means any parcel of land that is five or more  
33 acres or multiple parcels of land that are contiguous and total five  
34 or more acres which is or are devoted primarily to the growth and  
35 harvest of timber for commercial purposes. Timberland means the land  
36 only and does not include a residential homesite. The term includes  
37 land used for incidental uses that are compatible with the growing  
38 and harvesting of timber but no more than (~~ten~~) 10 percent of the  
39 land may be used for such incidental uses. It also includes the land  
40 on which appurtenances necessary for the production, preparation, or



1 sale of the timber products exist in conjunction with land producing  
2 these products.

3 (4) "Current" or "currently" means as of the date on which  
4 property is to be listed and valued by the assessor.

5 (5) "Owner" means the party or parties having the fee interest in  
6 land, except that where land is subject to real estate contract  
7 "owner" means the contract vendee.

8 (6) (a) "Contiguous" means land adjoining and touching other  
9 property held by the same ownership. Land divided by a public road,  
10 but otherwise an integral part of a farming operation, is considered  
11 contiguous.

12 (b) For purposes of this subsection (6):

13 (i) "Same ownership" means owned by the same person or persons,  
14 except that parcels owned by different persons are deemed held by the  
15 same ownership if the parcels are:

16 (A) Managed as part of a single operation; and

17 (B) Owned by:

18 (I) Members of the same family;

19 (II) Legal entities that are wholly owned by members of the same  
20 family; or

21 (III) An individual who owns at least one of the parcels and a  
22 legal entity or entities that own the other parcel or parcels if the  
23 entity or entities are wholly owned by that individual, members of  
24 his or her family, or that individual and members of his or her  
25 family.

26 (ii) "Family" includes only:

27 (A) An individual and his or her spouse or domestic partner,  
28 child, stepchild, adopted child, grandchild, parent, stepparent,  
29 grandparent, cousin, or sibling;

30 (B) The spouse or domestic partner of an individual's child,  
31 stepchild, adopted child, grandchild, parent, stepparent,  
32 grandparent, cousin, or sibling;

33 (C) A child, stepchild, adopted child, grandchild, parent,  
34 stepparent, grandparent, cousin, or sibling of the individual's  
35 spouse or the individual's domestic partner; and

36 (D) The spouse or domestic partner of any individual described in  
37 (b) (ii) (C) of this subsection (6).

38 (7) "Granting authority" means the appropriate agency or official  
39 who acts on an application for classification of land pursuant to  
40 this chapter.

1 (8) "Farm and agricultural conservation land" means either:

2 (a) Land that was previously classified under subsection (2) of  
3 this section, that no longer meets the criteria of subsection (2) of  
4 this section, and that is reclassified under subsection (1) of this  
5 section; or

6 (b) Land that is traditional farmland that is not classified  
7 under chapter 84.33 or 84.34 RCW, that has not been irrevocably  
8 devoted to a use inconsistent with agricultural uses, and that has a  
9 high potential for returning to commercial agriculture.

10 (9) "Agrivoltaic facility" has the same meaning as described in  
11 section 2 of this act.

12 **Sec. 5.** RCW 84.34.070 and 2017 c 251 s 1 are each amended to  
13 read as follows:

14 (1)(a) When land has once been classified under this chapter, it  
15 must remain under such classification and must not be applied to  
16 other use except as provided by subsection (2) of this section for at  
17 least ten years from the date of classification. It must continue  
18 under such classification until and unless withdrawn from  
19 classification after notice of request for withdrawal is made by the  
20 owner. After the initial (~~ten~~) 10-year classification period has  
21 elapsed, notice of request for withdrawal of all or a portion of the  
22 land may be given by the owner to the assessor or assessors of the  
23 county or counties in which the land is situated. If a portion of a  
24 parcel is removed from classification, the remaining portion must  
25 meet the same requirements as did the entire parcel when the land was  
26 originally granted classification under this chapter unless the  
27 remaining parcel has different income criteria. Within seven days the  
28 assessor must transmit one copy of the notice to the legislative body  
29 that originally approved the application. The assessor or assessors,  
30 as the case may be, must withdraw the land from the classification  
31 and the land is subject to the additional tax and applicable interest  
32 due under RCW 84.34.108. Agreement to tax according to use is not  
33 considered to be a contract and can be abrogated at any time by the  
34 legislature in which event no additional tax or penalty may be  
35 imposed.

