

Title 194 WAC

COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT, DEPARTMENT OF (ENERGY)

Chapters

- 194-12** Washington State Environmental Policy Act rules.
- 194-14** Emergency Petroleum Allocation Act rules.
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43.21F.045(12), 82-17-030 (Order 82-2), § 194-10-130, filed 8/11/82; Order 1, § 194-10-130, filed 1/18/77.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98. Records index. [Statutory Authority: Chapter 34.05 RCW. 93-02-033, § 194-10-140, filed 1/5/93 effective 2/5/93. Statutory Authority: RCW 43.21F.045(12), 82-17-030 (Order 82-2), § 194-10-140, filed 8/11/82; Order 1, § 194-10-140, filed 1/18/77.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.

Chapter 194-16

FEES—RADIOACTIVE WASTE MANAGEMENT FACILITIES

DISPOSITION OF CHAPTERS FORMERLY CODIFIED IN THIS TITLE

Chapter 194-10 PUBLIC DISCLOSURE ACT RULES

- 194-10-010 Purpose. [Order 1, § 194-10-010, filed 1/18/77.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
- 194-10-020 Definitions. [Statutory Authority: RCW 43.21F.045 (12), 82-17-030 (Order 82-2), § 194-10-020, filed 8/11/82; Order 1, § 194-10-020, filed 1/18/77.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
- 194-10-030 Description of organization. [Statutory Authority: Chapter 34.05 RCW. 93-02-033, § 194-10-030, filed 1/5/93 effective 2/5/93. Statutory Authority: RCW 43.21F.045(12), 82-17-030 (Order 82-2), § 194-10-030, filed 8/11/82; Order 1, § 194-10-030, filed 1/18/77.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
- 194-10-040 Procedures. [Statutory Authority: RCW 43.21F.045 (12), 82-17-030 (Order 82-2), § 194-10-040, filed 8/11/82; Order 1, § 194-10-040, filed 1/18/77.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
- 194-10-050 Public records available. [Statutory Authority: RCW 43.21F.045(12), 82-17-030 (Order 82-2), § 194-10-050, filed 8/11/82; Order 1, § 194-10-050, filed 1/18/77.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
- 194-10-060 Exemptions. [Statutory Authority: RCW 43.21F.045 (12), 82-17-030 (Order 82-2), § 194-10-060, filed 8/11/82; Order 1, § 194-10-060, filed 1/18/77.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
- 194-10-070 Public records officer. [Order 1, § 194-10-070, filed 1/18/77.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
- 194-10-080 Office hours. [Order 1, § 194-10-080, filed 1/18/77.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
- 194-10-090 Requests for public records. [Statutory Authority: RCW 43.21F.045(12), 82-17-030 (Order 82-2), § 194-10-090, filed 8/11/82; Order 1, § 194-10-090, filed 1/18/77.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
- 194-10-100 Adoption of form. [Statutory Authority: Chapter 34.05 RCW. 93-02-033, § 194-10-100, filed 1/5/93 effective 2/5/93. Statutory Authority: RCW 43.21F.045(12), 82-17-030 (Order 82-2), § 194-10-100, filed 8/11/82; Order 1, § 194-10-100 and Form, filed 1/18/77.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
- 194-10-110 Copying fees. [Statutory Authority: Chapter 34.05 RCW. 93-02-033, § 194-10-110, filed 1/5/93 effective 2/5/93; Order 1, § 194-10-110, filed 1/18/77.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
- 194-10-120 Review of denials. [Statutory Authority: RCW 43.21F.-045(12), 82-17-030 (Order 82-2), § 194-10-120, filed 8/11/82; Order 1, § 194-10-120, filed 1/18/77.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
- 194-10-130 Protection of public records. [Statutory Authority: Chapter 34.05 RCW. 93-02-033, § 194-10-130, filed 1/5/93 effective 2/5/93. Statutory Authority: RCW

- 194-16-010 Purpose and scope. [Statutory Authority: RCW 43.-21F.075(2), 82-11-005 (Order 82-1), § 194-16-010, filed 5/7/82.] Repealed by 83-18-020 (Order DE 83-25), filed 8/30/83. Statutory Authority: 1983 1st ex.s. c 19 and Title 43 RCW. Later promulgation, see WAC 173-44-010.
- 194-16-020 Authority. [Statutory Authority: RCW 43.21F.075(2), 82-11-005 (Order 82-1), § 194-16-020, filed 5/7/82.] Repealed by 83-18-020 (Order DE 83-25), filed 8/30/83. Statutory Authority: 1983 1st ex.s. c 19 and Title 43 RCW. Later promulgation, see WAC 173-44-020.
- 194-16-030 Definitions. [Statutory Authority: RCW 43.21F.075(2), 82-11-005 (Order 82-1), § 194-16-030, filed 5/7/82.] Repealed by 83-18-020 (Order DE 83-25), filed 8/30/83. Statutory Authority: 1983 1st ex.s. c 19 and Title 43 RCW. Later promulgation, see WAC 173-44-030.
- 194-16-040 Perpetual care and maintenance fee. [Statutory Authority: RCW 43.21F.075(2), 82-11-005 (Order 82-1), § 194-16-040, filed 5/7/82.] Repealed by 83-18-020 (Order DE 83-25), filed 8/30/83. Statutory Authority: 1983 1st ex.s. c 19 and Title 43 RCW. Later promulgation, see WAC 173-44-040.
- 194-16-050 PCM fee—Method of payment. [Statutory Authority: RCW 43.21F.075(2), 82-11-005 (Order 82-1), § 194-16-050, filed 5/7/82.] Repealed by 83-18-020 (Order DE 83-25), filed 8/30/83. Statutory Authority: 1983 1st ex.s. c 19 and Title 43 RCW. Later promulgation, see WAC 173-44-050.
- 194-16-060 PCM fee—Disposition. [Statutory Authority: RCW 43.21F.075(2), 82-11-005 (Order 82-1), § 194-16-060, filed 5/7/82.] Repealed by 83-18-020 (Order DE 83-25), filed 8/30/83. Statutory Authority: 1983 1st ex.s. c 19 and Title 43 RCW. Later promulgation, see WAC 173-44-060.
- 194-16-070 Severability. [Statutory Authority: RCW 43.21F.075 (2), 82-11-005 (Order 82-1), § 194-16-070, filed 5/7/82.] Repealed by 83-18-020 (Order DE 83-25), filed 8/30/83. Statutory Authority: 1983 1st ex.s. c 19 and Title 43 RCW. Later promulgation, see WAC 173-44-070.

Chapter 194-20

ENERGY EFFICIENCY SERVICES ACCOUNT

- 194-20-010 Purpose. [Statutory Authority: RCW 43.21F.045(12) and 1991 c 201 § 12. 92-01-120, § 194-20-010, filed 12/19/91, effective 1/19/92.] Amended and decodified by 00-08-039, filed 3/29/00, effective 4/29/00. Statutory Authority: Chapter 39.35C RCW.
- 194-20-020 Definitions. [Statutory Authority: RCW 43.21F.045 (12) and 1991 c 201 § 12. 92-01-120, § 194-20-020, filed 12/19/91, effective 1/19/92.] Amended and decodified by 00-08-039, filed 3/29/00, effective 4/29/00. Statutory Authority: Chapter 39.35C RCW.
- 194-20-030 Criteria and procedures for setting fees. [Statutory Authority: RCW 43.21F.045(12) and 1991 c 201 § 12.

	92-01-120, § 194-20-030, filed 12/19/91, effective 1/19/92.] Amended and decodified by 00-08-039, filed 3/29/00, effective 4/29/00. Statutory Authority: Chapter 39.35C RCW.
194-20-040	Life cycle cost analysis/energy conservation report fees. [Statutory Authority: RCW 43.21F.045(12) and 1991 c 201 § 12. 92-01-120, § 194-20-040, filed 12/19/91, effective 1/19/92.] Amended and decodified by 00-08-039, filed 3/29/00, effective 4/29/00. Statutory Authority: Chapter 39.35C RCW.
194-20-050	Receipt of funds. [Statutory Authority: RCW 43.21F.045(12) and 1991 c 201 § 12. 92-01-120, § 194-20-050, filed 12/19/91, effective 1/19/92.] Amended and decodified by 00-08-039, filed 3/29/00, effective 4/29/00. Statutory Authority: Chapter 39.35C RCW.
194-20-060	Net revenue from transactions for conservation. [Statutory Authority: RCW 43.21F.045(12) and 1991 c 201 § 12. 92-01-120, § 194-20-060, filed 12/19/91, effective 1/19/92.] Repealed by 00-08-039, filed 3/29/00, effective 4/29/00. Statutory Authority: Chapter 39.35C RCW.
194-20-070	Net savings and net revenue from transactions for cogeneration. [Statutory Authority: RCW 43.21F.045(12) and 1991 c 201 § 12. 92-01-120, § 194-20-070, filed 12/19/91, effective 1/19/92.] Repealed by 00-08-039, filed 3/29/00, effective 4/29/00. Statutory Authority: Chapter 39.35C RCW.
194-20-080	Working capital requirements. [Statutory Authority: RCW 43.21F.045(12) and 1991 c 201 § 12. 92-01-120, § 194-20-080, filed 12/19/91, effective 1/19/92.] Amended and decodified by 00-08-039, filed 3/29/00, effective 4/29/00. Statutory Authority: Chapter 39.35C RCW.

Chapter 194-12 WAC

WASHINGTON STATE ENVIRONMENTAL POLICY ACT RULES

WAC

194-12-010	Authority.
194-12-020	Statement of exemption.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

194-12-030	Scope and coverage. [Order 1, § 194-12-030, filed 1/18/77.] Repealed by 84-20-044 (Order 84-01), filed 9/28/84. Statutory Authority: RCW 43.21C.120.
194-12-040	Incorporation by reference. [Order 1, § 194-12-040, filed 1/18/77.] Repealed by 84-20-044 (Order 84-01), filed 9/28/84. Statutory Authority: RCW 43.21C.120.
194-12-050	Definitions. [Order 1, § 194-12-050, filed 1/18/77.] Repealed by 84-20-044 (Order 84-01), filed 9/28/84. Statutory Authority: RCW 43.21C.120.
194-12-060	Exemptions. [Statutory Authority: RCW 43.21F.045(12), 82-17-030 (Order 82-2), § 194-12-060, filed 8/11/82; Order 1, § 194-12-060, filed 1/18/77.] Repealed by 84-20-044 (Order 84-01), filed 9/28/84. Statutory Authority: RCW 43.21C.120.
194-12-070	Designation of responsible official. [Statutory Authority: RCW 43.21F.045(12), 82-17-030 (Order 82-2), § 194-12-070, filed 8/11/82; Order 1, § 194-12-070, filed 1/18/77.] Repealed by 84-20-044 (Order 84-01), filed 9/28/84. Statutory Authority: RCW 43.21C.120.
194-12-080	Copies of public information. [Statutory Authority: RCW 43.21F.045(12), 82-17-030 (Order 82-2), § 194-12-080, filed 8/11/82; Order 1, § 194-12-080, filed 1/18/77.] Repealed by 84-20-044 (Order 84-01), filed 9/28/84. Statutory Authority: RCW 43.21C.120.
194-12-090	Consultation request guidelines. [Order 1, § 194-12-090, filed 1/18/77.] Repealed by 84-20-044 (Order 84-01), filed 9/28/84. Statutory Authority: RCW 43.21C.120.
194-12-100	Involvement of private applicant in preparation of EIS. [Order 1, § 194-12-100, filed 1/18/77.] Repealed by 84-20-044 (Order 84-01), filed 9/28/84. Statutory Authority: RCW 43.21C.120.
194-12-110	Preparation of EIS by persons outside the office. [Order 1, § 194-12-110, filed 1/18/77.] Repealed by 84-20-044 (Order 84-01), filed 9/28/84. Statutory Authority: RCW 43.21C.120.

194-12-120	Severability. [Order 1, § 194-12-120, filed 1/18/77.] Repealed by 84-20-044 (Order 84-01), filed 9/28/84. Statutory Authority: RCW 43.21C.120.
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WAC 194-12-010 Authority. This chapter is promulgated pursuant to the authority granted in RCW 43.21C.120, requiring each state agency to adopt rules implementing the State Environmental Policy Act.

This chapter is also promulgated to comply with WAC 197-11-904 (2) and (4).

[Statutory Authority: RCW 43.21C.120, 84-20-044 (Order 84-01), § 194-12-010, filed 9/28/84. Statutory Authority: RCW 43.21F.045(12), 82-17-030 (Order 82-2), § 194-12-010, filed 8/11/82; Order 1, § 194-12-010, filed 1/18/77.]

WAC 194-12-020 Statement of exemption. The Washington state energy office has reviewed the activities it is authorized to undertake and finds them all to be exempt as provided in part nine - Categorical exemptions WAC 197-11-875(23).

[Statutory Authority: RCW 43.21C.120, 84-20-044 (Order 84-01), § 194-12-020, filed 9/28/84; Order 1, § 194-12-020, filed 1/18/77.]

Chapter 194-14 WAC

EMERGENCY PETROLEUM ALLOCATION ACT RULES

WAC

194-14-010	Authority.
194-14-020	Purpose.
194-14-030	Definitions.
194-14-040	Applications for set-aside assignments—Form.
194-14-050	Applications for set-aside assignment—Form—Exception.
194-14-060	State set-aside assignments.
194-14-070	State set-aside action.
194-14-090	Assignment of state set-aside supplier.
194-14-100	Submission of set-aside order to prime supplier.
194-14-110	Application for permanent assignment—Form.
194-14-120	Permanent assignments—Criteria—Agricultural and passenger transportation services end-users.
194-14-130	Permanent assignments—Criteria—All other end-users.
194-14-140	Permanent assignment action.
194-14-150	Appeals.
194-14-160	Appeals board.
194-14-170	Hearing.
194-14-180	Parties.
194-14-190	Appeal proceedings.
194-14-200	Prehearing conference.
194-14-210	Informal disposition.
194-14-220	Transcript.
194-14-230	Judicial review.
194-14-240	Agency decision.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

194-14-080	State set-aside—Maximum quantities. [Order 1, § 194-14-080, filed 1/18/77.] Repealed by 79-09-078 (Order 79-1), filed 8/30/79. Statutory Authority: RCW 43.21F.050(12).
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WAC 194-14-010 Authority. This chapter is promulgated pursuant to the authority granted in RCW 34.04.020 and according to the guidelines established in 10 C.F.R. § 205 of the Federal Mandatory Petroleum Allocation Regulations. [Order 1, § 194-14-010, filed 1/18/77.]

WAC 194-14-020 Purpose. The purpose of this chapter is to establish administrative procedures with respect to state

orders issued under the authority granted by the Emergency Petroleum Allocation Act and appeals from such orders.

[Order 1, § 194-14-020, filed 1/18/77.]

WAC 194-14-030 Definitions. The following words and terms have the following meanings for the purposes of this chapter, unless otherwise indicated:

(1) "Agricultural production" means all the activities classified under the industry code numbers specified in paragraph (a) below as set forth in the *Standard Industrial Classification Manual*, 1972 edition, except those industry code numbers listed in paragraph (b) which are excluded:

(a) Activities included.

(i) All industry code numbers included in Division A, agriculture, forestry and fishing, except as specified in paragraph (b) of this section.

(ii) All industry code numbers included in Major Group 20, food and kindred products, of Division D, as specified in paragraph (b) below; and

(iii) All the following other industry code numbers:

1474 Potash, soda and borate minerals (potash mining only);
 1475 Phosphate rock;
 2141 Tobacco stemming and redrying;
 2411 Logging camps and logging contractors;
 2421 Sawmills and planing mills;
 2819 Industrial inorganic chemicals, not elsewhere classified (dicalcium phosphate only);
 2873 Nitrogenous fertilizers;
 2874 Phosphatic fertilizers;
 2875 Fertilizers, mixing only;
 2879 Pesticides and agricultural chemicals not elsewhere classified;
 4212 Local trucking without storage (farm to market hauling and log trucking only);
 4971 Irrigation systems (for farm use); and
 5462 Retail bakeries, baking and selling.

(b) Activities excluded.

(i) All the following industry code numbers, otherwise listed under Division A, agriculture, forestry and fishing, are excluded from the definition:

0271 Fur-bearing animals and rabbits (except rabbit farms which are included in the definition);
 0279 Animal specialties, not elsewhere classified (except apiaries, honey production and bee, catfish, fish, frog and trout farms which are included in the definition);
 1742 Veterinary services for animal specialties;
 0752 Animal specialty services;
 0781 Landscape counseling and planning;
 9782 Lawn and garden services; and
 0949 Gathering of forest products, not elsewhere classified.

(ii) All the following industry code numbers, otherwise listed under Major Group 20, food and kindred products, of Division D, manufacturing, are excluded from the definition:

2047 Dog, cat and other pet food;
 2067 Chewing gum; and
 2085 Distilled, rectified and blended liquors.

Generally, an applicant may be considered as an agricultural producer if he derives the majority of his income from that activity.

(2) Assignment: An action designating that an authorized purchaser be supplied at a specified entitlement level by a specified supplier.

(3) Base period (or base allocation period):

(a) For gasoline means the month of the period November, 1977, through October, 1978, corresponding to the current month;

(b) For middle distillates means the month during calendar year 1978 corresponding to the current month.

(4) Base period supply volume: The volume of purchases from a supplier or to purchasers during the base period.

(5) "Bulk purchaser" means any firm which is an ultimate consumer which, as part of its normal business practices, purchases or obtains middle distillates or motor gasoline from a supplier and either (a) receives delivery of that product into a storage tank substantially under the control of that firm at a fixed location, or (b) with respect to use in agricultural production, receives delivery into a storage tank with a capacity not less than 50 gallons substantially under the control of that firm. A bulk purchaser of heating oil would include any firm or individual needing the product for space heating and has a storage tank substantially under the control of that firm or individual at a fixed location.

(6) Coordinator: The director or his designee who is authorized to sign orders and authorizing documents for permanent assignments.

(7) Current requirements: The supply of an allocated product needed by an end-user or wholesale purchaser to meet its present supply requirement for any single month.

(8) Director: The director of the Washington state energy office.

(9) Emergency or severe hardship: A situation which, in the opinion of the office, represents a threat or foreseeable danger to the health, safety and well being of the citizens of the state.

(10) Emergency Petroleum Allocation Act: Public Law 93-159.

(11) Emergency services: Law enforcement, fire fighting, and emergency medical services.

(12) End-user: Any person who is an ultimate consumer of an allocated product other than a wholesale purchaser-consumer and is also a bulk purchaser.

(13) Energy production: The exploration, drilling, mining, refining, processing, production and distribution of coal, natural gas, geothermal energy, petroleum or petroleum products, shale oil, nuclear fuels and electrical energy. It also includes the construction of facilities and equipment used in energy production, such as pipelines, mining equipment and similar capital goods. Excluded from this definition are synthetic natural gas manufacturing, electrical generation whose power source is petroleum based, gasoline blending and manufacturing and refinery fuel use.

(14) Fleetpool: A government or private motor pool which is used during nonwork hours for commuter ridesharing purposes. To qualify as a fleetpool, these general guidelines must be observed:

(a) The motor pool must have a fleet of five or more passenger vehicles;

(b) The principle use of the vehicles must be for the regular business of the firm, other than commuting;

(c) During nonwork hours, the vehicles may not be used for private errands, other than commuting;

(d) The government or business entity must enact a formal agreement with the employees consistent with the terms of this regulation; and

(e) During the commute each such vehicle must be shared on a regular basis by three or more persons.