36 (b) If the assessor gives written notice of removal as provided  
37 in RCW 84.34.108(1)(d)(i) of all or a portion of land classified  
38 under this chapter before the owner gives a notice of request for

1 withdrawal in (a) of this subsection, the provisions of RCW 84.34.108  
2 apply.

3 (2) (a) The following reclassifications are not considered  
4 withdrawals or removals and are not subject to additional tax under  
5 RCW 84.34.108:

6 (i) Reclassification between lands under RCW 84.34.020 (2) and  
7 (3);

8 (ii) Reclassification of land classified under RCW 84.34.020 (2)  
9 or (3) or designated under chapter 84.33 RCW to open space land under  
10 RCW 84.34.020(1);

11 (iii) Reclassification of land classified under RCW 84.34.020 (2)  
12 or (3) to forestland designated under chapter 84.33 RCW; and

13 (iv) Reclassification of land classified as open space land under  
14 RCW 84.34.020(1)(c) and reclassified to farm and agricultural land  
15 under RCW 84.34.020(2) if the land had been previously classified as  
16 farm and agricultural land under RCW 84.34.020(2).

17 (b) Designation as forestland under RCW 84.33.130(1) as a result  
18 of a merger adopted under RCW 84.34.400 is not considered a  
19 withdrawal or removal and is not subject to additional tax under RCW  
20 84.34.108.

21 (3) Applications for reclassification are subject to applicable  
22 provisions of RCW 84.34.037, 84.34.035, 84.34.041, and chapter 84.33  
23 RCW.

24 (4) The income criteria for land classified under RCW  
25 84.34.020(2) (b) and (c) may be deferred for land being reclassified  
26 from land classified under RCW 84.34.020 (1)(c) or (3), or chapter  
27 84.33 RCW into RCW 84.34.020(2) (b) or (c) for a period of up to five  
28 years from the date of reclassification.

29 (5) The addition of an agrivoltaic facility to farm and  
30 agricultural lands does not constitute a reclassification for  
31 purposes of this chapter and is not considered a withdrawal or  
32 removal subject to additional tax under RCW 84.34.108.

33 **Sec. 6.** RCW 19.285.040 and 2024 c 278 s 2 are each amended to  
34 read as follows:

35 (1) Each qualifying utility shall pursue all available  
36 conservation that is cost-effective, reliable, and feasible.

37 (a) By January 1, 2010, using methodologies consistent with those  
38 used by the Pacific Northwest electric power and conservation  
39 planning council in the most recently published regional power plan

1 as it existed on June 12, 2014, or a subsequent date as may be  
2 provided by the department or the commission by rule, each qualifying  
3 utility shall identify its achievable cost-effective conservation  
4 potential through 2019. Nothing in the rule adopted under this  
5 subsection precludes a qualifying utility from using its utility  
6 specific conservation measures, values, and assumptions in  
7 identifying its achievable cost-effective conservation potential. At  
8 least every two years thereafter, the qualifying utility shall review  
9 and update this assessment for the subsequent ten-year period.

10 (b) Beginning January 2010, each qualifying utility shall  
11 establish and make publicly available a biennial acquisition target  
12 for cost-effective conservation consistent with its identification of  
13 achievable opportunities in (a) of this subsection, and meet that  
14 target during the subsequent two-year period. At a minimum, each  
15 biennial target must be no lower than the qualifying utility's pro  
16 rata share for that two-year period of its cost-effective  
17 conservation potential for the subsequent ten-year period.

18 (c)(i) Except as provided in (c)(ii) and (iii) of this  
19 subsection, beginning on January 1, 2014, cost-effective conservation  
20 achieved by a qualifying utility in excess of its biennial  
21 acquisition target may be used to help meet the immediately  
22 subsequent two biennial acquisition targets, such that no more than  
23 20 percent of any biennial target may be met with excess conservation  
24 savings.

25 (ii) Beginning January 1, 2014, a qualifying utility may use  
26 single large facility conservation savings in excess of its biennial  
27 target to meet up to an additional five percent of the immediately  
28 subsequent two biennial acquisition targets, such that no more than  
29 25 percent of any biennial target may be met with excess conservation  
30 savings allowed under all of the provisions of this section combined.  
31 For the purposes of this subsection (1)(c)(ii), "single large  
32 facility conservation savings" means cost-effective conservation  
33 savings achieved in a single biennial period at the premises of a  
34 single customer of a qualifying utility whose annual electricity  
35 consumption prior to the conservation savings exceeded five average  
36 megawatts.

37 (iii) Beginning January 1, 2012, and until December 31, 2017, a  
38 qualifying utility with an industrial facility located in a county  
39 with a population between 95,000 and 115,000 that is directly  
40 interconnected with electricity facilities that are capable of

1 carrying electricity at transmission voltage may use cost-effective  
2 conservation from that industrial facility in excess of its biennial  
3 acquisition target to help meet the immediately subsequent two  
4 biennial acquisition targets, such that no more than 25 percent of  
5 any biennial target may be met with excess conservation savings  
6 allowed under all of the provisions of this section combined.

7 (d) In meeting its conservation targets, a qualifying utility may  
8 count high-efficiency cogeneration owned and used by a retail  
9 electric customer to meet its own needs. High-efficiency cogeneration  
10 is the sequential production of electricity and useful thermal energy  
11 from a common fuel source, where, under normal operating conditions,  
12 the facility has a useful thermal energy output of no less than 33  
13 percent of the total energy output. The reduction in load due to  
14 high-efficiency cogeneration shall be: (i) Calculated as the ratio of  
15 the fuel chargeable to power heat rate of the cogeneration facility  
16 compared to the heat rate on a new and clean basis of a  
17 best-commercially available technology combined-cycle natural  
18 gas-fired combustion turbine; and (ii) counted towards meeting the  
19 biennial conservation target in the same manner as other conservation  
20 savings.

21 (e) A qualifying utility is considered in compliance with its  
22 biennial acquisition target for cost-effective conservation in (b) of  
23 this subsection if events beyond the reasonable control of the  
24 utility that could not have been reasonably anticipated or  
25 ameliorated prevented it from meeting the conservation target. Events  
26 that a qualifying utility may demonstrate were beyond its reasonable  
27 control, that could not have reasonably been anticipated or  
28 ameliorated, and that prevented it from meeting the conservation  
29 target include: (i) Natural disasters resulting in the issuance of  
30 extended emergency declarations; (ii) the cancellation of significant  
31 conservation projects; and (iii) actions of a governmental authority  
32 that adversely affects the acquisition of cost-effective conservation  
33 by the qualifying utility.

34 (f) The commission may determine if a conservation program  
35 implemented by an investor-owned utility is cost-effective based on  
36 the commission's policies and practice.

37 (g) In addition to the requirements of RCW 19.280.030(3), in  
38 assessing the cost-effective conservation required under this  
39 section, a qualifying utility is encouraged to promote the adoption  
40 of air conditioning, as defined in RCW 70A.60.010, with refrigerants

1 not exceeding a global warming potential of 750 and the replacement  
2 of stationary refrigeration systems that contain ozone-depleting  
3 substances or hydrofluorocarbon refrigerants with a high global  
4 warming potential.

5 (h) The commission may rely on its standard practice for review  
6 and approval of investor-owned utility conservation targets.

7 (2)(a) Except as provided in (j) of this subsection, each  
8 qualifying utility shall use eligible renewable resources or acquire  
9 equivalent renewable energy credits, or any combination of them, to  
10 meet the following annual targets:

11 (i) At least three percent of its load by January 1, 2012, and  
12 each year thereafter through December 31, 2015;

13 (ii) At least nine percent of its load by January 1, 2016, and  
14 each year thereafter through December 31, 2019; and

15 (iii) At least 15 percent of its load by January 1, 2020, and  
16 each year thereafter.

17 (b) A qualifying utility may count distributed generation at  
18 double the facility's electrical output if the utility: (i) Owns or  
19 has contracted for the distributed generation and the associated  
20 renewable energy credits; or (ii) has contracted to purchase the  
21 associated renewable energy credits.

22 (c) In meeting the annual targets in (a) of this subsection, a  
23 qualifying utility shall calculate its annual load based on the  
24 average of the utility's load for the previous two years.