(15) Market area: The delineation of the market area will vary in each case, and ultimately will be determined by the office. There can be no hard and fast criteria, but some general guidelines may be observed:

(a) In a city of 25,000 population, the market area to be considered should be the area within a one-mile radius of the applicant or affected party.

(b) In a suburban area (housing developments, shopping centers, apartments) the market area to be considered should be the area within a two-to-three mile radius of the applicant or affected party, depending upon the density of recent growth and traffic pattern characteristics in the area.

(c) On a nonurban arterial highway with full control of access, the market area should include the area within one-fourth mile of the access point and the next two access points in each direction from the applicant or affected party.

(d) On a nonurban arterial highway with uncontrolled access or partially controlled access, the market area should include five miles in either direction along the highway from the applicant or affected party.

(e) On a through street or through highway in a rural area, the market area should be that area within a five mile radius of the applicant or affected party.

(f) In a town under 25,000 population, the market area should be a two mile radius from the applicant or affected party.

As used in the above guidelines, the following terms have the following meanings:

"Arterial highway" means a highway primarily for through traffic, usually on a continuous route.

"Full control of access" means that the authority to control access is exercised to give preference to through traffic by providing access connections with selected public roads only and by prohibiting crossings at grade or direct private driveway connections.

"Partially controlled access" means that the authority to control access is exercised to give preference to through traffic to a degree that, in addition to access connections with selected public roads, there may be some crossings at grade and some private driveway connections.

(16) Medical and nursing buildings: Buildings that house medical, dental or nursing activities including, but not limited to those listed in Appendix I of 6 CFR 300.18-300.19, the use of clinics, hospitals, nursing homes and other facilities.

(17) Middle distillate: Any derivatives of petroleum including kerosene, home heating oil, range oil, stove oil, and diesel fuel, which have a fifty percent boiling point in the ASTM D86 standard distillation test falling between 371° and 700° F. Products specifically excluded from this definition are kerosene-base and naphtha-base jet fuel, heavy fuel oils as defined in VV-F-815C or ASTM D-396, grades #4, 5, and 6, intermediate fuel oils (which are blends containing #6

oil), and all specialty items such as solvents, lubricants, waxes and process oil.

(18) Motor gasoline: A mixture of volatile hydrocarbons, suitable for operation of an internal combustion engine, whose major components are hydrocarbons with boiling points ranging from 140° to 390° F and whose source is distillation of petroleum and cracking, polymerization, and other chemical reactions by which the naturally occurring petroleum hydrocarbons are converted to those that have superior fuel properties.

(19) Office: The Washington state energy office.

(20) Officer: The director or his designee who is authorized to sign orders and authorizing documents for state set-aside assignments.

(21) Order: A written directive or verbal communication of a written directive if promptly confirmed in writing, issued by the office concerning state set-aside assignments or permanent assignments, or a written document issued by the fuel allocation appeals board deciding an appeal from an order of the office. An order shall be deemed to be issued on the date on which it is signed by the officer or coordinator. With respect to permanent assignment orders, they shall not become effective unless and until the regional DOE office authorizes the action. Set-aside assignment orders are effective on the date of issuance.

(22) Passenger transportation services:

(a) Air, land and water facilities and services designed and used for the carrying of passengers whether publicly or privately owned. These facilities and services shall include, but not be limited to: Tour buses, charter buses, taxicabs and other methods or modes which serve the general public on a for hire or fare basis; special transportation services for the elderly and/or handicapped; vanpools and shuttle buses which shall regularly carry at least seven persons, including the driver and which at least eighty percent of that vehicles mileage can be verified as attributed to the use of commuting; fleetpools; and

(b) Bus transportation of pupils to and from school and school sponsored activities.

(23) Permanent assignment: A recommendation by the office to the U.S. Department of Energy that an applicant be assigned a permanent supplier and an allocation entitlement.

(24) Prime supplier: The supplier or producer which makes the first sale of any allocated product subject to the state set-aside into the state distribution system for consumption within the state.

(25) Purchaser: Wholesale purchaser, end-user, or both.

(26) Retail gasoline outlet: Wholesale purchaser-reseller which purchases or otherwise obtains gasoline and resells or otherwise transfers it to ultimate consumers.

(27) Sanitation services: The collection and disposal for the general public of solid wastes, whether by public or private entities, and the maintenance, operation and repair of liquid purification and waste facilities during emergency conditions. Sanitation services also includes the provision of water supply services by public utilities, whether privately or publicly owned or operated.

(28) Set-aside: The amount of an allocated product which is made available from the total supply of a prime supplier to resolve emergencies and hardships due to fuel shortages, pursuant to 10 C.F.R. §211.17.

(29) Supplier: Any firm or subsidiary of any firm which presently sells, transfers or otherwise furnishes any allocated product or crude oil to wholesale purchasers or end-users.

(30) Telecommunications services: The repair, operation, and maintenance of voice, data, telegraph, video, and similar communications services to the public by a communications common carrier, during periods of substantial disruption of normal service.

(31) Truck: A motor vehicle with motive power designed primarily for the transportation of property or special purpose equipment and with a gross vehicle weight rating for a single vehicle (the value specified by the manufacturer as the loaded weight of the vehicle) or the equivalent thereof in excess of 20,000 pounds, or in the case of trucks designed primarily for drawing other vehicles and not so constructed as to carry a load other than part of the weight of the vehicle and the load so drawn, with a gross combination weight rating (the value specified by the manufacturer as the loaded weight of the combination vehicle) or the equivalent thereof in excess of 20,000 pounds.

(32) Wholesale purchaser-consumer: Any firm that is an ultimate consumer which, as part of its normal business practices, purchases or obtains an allocated product from a supplier and receives delivery of that product into a storage tank substantially under the control of that firm at a fixed location and which either:

(a) Purchased or obtained more than 20,000 gallons of that allocated product for its own use in agricultural production in any completed calendar year subsequent to 1971;

(b) Purchased or obtained more than 50,000 gallons of that allocated product in any completed calendar year subsequent to 1971 for use in one or more multifamily residences; or

(c) Purchased or obtained more than 84,000 gallons of that allocated product in any completed calendar year subsequent to 1971.

(33) Wholesale purchaser-reseller: Any firm which purchases, receives through transfer, or otherwise obtains an allocated product and resells or otherwise transfers it to other purchasers without substantially changing its form.

[Statutory Authority: RCW 43.21F.050(12), 80-18-035 (Order 80-1), § 194-14-030, filed 12/2/80; 79-09-078 (Order 79-1), § 194-14-030, filed 8/30/79; Order 1, § 194-14-030, filed 1/18/77.]

WAC 194-14-040 Applications for set-aside assignments—Form. Except as provided in WAC 194-14-050, all applications for state set-aside assignment shall be submitted on forms approved by the office or in a signed letter containing the following information:

(1) The applicant's name, address, telephone number, prime supplier, amount requested and an explanation of the reason for the application, including the date by which the product is needed[(;)][,] and if available, the applicant's allocation for the month of application.

(2) The applicant must identify energy conservation programs which that individual or firm has in effect.

(3) If the applicant is a wholesale purchaser-reseller, current retail prices being charged for the requested fuel.

(4) If the applicant is a service or gas station, anticipated days and hours of operation.

(2009 Ed.)

The office may request such additional information from an applicant as it deems necessary.

[Statutory Authority: RCW 43.21F.050(12), 79-09-078 (Order 79-1), § 194-14-040, filed 8/30/79; Order 1, § 194-14-040, filed 1/18/77.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 194-14-050 Applications for set-aside assignment—Form—Exception. An application for state set-aside assignment may be made orally when extraordinary circumstances make it impossible for the applicant to submit a written application. When a verbal request is made, the office will require written confirmation of the applicant of the information required by WAC 194-14-040.

[Order 1, § 194-14-050, filed 1/18/77.]

WAC 194-14-060 State set-aside assignments. (1) General. To the extent that such supplies are available to the state, assignments from the state set-aside may be made to wholesale purchaser-consumers and end-users located within the state who demonstrate hardship or emergency, or to wholesale purchaser-resellers to enable them to supply such persons. An applicant may be deemed to demonstrate hardship if:

(a) Such applicant is undergoing curtailment of an energy source and must depend on an alternate source of energy for which he has no allocation or an insufficient allocation; or

(b) Said applicant is a wholesale purchaser-reseller and demonstrates:

(i) A need for additional product as a result of supply imbalance; and

(ii) Good faith compliance with fair marketing practices; and

(iii) In cases where long term relief is available through action by the U.S. DOE, that such action has been initiated by the applicant; or

(c) Said applicant is an end-user or wholesale purchaser-consumer who is unable to obtain needed product for his own use from his supplier of record.

(d) Said applicant has an energy conservation program in effect.

[(2)] Priorities and procedures

(a) To the maximum extent practicable the order in which cases will be processed for the month of request will be as follows:

(i) Emergency or severe hardship situations, including space heating requirements of medical and nursing buildings;

(ii) Passenger transportation services;

(iii) Wholesale purchaser-consumer or end-user needing the product, in the opinion of the office, to avoid a serious disruption in their business operations;

(iv) Retail outlets which are experiencing, in the opinion of the office, an unusually low allocation level as compared to their average allocation levels because of such things as road construction, illness, specific market area problems, or other circumstances which prevented normal operations during the base period. Also included in this category are service stations located in discrete market areas or communities

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which may be experiencing severe supply imbalances as compared to the statewide average. Such imbalances may be due to disproportionate growth, unanticipated demand, or product loss, (e.g., station closures) since the base allocation period. In addition, the office may determine it appropriate to issue set-aside on the basis that an emergency or serious disruption in the market place may occur if such state action is not taken;

(v) All remaining cases representing wholesale purchaser-consumers or end-users;

(vi) All remaining applicants.

(b) If set-aside product is not available to meet all requests within a given category, as listed above in (2)(a), cases within that category will be processed on a first-in, first-out basis. No distinction will be made among cases received prior to the first of the month for which the product is requested. All such cases will be randomly logged in as being received on the first of the month.

(3) Acceptance of product. Applicants receiving a set-aside assignment must notify their supplier of their intent to receive the allocated product no later than 7 days from the date the order was issued, whichever comes sooner. Such notification having been given, the set-aside order is valid irrespective of the fact that the allocated product may not be delivered during the month the assignment was made.

[Statutory Authority: RCW 43.21F.050(12). 79-09-078 (Order 79-1), § 194-14-060, filed 8/30/79; Order 1, § 194-14-060, filed 1/18/77.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 194-14-070 State set-aside action. The office shall take action on an application by either ordering an assignment, denying the application or requesting more information within ten business days after the application has been received by the office. If the office fails to take action on an application within ten days, the applicant may treat the application as having been denied in all respects and may appeal therefrom. If an application is denied, a copy of the denial shall be served upon the applicant.

[Order 1, § 194-14-070, filed 1/18/77.]

WAC 194-14-090 Assignment of state set-aside supplier. State set-aside assignments shall generally be issued through the prime supplier with whom the applicant has an established base period supply volume. In exceptional cases, the office may order assignments through alternate prime suppliers or may split assignments between prime suppliers. When assignments are made to a retail gasoline outlet from a supplier other than the supplier associated with the outlet's brand name, the applicant shall comply with RCW 9.16.080 and shall post a disclaimer to the effect that the product sold is not the brand usually associated with the outlet.

[Order 1, § 194-14-090, filed 1/18/77.]

WAC 194-14-100 Submission of set-aside order to prime supplier. Upon approval by the office of a state set-aside assignment, the fuel allocation officer shall issue a written order authorizing the assignment and shall serve it on the

prime supplier and, where applicable, the local distributor of the prime supplier, from whose set-aside the assigned product is to be drawn. An order issued by the office under this section is effective upon issuance, unless stayed, modified, suspended or rescinded, and represents a call on the prime supplier's set-aside volume for the month of issuance, even if delivery of the product cannot be made until the following month.

[Order 1, § 194-14-100, filed 1/18/77.]

WAC 194-14-110 Application for permanent assignment—Form. An application for a permanent assignment which falls under the state's jurisdiction shall be made on forms issued by the Federal Energy Administration for that purpose and shall be filed with the office. Forms shall be available from the office.

[Order 1, § 194-14-110, filed 1/18/77.]

WAC 194-14-120 Permanent assignments—Criteria—Agricultural and passenger transportation services end-users. Applications from agricultural and passenger transportation services end-users will be approved. These end-users must satisfy the office through proper verification and certification that they meet the classification of agricultural or passenger services end-user.

[Statutory Authority: RCW 43.21F.050(12). 79-09-078 (Order 79-1), § 194-14-120, filed 8/30/79; Order 1, § 194-14-120, filed 1/18/77.]

WAC 194-14-130 Permanent assignments—Criteria—All other end-users. Applications from all other end-users will not be approved unless the following conditions apply:

(1) There is severe economic impact on the business directly resulting from reliance on retail purchases by that business; and

(2) An energy conservation program is in effect as demonstrated to the office; and

(3) Every attempt has been made, including feasible changes in regular business operations, to obtain needed fuel through retail outlets.

[Statutory Authority: RCW 43.21F.050(12). 79-09-078 (Order 79-1), § 194-14-130, filed 8/30/79; Order 1, § 194-14-130, filed 1/18/77.]

WAC 194-14-140 Permanent assignment action. If a permanent assignment is approved by the office, the coordinator shall issue a written recommendation to the regional office of the Federal Energy Administration for final disposition. A copy of the recommendation shall be sent to the applicant and to the applicant's supplier. If a permanent assignment is denied by the office, the coordinator shall issue an order of denial. The order shall be served upon the applicant.

[Order 1, § 194-14-140, filed 1/18/77.]

WAC 194-14-150 Appeals. Any person aggrieved by an order of the office may file an appeal from such order with the director. Notice of appeal shall be filed within 15 days of the order from which the appeal is taken, and shall be in writing and signed by the appellant. Each appeal shall state:

(1) The reason for the appeal, including the reasons appellant believes the order to be unjust or unwise;

(2) The names and addresses of persons known to appellant who might be adversely affected by the outcome of the appeal;

(3) The nature of the relief sought, whether reversal, modification or some other relief;

(4) A demand for a hearing, or all appeal documents if no oral hearing is requested.

[Order 1, § 194-14-150, filed 1/18/77.]

WAC 194-14-160 Appeals board. All appeals taken under these regulations shall be heard by the fuel allocation appeals board which shall consist of the director of the office or his designee who shall serve as ex officio member, and the directors, or their designees, of the Washington state departments of agriculture, state patrol and commerce and economic development.

[Statutory Authority: RCW 43.21F.050(12). 79-09-078 (Order 79-1), § 194-14-160, filed 8/30/79; Order 1, § 194-14-160, filed 1/18/77.]

WAC 194-14-170 Hearing. Within 20 days after the receipt of a notice of appeal, the director shall set a hearing date or, if no hearing is requested, a date for consideration of the appeal by the appeals board. The director shall serve upon all affected persons known to the director:

(1) A statement of the time, place and nature of the proceeding;

(2) A statement of the legal authority and jurisdiction under which the hearing is to be held;

(3) A reference to the particular sections of the statutes and rules involved;

(4) A short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter upon request a more definite and detailed statement shall be furnished.

[Order 1, § 194-14-170, filed 1/18/77.]

WAC 194-14-180 Parties. For purposes of these rules, the parties to an appeal shall be the appellant and the office. If the appellant is a person other than the original applicant for the order, the applicant may be permitted to intervene. Upon application, any other person may be permitted to intervene upon a showing that he will be adversely affected by the outcome of the appeal, unless the board determines that his interest is adequately represented by one of the parties or intervenors to the appeal.

[Order 1, § 194-14-180, filed 1/18/77.]

WAC 194-14-190 Appeal proceedings. The provisions of chapter 1-08 WAC, shall govern all proceedings before the appeals board.

[Order 1, § 194-14-190, filed 1/18/77.]

WAC 194-14-200 Prehearing conference. In any proceeding the board may, upon its motion or upon the motion of one of the parties, direct the parties to appear at a specified time and place for a conference. Such notice shall be provided not less than five days before the date of the conference.

(2009 Ed.)

[Order 1, § 194-14-200, filed 1/18/77.]

WAC 194-14-210 Informal disposition. Informal disposition may be made of an appeal or any issue therein by stipulation, agreed settlement, or consent order at any point in the proceedings.

[Order 1, § 194-14-210, filed 1/18/77.]

WAC 194-14-220 Transcript. A verbatim record of the hearing shall be taken by a court reporter or recording equipment. A court reporter shall be used if demanded by any party, and the expense of the court reporter shall be paid by the demanding party, unless the office agrees otherwise. The verbatim recording will not be transcribed unless requested by a party. If a transcript is requested, the board may require the requesting party to pay the reasonable cost of preparing the transcript.

[Order 1, § 194-14-220, filed 1/18/77.]

WAC 194-14-230 Judicial review. The decision of the appeals board shall constitute a final decision for the purposes of RCW 34.04.130 and review of such final decision may be had to a superior court of competent jurisdiction pursuant to RCW 34.04.130.

[Order 1, § 194-14-230, filed 1/18/77.]

WAC 194-14-240 Agency decision. Every decision of the appeals board shall:

(1) Be correctly captioned as to name of proceeding and the fuel allocation appeals board;

(2) Designate all parties and counsel to the proceeding;

(3) Include a concise statement of the nature and background of the proceeding;

(4) Be accompanied by appropriate findings of fact and conclusions of law;

(5) Whenever practical, the conclusions of law shall include the reason or reasons for the particular order or remedy afforded.

A copy of the order shall be delivered or mailed to each party or his designated representative, and to any person readily identifiable by the appeals board as one who is aggrieved by such order.

[Order 1, § 194-14-240, filed 1/18/77.]

**Chapter 194-18 WAC
RECEIPT OF FUNDS**

WAC

194-18-010	Authority.
194-18-020	Purpose.
194-18-030	Receipt of funds.

WAC 194-18-010 Authority. This chapter is promulgated pursuant to the authority granted in chapter 34.05 RCW and RCW 43.21F.045(12).

[Statutory Authority: RCW 43.21F.045(12). 89-15-013 (Order 89-11-083), § 194-18-010, filed 7/10/89, effective 8/10/89.]

WAC 194-18-020 Purpose. The purpose of this chapter is to set forth the means by which the Washington state

energy office may receive funds by specifying a list of "other devices" as found in RCW 43.21F.060(2).

[Statutory Authority: RCW 43.21F.045(12), 89-15-013 (Order 89-11-083), § 194-18-020, filed 7/10/89, effective 8/10/89.]

WAC 194-18-030 Receipt of funds. The Washington state energy office is empowered in RCW 43.21F.060(2) to receive funds "by means of contracts, grants, awards, payments for services and other devices." "Other devices" is defined as cash, negotiable instruments (e.g., checks, promissory notes), purchase orders, money orders, letters of credit, requests for advance or reimbursement, valid credit cards and charge cards issued by a bank or other financial institutions, and documented "in-kind" services.

[Statutory Authority: RCW 43.21F.045(12), 89-15-013 (Order 89-11-083), § 194-18-030, filed 7/10/89, effective 8/10/89.]