25 (d) A qualifying utility shall be considered in compliance with  
26 an annual target in (a) of this subsection if: (i) The utility's  
27 weather-adjusted load for the previous three years on average did not  
28 increase over that time period; (ii) after December 7, 2006, the  
29 utility did not commence or renew ownership or incremental purchases  
30 of electricity from resources other than coal transition power or  
31 renewable resources other than on a daily spot price basis and the  
32 electricity is not offset by equivalent renewable energy credits; and  
33 (iii) the utility invested at least one percent of its total annual  
34 retail revenue requirement that year on eligible renewable resources,  
35 renewable energy credits, or a combination of both.

36 (e) A qualifying utility may use renewable energy credits to meet  
37 the requirements of this section, subject to the limitations of this  
38 subsection.

39 (i) A renewable energy credit from electricity generated by a  
40 resource other than freshwater may be used to meet a requirement

1 applicable to the year in which the credit was created, the year  
2 before the year in which the credit was created, or the year after  
3 the year in which the credit was created.

4 (ii) A renewable energy credit from electricity generated by  
5 freshwater:

6 (A) May only be used to meet a requirement applicable to the year  
7 in which the credit was created; and

8 (B) Must be acquired by the qualifying utility through ownership  
9 of the generation facility or through a transaction that conveyed  
10 both the electricity and the nonpower attributes of the electricity.

11 (iii) A renewable energy credit transferred to an investor-owned  
12 utility pursuant to the Bonneville power administration's residential  
13 exchange program may not be used by any utility other than the  
14 utility receiving the credit from the Bonneville power  
15 administration.

16 (iv) Each renewable energy credit may only be used once to meet  
17 the requirements of this section and must be retired using procedures  
18 of the renewable energy credit tracking system.

19 (f) In complying with the targets established in (a) of this  
20 subsection, a qualifying utility may not count:

21 (i) Eligible renewable resources or distributed generation where  
22 the associated renewable energy credits are owned by a separate  
23 entity; or

24 (ii) Eligible renewable resources or renewable energy credits  
25 obtained for and used in an optional pricing program such as the  
26 program established in RCW 19.29A.090.

27 (g) Where fossil and combustible renewable resources are cofired  
28 in one generating unit located in the Pacific Northwest where the  
29 cofiring commenced after March 31, 1999, the unit shall be considered  
30 to produce eligible renewable resources in direct proportion to the  
31 percentage of the total heat value represented by the heat value of  
32 the renewable resources.

33 (h) (i) A qualifying utility that acquires an eligible renewable  
34 resource or renewable energy credit may count that acquisition at one  
35 and two-tenths times its base value:

36 (A) Where the eligible renewable resource comes from a facility  
37 that commenced operation after December 31, 2005; and

38 (B) Where the developer of the facility used apprenticeship  
39 programs approved by the council during facility construction.

1 (ii) The council shall establish minimum levels of labor hours to  
2 be met through apprenticeship programs to qualify for this extra  
3 credit.

4 (i) A qualifying utility shall be considered in compliance with  
5 an annual target in (a) of this subsection if events beyond the  
6 reasonable control of the utility that could not have been reasonably  
7 anticipated or ameliorated prevented it from meeting the renewable  
8 energy target. Such events include weather-related damage, mechanical  
9 failure, strikes, lockouts, and actions of a governmental authority  
10 that adversely affect the generation, transmission, or distribution  
11 of an eligible renewable resource under contract to a qualifying  
12 utility.

13 (j)(i) Beginning January 1, 2016, only a qualifying utility that  
14 owns or is directly interconnected to a qualified biomass energy  
15 facility may use qualified biomass energy to meet its compliance  
16 obligation under this subsection.

17 (ii) A qualifying utility may no longer use electricity and  
18 associated renewable energy credits from a qualified biomass energy  
19 facility if the associated industrial pulping or wood manufacturing  
20 facility ceases operation other than for purposes of maintenance or  
21 upgrade.

22 (k) An industrial facility that hosts a qualified biomass energy  
23 facility may only transfer or sell renewable energy credits  
24 associated with qualified biomass energy generated at its facility to  
25 the qualifying utility with which it is directly interconnected with  
26 facilities owned by such a qualifying utility and that are capable of  
27 carrying electricity at transmission voltage. The qualifying utility  
28 may only use an amount of renewable energy credits associated with  
29 qualified biomass energy that are equivalent to the proportionate  
30 amount of its annual targets under (a)(ii) and (iii) of this  
31 subsection that was created by the load of the industrial facility. A  
32 qualifying utility that owns a qualified biomass energy facility may  
33 not transfer or sell renewable energy credits associated with  
34 qualified biomass energy to another person, entity, or qualifying  
35 utility.