Chapter 194-22 WAC

WASHINGTON STATE CURTAILMENT PLAN FOR ELECTRIC ENERGY

WAC

194-22-010	Purpose and goal.
194-22-020	Definitions.
194-22-030	Curtailement stages.
194-22-040	Initiation of load curtailment.
194-22-050	Curtailement administration—Stage by stage utility obligations.
194-22-060	Curtailement administration—Suggested curtailment actions.
194-22-070	Curtailement administration—Base year, base billing period data.
194-22-080	Curtailement administration—Curtailement targets.
194-22-090	Curtailement administration—Excess power consumption.
194-22-100	Curtailement administration—Threshold consumption level.
194-22-110	Curtailement administration—Mandatory curtailment enforcement.
194-22-120	Curtailement administration—Exemptions and adjustments.
194-22-130	Curtailement administration—State appeals board.
194-22-140	Utility exemption from plan.
194-22-150	Utility waiver of liability and financial relief.
194-22-160	Scheduling curtailment.
194-22-170	Purchase of curtailment requirements.
194-22-180	Consumer owned generation.
194-22-190	Return to normal operations.

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 statewide 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 generating 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 exist-

ing 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 194-22-030 Curtailment stages. State curtailment directives apply to all retail loads served within the state of Washington. Under this plan, curtailment is requested or ordered as a percentage of historical, base billing period electric energy consumption, weather normalized at the discretion of each utility, for all individual residential, general, and major use consumers in the state of Washington. Curtailment stages are associated with increasing energy deficits, and are therefore likely to be implemented in a sequential manner, however, circumstances may require nonsequential implementation.

The five curtailment stages are:

Curtailment			
Stage #	Nature	Percent	Type of Curtailment
Stage 1	Voluntary	No specified %	Uniform among all consumers
Stage 2	Voluntary	5%+	Uniform among all consumers
Stage 3	Mandatory	5 to 15%	Uniform among all consumers
Stage 4	Mandatory	15% 15%+ 15%+	Residential consumers General use consumers Major use consumers
Stage 5	Mandatory	% associated with Stage 4+ additional curtailment	Continued consumer curtailment plus utility action, including plant closures and possible black-outs

[Statutory Authority: RCW 43.21F.045. 94-20-103, § 194-22-030, filed 10/4/94, effective 11/4/94.]

(2009 Ed.)

WAC 194-22-040 Initiation of load curtailment. The state, in consultation with regional state and utility contacts, will determine if curtailment is required, and if so, the appropriate initial stage. It is the intent of the state to initiate statewide curtailment concurrent with Oregon, Idaho, and Montana, leading to an effective regional curtailment and consistent implementation policies. The state will formally notify the utility coordinator and all electric utilities operating within the state of Washington that regional and statewide electric load curtailment are in effect. If any stage associated with a specific level of curtailment is declared (Stages 2-5), the state will publicly announce the need for curtailment and provide all utilities operating within the state of Washington with written instructions regarding utility obligations during the period of state-initiated load curtailment. Upon notification by the state, utilities shall immediately initiate curtailment on their own systems in conformance with this plan.

[Statutory Authority: RCW 43.21F.045. 94-20-103, § 194-22-040, filed 10/4/94, effective 11/4/94.]

WAC 194-22-050 Curtailment administration—Stage by stage utility obligations. Throughout the curtailment period, utilities will provide consumers with as much useful information as they reasonably can. The requirements specified below represent minimum actions to be taken. All requirements for lower level stages continue to apply to higher level stages. Utilities will provide information to the public, state and utility coordinator in conformance with the regional curtailment plan for electric energy, Appendix B, "Types of Curtailment Information."

(1) Stage 1 requirements: Utilities will begin providing curtailment information to all consumers. Utilities shall also assist states, as appropriate, in briefing the media about the shortage.

(2) Stage 2 requirements: Utilities will:

- (a) Notify consumers of the percentage level of state-initiated voluntary curtailment;
- (b) Provide curtailment tips to consumers;
- (c) Answer consumer questions about curtailment;
- (d) Provide curtailment reports to the states and the utility coordinator; and
- (e) Provide more detailed information to the media than provided in Stage 1.

(3) Stage 3 requirements: Utilities will:

- (a) Notify consumers of the percentage level of state-ordered mandatory curtailment;
- (b) Calculate base billing period data and curtailment targets for all consumers subject to audit in the current billing period;
- (c) Provide curtailment targets to all consumers who request such data for their own accounts;
- (d) Provide consumers with information about how to apply for exemption and adjustment of base year data (utilities may elect to provide this information only to audited consumers or those subject to penalties (see WAC 194-22-110, mandatory curtailment enforcement) under this plan);
- (e) Process requests for exemption and base year data adjustments from those consumers selected for audit who would otherwise be subject to penalties (see WAC 194-22-110, mandatory curtailment enforcement); and

(f) Implement the enforcement requirements (see WAC 194-22-110, mandatory curtailment enforcement) of the plan.

(4) Stage 4 requirements: Utilities will notify consumers of any applicable changes in state-initiated mandatory curtailment.

(5) Stage 5 requirements: Utilities will collaborate with the state to develop and implement the most effective methods for securing the required load curtailment and to minimize the economic and human hardships of the last stage of load curtailment.

[Statutory Authority: RCW 43.21F.045. 94-20-103, § 194-22-050, filed 10/4/94, effective 11/4/94.]

WAC 194-22-060 Curtailment administration—Suggested curtailment actions. Utilities will provide their consumers with curtailment information about actions they can take to reduce their electric energy consumption. The state and utilities will work together to develop this material. The recommendations will be based on the actions described in the regional curtailment plan for electric energy, Appendix C, "Curtailment Measures." Utilities are responsible for tailoring curtailment information to their service areas, adding utility-specific information, printing the material in an appropriate form, and disseminating it to their consumers.

[Statutory Authority: RCW 43.21F.045. 94-20-103, § 194-22-060, filed 10/4/94, effective 11/4/94.]

WAC 194-22-070 Curtailment administration—Base year, base billing period data. The state will select a base year to be used in calculating curtailment targets for individual consumers. Base year and base billing period data may be weather-normalized at each utility's discretion using standard utility procedures, and will be calculated for any consumer audited under this plan. Utilities may elect to audit residential and general use consumers for whom no actual base year or base billing period data exists, but must estimate data for such consumers. Utilities will estimate base year and base billing period data for all major use consumers for whom no actual billing data exists.

[Statutory Authority: RCW 43.21F.045. 94-20-103, § 194-22-070, filed 10/4/94, effective 11/4/94.]

WAC 194-22-080 Curtailment administration—Curtailment targets. Under voluntary curtailment utilities need do no more than provide curtailment tips to consumers, provided sufficient curtailment is being achieved equitably between states and utilities. At the direction of the state, utilities will provide individual consumers with curtailment targets. Utilities will provide retrospective, current, and forthcoming billing period curtailment target data to all consumers as directed by the state. Under mandatory curtailment the following will apply:

(1) At a minimum, utilities will provide retrospective, current, and forthcoming billing period curtailment target data to any audited consumer and to any consumer who so requests.

(2) Utilities may elect to audit up to one hundred percent of their customers, provided that each billing period minimum audit level requirements are met. Unless adjusted by the state, the minimum audit level will be at least one percent of

residential consumers, five percent of general use consumers, one hundred percent of major use consumers, and any consumer whose previous billing period consumption exceeded the threshold consumption level. Such consumers will continue to be audited until their energy use falls below the threshold consumption level. Once their energy use falls below that level, they will be audited again only if selected by sample.

(3) For audit, new samples will be drawn each month. The number of consumers exempted or excluded from audit will not affect the sample size.

(4) Unless a utility is auditing one hundred percent of its residential and general use consumers, all such consumers selected for audit will be chosen on a random sample basis, except that the following consumers will be excluded:

(a) Consumers granted an exemption under this plan; and

(b) Consumers with an estimated power bill in the current billing period.

Utilities may elect to exclude residential and general use consumers with estimated base billing period data, if the state does not require their inclusion in the pool of consumers subject to audit.

(5) Any existing curtailment of load based on contractual provisions between an industrial consumer and its utility does not count towards the consumer's required curtailment obligation to the state, excepting where such curtailment represents fifty percent of the consumer's base year consumption level. This exemption may be suspended by the state under Stage 5 of mandatory curtailment.

[Statutory Authority: RCW 43.21F.045. 94-20-103, § 194-22-080, filed 10/4/94, effective 11/4/94.]

WAC 194-22-090 Curtailment administration—Excess power consumption. Excess power consumption is calculated at each utility's discretion as one of two values: Actual or estimated load minus curtailment target; or weather-normalized load minus curtailment target. Enforcement measures (see WAC 194-22-110, mandatory curtailment enforcement) will only be assessed on excess power consumption if a consumer's actual, estimated or weather-normalized load is greater than the threshold consumption level.

[Statutory Authority: RCW 43.21F.045. 94-20-103, § 194-22-090, filed 10/4/94, effective 11/4/94.]

WAC 194-22-100 Curtailment administration—Threshold consumption level. The threshold consumption level assigned to each consumer class is identified in the table below. These values are subject to change by the state.

Type of Consumer	Threshold Consumption Level
Residential consumers	10% above curtailment target
General use consumers	10% above curtailment target
Major use consumers	2% above curtailment target

[Statutory Authority: RCW 43.21F.045. 94-20-103, § 194-22-100, filed 10/4/94, effective 11/4/94.]

WAC 194-22-110 Curtailment administration—Mandatory curtailment enforcement. The state will take whatever measures are available and appropriate at the time mandatory curtailment is instituted to ensure that consumers comply with the mandates of the plan.

Enforcement measures applicable to BPA's DSI customers may be assessed by the state based on billing data provided by BPA.

[Statutory Authority: RCW 43.21F.045. 94-20-103, § 194-22-110, 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.

(2009 Ed.)

(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.]

WAC 194-22-140 Utility exemption from plan. The state expects all electric utilities to comply with all aspects of this plan, and to work together to assist each other in conforming to curtailment requirements. Nevertheless, utilities may appeal to the state requesting an exemption from any aspect of this plan. A petition for exemption shall identify specific requirements from which a utility wishes to be exempted, demonstration of need for the exemption, and alternative actions the utility will take in lieu of complying with plan requirements.

[Statutory Authority: RCW 43.21F.045. 94-20-103, § 194-22-140, filed 10/4/94, effective 11/4/94.]

WAC 194-22-150 Utility waiver of liability and financial relief. Utilities are released from liability and may seek financial relief from the extraordinary costs of curtailment in accordance with RCW 43.21G.050 and 43.21G.080.

[Statutory Authority: RCW 43.21F.045. 94-20-103, § 194-22-150, filed 10/4/94, effective 11/4/94.]

WAC 194-22-160 Scheduling curtailment. During periods of mandatory curtailment a consumer is obligated to provide the requisite amount of curtailment within each billing period. Within that billing period, and subject to equipment limitations and utility rules on load fluctuations, consumers are free to schedule their curtailment so as to minimize the economic cost, hardship, or inconvenience they experience as a result of the mandatory curtailment requirement.

[Statutory Authority: RCW 43.21F.045. 94-20-103, § 194-22-160, filed 10/4/94, effective 11/4/94.]

WAC 194-22-170 Purchase of curtailment requirements. General and major use customers may, with approval from the state, and with the assistance and approval of effected utilities, sell curtailment requirements to other regional general and major use customers, which would allow reduced curtailment for one customer and a commensurate increase in curtailment requirements for the other. No arrangement under this section may be carried out that contravenes the goals of regional curtailment. No sale of curtailment requirements may result in a net increase in actual electricity consumption during the curtailment year.

[Statutory Authority: RCW 43.21F.045. 94-20-103, § 194-22-170, filed 10/4/94, effective 11/4/94.]

WAC 194-22-180 Consumer owned generation. Consistent with the need for safety and system protection, consumers having their own generation facilities or access to electricity from nonutility power sources may use energy from those other sources to supplement their curtailed power purchases from their electric utility.

[Statutory Authority: RCW 43.21F.045. 94-20-103, § 194-22-180, filed 10/4/94, effective 11/4/94.]

WAC 194-22-190 Return to normal operations. The state will develop a plan for returning to normal utility operations based upon the circumstances at the end of the shortage. The nature of the actions required will depend on the last existing stage of curtailment and the actions taken and processes put in place during the curtailment. At a minimum, the procedures will address public information matters and the close-out of curtailment administrative procedures.

[Statutory Authority: RCW 43.21F.045. 94-20-103, § 194-22-190, filed 10/4/94, effective 11/4/94.]

Chapter 194-24 WAC

APPLIANCE ENERGY EFFICIENCY

WAC

194-24-010	Authority.
194-24-020	Purpose.
194-24-030	Definitions.
194-24-040	Implementation dates, end dates, and applicability.
194-24-050	Labeling.
194-24-060	Testing and certification.
194-24-070	Penalties for noncompliance.

WAC 194-24-010 Authority. The authority to develop these rules is granted to the department in Title 19.260 RCW.

[Statutory Authority: Chapter 19.260 RCW. 07-14-092, § 194-24-010, filed 6/29/07, effective 7/30/07.]

WAC 194-24-020 Purpose. The purpose of these rules is to establish efficiency standards for certain products sold or installed in the state assuring consumers and businesses that such products meet minimum efficiency performance levels thus saving energy and money on utility bills. This chapter applies equally to products regardless of whether they are sold, offered for sale, or installed as a stand-alone product or as a component of another product.

[Statutory Authority: Chapter 19.260 RCW. 07-14-092, § 194-24-020, filed 6/29/07, effective 7/30/07.]

WAC 194-24-030 Definitions. The following words and terms have the following meanings for the purposes of this chapter unless otherwise indicated:

- (1) "Automatic commercial ice cube machine" means a factory-made assembly, not necessarily shipped in one package, consisting of a condensing unit and ice-making section operating as an integrated unit with means for making and harvesting ice cubes. It may also include integrated components for storing or dispensing ice, or both.
- (2) "Ballast" means a device used with an electric discharge lamp to obtain necessary circuit conditions, such as voltage, current, and waveform, for starting and operating the lamp.

(3)(a) "Commercial refrigerators and freezers" means refrigerators, freezers, or refrigerator-freezers designed for use by commercial or institutional facilities for the purpose of storing or merchandising food products, beverages, or ice at specified temperatures that:

- (i) Incorporate most components involved in the vapor-compression cycle and the refrigerated compartment in a single cabinet; and
 - (ii) May be configured with either solid or transparent doors as a reach-in cabinet, pass-through cabinet, roll-in cabinet, or roll-through cabinet.
- (b) "Commercial refrigerators and freezers" does not include:
- (i) Products with 85 cubic feet or more of internal volume;
 - (ii) Walk-in refrigerators or freezers;
 - (iii) Consumer products that are federally regulated pursuant to 42 U.S.C. Sec. 6291 et seq.;
 - (iv) Products without doors; or
 - (v) Freezers specifically designed for ice cream.

(4) "Compensation" means money or any other valuable thing, regardless of form, received or to be received by a person for services rendered.

(5) "Department" means the department of community, trade, and economic development.

(6) "High-intensity discharge lamp" means a lamp in which light is produced by the passage of an electric current through a vapor or gas, and in which the light-producing arc is stabilized by bulb wall temperature and the arc tube has a bulb wall loading in excess of three watts per square centimeter.

(7) "Metal halide lamp" means a high-intensity discharge lamp in which the major portion of the light is produced by radiation of metal halides and their products of dissociation, possibly in combination with metallic vapors.

(8) "Metal halide lamp fixture" means a light fixture designed to be operated with a metal halide lamp and a ballast for a metal halide lamp.

(9) "Pass-through cabinet" means a commercial refrigerator or freezer with hinged or sliding doors on both the front and rear of the unit.

(10) "Probe-start metal halide ballast" means a ballast used to operate metal halide lamps which does not contain an igniter and which instead starts lamps by using a third starting electrode "probe" in the arc tube.

(11) "Reach-in cabinet" means a commercial refrigerator or freezer with hinged or sliding doors or lids, but does not include roll-in or roll-through cabinets or pass-through cabinets.

(12)(a) "Roll-in cabinet" means a commercial refrigerator or freezer with hinged or sliding doors that allow wheeled racks of product to be rolled into the unit.

(b) "Roll-through cabinet" means a commercial refrigerator or freezer with hinged or sliding doors on two sides of the cabinet that allow wheeled racks of product to be rolled through the unit.

(13)(a) "Single-voltage external AC to DC power supply" means a device that:

- (i) Is designed to convert line voltage alternating current input into lower voltage direct current output;

(ii) Is able to convert to only one DC output voltage at a time;

(iii) Is sold with, or intended to be used with, a separate end-use product that constitutes the primary power load;

(iv) Is contained within a separate physical enclosure from the end-use product;

(v) Is connected to the end-use product via a removable or hard-wired male/female electrical connection, cable, cord, or other wiring; and

(vi) Has a nameplate output power less than or equal to 250 watts.

(b) "Single-voltage external AC to DC power supply" does not include:

(i) Products with batteries or battery packs that physically attach directly to the power supply unit;

(ii) Products with a battery chemistry or type selector switch and indicator light; or

(iii) Products with a battery chemistry or type selector switch and a state of charge meter.

(14) "State-regulated incandescent reflector lamp" means a lamp that is not colored or designed for rough or vibration service applications, that has an inner reflective coating on the outer bulb to direct the light, an E26 medium screw base, and a rated voltage or voltage range that lies at least partially within 115 to 130 volts, and that falls into one of the following categories:

(a) A bulged reflector or elliptical reflector bulb shape and which has a diameter which equals or exceeds 2.25 inches;

(b) A reflector, parabolic aluminized reflector, or similar bulb shape and which has a diameter of 2.25 to 2.75 inches.

(15)(a) "Unit heater" means a self-contained, vented fan-type commercial space heater that uses natural gas or propane, and that is designed to be installed without ducts within a heated space.

(b) "Unit heater" does not include any products covered by federal standards established pursuant to 42 U.S.C. Sec. 6291 et seq., or any product that is a direct vent, forced flue heater with a sealed combustion burner.

[Statutory Authority: Chapter 19.260 RCW. 07-14-092, § 194-24-030, filed 6/29/07, effective 7/30/07.]

WAC 194-24-040 Implementation dates, end dates, and applicability. (1) This chapter applies to the following types of new products manufactured after the stated date and installed for compensation, the dates these rules take effect and, in the case of federal preemption, are rescinded:

(a) Automatic commercial ice cube machines (January 1, 2008, to December 31, 2009);

(b) Commercial refrigerators and freezers (January 1, 2007, to December 31, 2009);

(c) Unit heaters (January 1, 2007, to July 31, 2008);

(d) Single-voltage external AC to DC power supplies (starting January 1, 2008) except power supplies that are classified as devices for human use under the Federal Food, Drug, and Cosmetic Act and require U.S. Food and Drug Administration listing and approval as a medical device;

(e) State-regulated incandescent reflector lamps (starting January 1, 2007); and

(f) Metal halide lamp fixtures (starting January 1, 2008).

(2009 Ed.)

(2) No new commercial refrigerator or freezer, state-regulated incandescent reflector lamp, or unit heater manufactured on or after January 1, 2007, may be sold or offered for sale in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040.

(3) No new automatic commercial ice cube machine, single-voltage external AC to DC power supply, or metal halide lamp fixtures manufactured on or after January 1, 2008, may be sold or offered for sale in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040.

(4) On or after January 1, 2008, no commercial refrigerator or freezer, state-regulated incandescent reflector lamp, or unit heater manufactured on or after January 1, 2007, may be installed for compensation in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040.