36 (l) A qualifying utility shall be considered in compliance if the  
37 utility uses any combination of eligible renewable resources as  
38 defined in RCW 19.285.030 and distributed energy priority project as  
39 defined in subsection (4) of this section to meet its compliance  
40 obligations under this subsection (2).



1 (m) Beginning January 1, 2020, a qualifying utility may use  
2 eligible renewable resources as identified under RCW 19.285.030(12)  
3 (g) and (h) to meet its compliance obligation under this subsection  
4 (2). A qualifying utility may not transfer or sell these eligible  
5 renewable resources to another utility for compliance purposes under  
6 this chapter.

7 ~~((m))~~ (n) Beginning January 1, 2030, a qualifying utility is  
8 considered to be in compliance with an annual target in (a) of this  
9 subsection if the utility uses electricity from: (i) Renewable  
10 resources and renewable energy credits as defined in RCW 19.285.030;  
11 and (ii) nonemitting electric generation as defined in RCW  
12 19.405.020, in an amount equal to 100 percent of the utility's  
13 average annual retail electric load. Nothing in this subsection  
14 relieves the requirements of a qualifying utility to comply with  
15 subsection (1) of this section.

16 ~~((n))~~ (o) A qualifying utility shall exclude from its annual  
17 targets under this subsection (2) its voluntary renewable energy  
18 purchases.

19 (3) Utilities that become qualifying utilities after December 31,  
20 2006, shall meet the requirements in this section on a time frame  
21 comparable in length to that provided for qualifying utilities as of  
22 December 7, 2006.

23 (4) For the purposes of this section, the following definitions  
24 apply:

25 (a)(i) "Accelerated conservation" means conservation included in  
26 the qualifying utility's most recent cost-effective conservation  
27 potential established in compliance with subsection (1)(a) of this  
28 section and in excess of the biennial acquisition target established  
29 in compliance with subsection (1)(b) of this section.

30 (ii) Accelerated conservation acquired in the target year must be  
31 in an amount no less than the annual target amount under subsection  
32 (2)(a) of this section, as measured in megawatt-hours.

33 (iii) The amount of accelerated conservation must be measured as  
34 the annual energy savings measured in megawatt-hours multiplied by  
35 the projected useful life of the conservation measures acquired.

36 (iv) Any conservation savings used under this alternative  
37 compliance method may not be included as excess conservation savings  
38 under subsection (1)(c) of this section.

39 (b) "Demand response" has the same meaning as in RCW 19.405.020.  
40 For the purpose of quantifying the amount of demand response eligible

1 to be claimed under subsection (2)(1) of this section, the following  
2 requirements apply:

3 (i) The amount of demand response must be converted to a  
4 megawatt-hour amount by determining the reduction in peak load in  
5 megawatts resulting from the demand response measure, dividing this  
6 value by the system peak demand in megawatts of the qualifying  
7 utility, and multiplying this value by the average annual system load  
8 of the utility in megawatt-hours.

9 (ii) The amount that may be claimed under subsection (2)(1) of  
10 this section is equal to the amount calculated under (b)(i) of this  
11 subsection multiplied by the projected useful life of the demand  
12 response measures being acquired.

13 (iii) All demand response acquired and claimed under subsection  
14 (2)(1) of this section must be documented, measured, and verified  
15 using procedures comparable to procedures used for conservation  
16 measures.

17 (c) "Distributed energy priority project" means any combination  
18 of the following projects in the geographical area in which the  
19 utility provides electric service: (i) Accelerated conservation; (ii)  
20 demand response; (iii) distributed energy storage; (iv) distributed  
21 solar energy generation; and (v) distributed wind energy generation.

22 (d) "Distributed energy storage" has the same meaning as "energy  
23 storage" in section 2(1)(c) of this act.

24 (e) "Distributed solar energy generation" has the same meaning as  
25 "solar energy generation" as in section 2(1)(a) of this act.

26 (f) "Distributed wind energy generation" has the same meaning as  
27 "wind energy generation" in section 2(1)(b) of this act.

28 NEW SECTION. Sec. 7. If any provision of this act or its  
29 application to any person or circumstance is held invalid, the  
30 remainder of the act or the application of the provision to other  
31 persons or circumstances is not affected.

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