(5) On or after January 1, 2009, no new automatic commercial ice cube machine, single-voltage external AC to DC power supply, or metal halide lamp fixtures manufactured on or after January 1, 2008, may be installed for compensation in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040.

[Statutory Authority: Chapter 19.260 RCW. 07-14-092, § 194-24-040, filed 6/29/07, effective 7/30/07.]

WAC 194-24-050 Labeling. Manufacturers of new products covered by these rules shall identify each product offered for sale or installation in the state as in compliance with this chapter by means of a mark, label, or tag on the product and packaging at the time of sale or installation. The marking required by the state of California in their Appliance Efficiency Regulations dated July 1, 2006, Section 1607 or as revised will meet this requirement.

[Statutory Authority: Chapter 19.260 RCW. 07-14-092, § 194-24-050, filed 6/29/07, effective 7/30/07.]

WAC 194-24-060 Testing and certification. (1) Products must be tested as set out by the California energy commission in their Appliance Efficiency Regulations dated July 1, 2006, Sections 1603 and 1604.

(2) If products tested are found not to be in compliance with the minimum efficiency standards established under RCW 19.260, the department may:

(a) Charge the manufacturer of the product for the cost of product purchase and testing; and

(b) Make information available to the public on products found not to be in compliance with the standards.

(3) Manufacturers shall submit a copy of test reports for any covered products offered for sale or installation if requested by the department.

(4) The following minimum information must be provided to the CEC as specified in their Appliance Efficiency Regulations dated July 1, 2006, Section 1606 for all covered appliances:

(a) Manufacturer name;

(b) Brand name (if different);

(c) Model number(s);

(d) Test method used (unless the standard is prescriptive and requires no specific test procedure to determine compliance);

(e) A statement that the model number(s) specified has been tested in accordance with required test methods, if applicable;

(f) A statement that the specified model meets the state's efficiency standards;

(g) A contact person with address, phone number and e-mail address;

(h) A declaration signed by a responsible company official attesting to the accuracy of the information included in the submittal.

(5) Manufacturers must provide to the department a certification from the California energy commission for each unique product that will be sold to a Washington buyer. The exception is that no certification is required for single voltage external AC to DC power supplies but the information listed in (4) of this section must be provided to the department.

(6) All appliances covered by these rules that are listed in the California data base of approved appliances shall be acceptable for sale in the state of Washington except for single voltage external AC to DC power supplies which are not currently listed in the California data base.

(7) The energy policy division director shall inform manufacturers within forty-five days of receipt of certification if their products meet these rules or what other information is required by the department.

(8) All required information and certification shall be submitted to the: Washington Department of Community, Trade and Economic Development, Energy Policy Division, P.O. Box 43173, Olympia, WA 98504-3173, Attn: Executive Assistant.

[Statutory Authority: Chapter 19.260 RCW. 07-14-092, § 194-24-060, filed 6/29/07, effective 7/30/07.]

WAC 194-24-070 Penalties for noncompliance. The energy policy division shall investigate complaints received concerning violations of these rules. Any manufacturer or distributor who violates this chapter shall be issued a warning by the director of the department for any first violation. Repeat violations are subject to a civil penalty of not more than two hundred fifty dollars per day.

[Statutory Authority: Chapter 19.260 RCW. 07-14-092, § 194-24-070, filed 6/29/07, effective 7/30/07.]

**Chapter 194-37 WAC
ENERGY INDEPENDENCE**

WAC

194-37-010	Purpose and scope.
194-37-020	Applicability.
194-37-030	Severability.
194-37-040	Definitions.
194-37-050	Documentation and auditing timelines.
194-37-060	Conservation reporting requirements.
194-37-070	Documenting development of conservation targets.
194-37-080	Documentation of conservation savings.
194-37-090	Additional documentation of efficiency from distribution system loss reduction improvements, including peak demand management and voltage regulation.
194-37-100	Additional documentation of improved efficiency from production facilities.
194-37-110	Renewable resource energy reporting.
194-37-120	Documentation of renewable energy achievement.

194-37-130	Documentation of incremental hydropower.
194-37-140	Documentation of renewable resource financial path for no-load growth utilities.
194-37-150	Financial documentation of annual revenue requirement.
194-37-160	Documentation of financial cost cap—Current information and timeline.
194-37-170	Documentation for financial path—Levelization of costs.
194-37-180	Documentation of financial path—Delivered cost.
194-37-190	Documentation of financial path—Substitute resource and resource equivalence.
194-37-200	Financial documentation path using renewable energy credits.
194-37-210	Selection of a renewable energy credit tracking system.

WAC 194-37-010 Purpose and scope. The purpose of this chapter is to implement the requirements of the Energy Independence Act, chapter 19.285 RCW.

[Statutory Authority: RCW 19.285.080(2). 08-07-079, § 194-37-010, filed 3/18/08, effective 4/18/08.]

WAC 194-37-020 Applicability. The provisions of this chapter apply to consumer-owned electric utilities that provide electrical service to more than twenty-five thousand retail customers in the state of Washington.

[Statutory Authority: RCW 19.285.080(2). 08-07-079, § 194-37-020, filed 3/18/08, effective 4/18/08.]

WAC 194-37-030 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.

[Statutory Authority: RCW 19.285.080(2). 08-07-079, § 194-37-030, filed 3/18/08, effective 4/18/08.]

WAC 194-37-040 Definitions. The definitions in chapter 19.285 RCW apply throughout this chapter. Some of those definitions are included here, in addition to rule-specific definitions, to assist in understanding this chapter.

(1) "Auditor" means:

(a) The Washington state auditor's office or its designee for consumer-owned utilities under its jurisdiction, such as a public utility district formed under Title 54 RCW, a municipal electric utility formed under Title 35 RCW, or any other public entity authorized by law to sell electricity for retail use;

(b) An independent auditor selected by a utility that is not under the jurisdiction of the state auditor, such as a cooperative formed under chapter 23.86 RCW or an electric mutual corporation or association formed under chapter 24.06 RCW.

(2) "Annual revenue requirement" means that portion of a utility's annual budget approved by its governing body for the target year that is intended to be recovered through retail electricity sales in the state of Washington in the target year, or as otherwise documented by the utility pursuant to WAC 194-37-150.

(3) "Average water generation" means the average megawatt-hours of generation from a hydroelectric project over a period of ten consecutive years or more, taking into account differences in water flows from year to year.

(4) "Biennial target" means a utility's biennial conservation target.

(5) "BPA" means the Bonneville Power Administration.

(6) "Conservation" means any reduction in electric power consumption resulting from increases in the efficiency of energy use, production, or distribution.

(7) "Conservation calculator" means a spreadsheet or piece of software developed and maintained by the NWPCC to approximate a utility's ten-year potential. The conservation calculator will use methodologies consistent with the most recently published *Power Plan*. It is available at www.nwcouncil.org.

(8) "Cost-effective" means, as defined in RCW 80.52.-030, that a project or resource is forecast:

(a) To be reliable and available within the time it is needed; and

(b) To meet or reduce the electric power demand of the intended consumers at an estimated incremental system cost no greater than that of the least-cost similarly reliable and available alternative project or resource, or any combination thereof.

(c) For purposes of this paragraph, the term "system cost" means an estimate of all direct costs of a project or resource over its effective life, including, if applicable, the costs of distribution to the consumer, and, among other factors, waste disposal costs, end-of-cycle costs, and fuel costs (including projected increases), and such quantifiable environmental costs and benefits as are directly attributable to the project or resource.

(9) "Council" means the Washington state apprenticeship and training council within the department of labor and industries.

(10) "Customer" means a person or entity that purchases electricity for ultimate consumption and not for resale.

(11) "Department" means the department of community, trade, and economic development.

(12) "Distributed generation" means an eligible renewable resource where the facility or any integrated cluster of generating units has a generating capacity of not more than five megawatts. If several five-megawatt or smaller projects are located in the same immediate area but are owned or controlled by different developers, each qualifies as a separate, independent distributed generation project. For the purposes of this rule, an eligible renewable resource or group of similar eligible renewable resources cannot be subdivided into amounts less than five megawatts solely to be considered distributed generation.

(13) "Eligible renewable resource" means:

(a) Electricity from a generation facility powered by a renewable resource other than fresh water that commences operation after March 31, 1999, where:

(i) The facility is located in the Pacific Northwest; or

(ii) The electricity from the facility is delivered into Washington state on a real-time basis without shaping, storage, or integration services (an eligible renewable resource within the Pacific Northwest may receive integration, shaping, storage or other services from sources outside the Pacific Northwest and remain eligible to count towards a utility's renewable resource target); or

(b) Incremental electricity produced as a result of efficiency improvements completed after March 31, 1999, to a hydroelectric generation project owned by one or more qualifying utilities (see definition of qualifying utility in chapter

19.285 RCW) and located in the Pacific Northwest or to hydroelectric generation in irrigation pipes and canals located in the Pacific Northwest, where the additional electricity generated in either case is not a result of new water diversions or impoundments.

(14) "Fifth power plan" means *The Fifth Northwest Electric Power and Conservation Plan* produced by the NWPCC. The power plan is available at www.nwcouncil.org.

(15) "Incremental hydropower" means the incremental amount of kilowatt-hours of electricity generated from a base or constant amount of water.

(16) "Integrated cluster" of eligible renewable resources means colocated projects owned or controlled by the same entity that feed into the same substation.

(17) "Load" means the amount of kilowatt-hours of electricity delivered in the most recently completed year by a utility to its Washington retail customers.

(18) "Nonpower attributes" means all environmentally related characteristics, exclusive of energy, capacity, reliability, and other electrical power service attributes, that are associated with the generation of electricity from a renewable resource, including but not limited to the facility's fuel type, geographic location, vintage, qualification as an eligible renewable resource, and avoided emissions of pollutants to the air, soil, or water, and avoided emissions of carbon dioxide and other greenhouse gases.

(19) "NWPCC" means Pacific Northwest Electric Power and Conservation Planning Council also known as the Northwest Power and Conservation Council. Its calculation of avoided costs and publications are available at www.nwcouncil.org.

(20) "Pacific Northwest" means the area consisting of:

(a) The states of Oregon, Washington, and Idaho, the portion of the state of Montana west of the Continental Divide, and such portions of the states of Nevada, Utah, and Wyoming as are within the Columbia River drainage basin; and

(b) Any contiguous areas, not in excess of seventy-five air miles from the area referred to in (a) of this subsection, which are a part of the service area of a rural electric cooperative customer served by the BPA on December 5, 1980, which has a distribution system from which it serves both within and without such region.

(21) "Qualified incremental hydropower efficiency improvements" means the installation or modification of equipment and structures, or operating protocols that increase the amount of electricity generated from the same amount of water. These may include rewinding of existing generators, replacing turbines with more efficient units and changing control systems to optimize electricity generation, and improvements to hydraulic conveyance systems that decrease head loss. They do not include additions to capacity by increasing pondage or elevation head, or diverting additional water into the project.

(22) "Qualifying utility" means an electric utility, as the term "electric utility" is defined in RCW 19.29A.010, that serves more than twenty-five thousand customers in the state of Washington.

(23) "Regional technical forum" or "RTF" means a voluntary advisory committee that reports to the executive direc-

tor of the NWPCC and whose members are appointed by the NWPCC's chair.

(24) "Renewable energy credit" or "REC" means a tradable certificate of proof of at least one megawatt-hour of an eligible renewable resource where the generation facility is not powered by fresh water, the certificate includes all of the nonpower attributes associated with that megawatt-hour of electricity, and the certificate is verified by the renewable energy credit tracking system chosen by the department.

(25) "Renewable resource" means:

- (a) Water;
- (b) Wind;
- (c) Solar energy;
- (d) Geothermal energy;
- (e) Landfill gas;
- (f) Wave, ocean, or tidal power;
- (g) Gas from sewage treatment facilities;
- (h) Biodiesel fuel as defined in RCW 82.29A.135 that is not derived from crops raised on land cleared from old growth or first-growth forests where the clearing occurred after December 7, 2006; and
- (i) Biomass energy based on animal waste or solid organic fuels from wood, forest, or field residues, or dedicated energy crops that do not include:

(i) Wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper chrome arsenic;

- (ii) Black liquor by-product from paper production;
- (iii) Wood from old growth forests; or
- (iv) Municipal solid waste.

(26) "Substitute resource" means reasonably available electricity or generating facilities, of the same contract length or facility life as the eligible renewable resource the utility invested in to comply with chapter 19.285 RCW requirements, that otherwise would have been used to serve a utility's retail load in the absence of chapter 19.285 RCW requirements to serve that retail load with eligible renewable resources.

(27) "Target year" means the specific year for which a renewable energy target must be met.

(28) "Ten-year potential" means the ten-year cost effective conservation resource potential.

(29) "Utility" means a consumer-owned electric utility, as the term consumer-owned utility is defined in RCW 19.29A.010, that serves more than twenty-five thousand retail customers in the state of Washington. The number of customers served shall be based on data reported by a utility in Form EIA - 861, "Annual Electric Power Industry Report," filed with the Energy Information Administration, United States Department of Energy.

A consumer-owned electric utility whose number of retail customers grows beyond twenty-five thousand over the course of a year shall be subject to the requirements of this chapter, or per chapter 19.285 RCW shall become a qualifying utility, starting January 1 of the following year. All applicable target dates, per chapter 19.285 RCW will be delayed by the same number of years as there are between January 1, 2007, and the year in which the utility becomes a qualifying utility.

(30) "Weather-adjusted load" means load calculated after variations in peak and average temperatures from year to year are taken into account.

(31) "WREGIS" means the Western Renewable Energy Generation Information System. WREGIS is an independent, renewable energy data base for the region covered by the Western Interconnection. WREGIS creates renewable energy certificates, WREGIS certificates, for verifiable renewable generation from units that register in the data base. The department selects WREGIS as the renewable energy credit tracking system to issue verified RECs per RCW 19.285.030 (17) in WAC 194-37-210.

(32) "Year" means the twelve-month period commencing January 1 and ending December 31.

[Statutory Authority: RCW 19.285.080(2). 08-07-079, § 194-37-040, filed 3/18/08, effective 4/18/08.]

WAC 194-37-050 Documentation and auditing timelines. Utilities will maintain all records necessary to document their compliance with the Energy Independence Act, as described in WAC 194-37-070, 194-37-080, 194-37-090, 194-37-100, 194-37-120, 194-37-130, 194-37-140, 194-37-150, 194-37-160, 194-37-170, 194-37-180, 194-37-190, and 194-37-200. All current and historical reports required in WAC 194-37-060 and 194-37-110 shall be available to a utility's customers and may be provided in conjunction with the utilities requirements under RCW 19.29A.050. Utilities that are not under the jurisdiction of the Washington state auditor must be audited for compliance with the Energy Independence Act by an independent auditor at least every twenty-four months.

[Statutory Authority: RCW 19.285.080(2). 08-07-079, § 194-37-050, filed 3/18/08, effective 4/18/08.]

WAC 194-37-060 Conservation reporting requirements. Each utility shall submit an annual conservation report to the department by June 1 beginning in 2012. The conservation report shall document the utility's progress in meeting the conservation targets established in RCW 19.285.040 and shall include the following:

(1) A summary of the data the utility reports to the "planning, tracking and reporting system." The summary shall include total electricity savings by customer sector - residential, commercial, industrial, and agricultural, by production efficiencies, and by distribution efficiencies. To create this summary report, each utility will report its annual conservation achievements using the NWPC's regional technical forum "planning, tracking and reporting system," or an alternative reporting system approved, in advance of the reporting year, by the department. Each utility can report using the default values embedded in the NWPC's planning, tracking and reporting system or the utility may use its own inputs as documented per WAC 194-37-080 (8) and (9).

(2) If the utility counts towards its biennial target any electricity savings from local, regional, state, or federal market transformation programs, or local, state or federal codes or standards, the utility shall include copies of reports of the annual electricity savings for the utility's service territory as estimated and recorded by entities such as the department, the NWPC, regional market transformation organizations, or the utility.

(3) A brief description of the methodology used to establish the utility's ten-year potential and biennial target to capture cost-effective conservation, including the share of this target to be captured by efficiency improvements in customer measures, and, if any, in distribution measures and production measures.

(4) The utility's total expenditures for conservation broken down by residential sector, commercial sector, industrial sector, and agricultural sector, and, if any, production efficiency and distribution efficiency.

(5) The most recent final audit report(s), if any, that evaluate(s) the utility's compliance with chapter 19.285 RCW and the information the utility reported per this chapter.

(6) In even years this report must include the following information categorized by customer conservation savings, and if any, total distribution efficiency savings, and total production efficiency savings:

(a) The utility's achievement in meeting its preceding biennial target; and

(b) The utility's current ten-year potential and biennial target.

[Statutory Authority: RCW 19.285.080(2), 08-07-079, § 194-37-060, filed 3/18/08, effective 4/18/08.]

WAC 194-37-070 Documenting development of conservation targets. (1) Ten-year potential. By January 1, 2010, each utility shall establish its ten-year cost-effective conservation resource potential. At least every two years thereafter, the public utility shall review and update this assessment for the subsequent ten-year period.

(2) Biennial target. In January 2010, and each two years thereafter, each utility shall establish and make public a biennial conservation target. The utility's biennial target shall be no less than its pro rata share of its ten-year potential.

(3) To document that the utility has established its ten-year potential and biennial target using methodologies consistent with those in the fifth power plan, the utility shall choose one of the documentation procedures set forth in subsection (4), (5), or (6) of this section, subject to the following conditions:

(a) If a utility uses the conservation calculator, or the modified conservation calculator to determine its customer conservation ten-year potential, it must use the utility analysis option per subsection (6) of this section to compute any ten-year potential for production and distribution efficiencies.

(b) If a portion of a utility's ten-year potential and biennial target includes calculations of efficiency gains from utility production and/or distribution efficiency measures, that portion of the ten-year potential or biennial target that are not included in the list of measures approved by the regional technical forum and listed on the planning, tracking and reporting web site shall carry the stamp of a registered professional engineer licensed by the Washington department of licensing.

(c) If a utility includes production and/or distribution efficiencies in its target, then a utility's ten-year potential shall be the combined total of all cost effective achievable conservation in customer, distribution, and production efficiency measures available to that utility.

(d) A utility will hold a noticed public meeting, which provides an opportunity for public comment, regarding its assessment of conservation potential. The utility will adopt the ten-year potential and the two-year conservation targets by action of the utility's governing board in a public meeting. Such public meeting may be conducted separately, or as part of public meetings conducted for resource planning, budget setting, or other related processes. The public notice will indicate that the meeting agenda includes the establishment of the utility's ten-year and biennial targets.

(4) Conservation calculator option.

(a) A utility that chooses this option will document its calculation of its pro rata biennial conservation targets based on its share of regional annual megawatt-hour retail sales using the NWPCC's conservation calculator. If the NWPCC updates its conservation calculator within twelve months of an even-numbered year, a utility may choose to use the NWPCC's most recent conservation calculator or the immediately preceding version.

(b) Any utility that publishes a ten-year potential and biennial target with the customer sector portion of its biennial target equal to or higher than its target calculated using the conservation calculator has effectively documented its biennial target setting requirement for customer conservation.

(c) Starting in 2010, a utility that uses the conservation calculator to establish its ten-year potential and biennial target may deduct its biennial customer sector conservation achievement that meets the criteria in WAC 194-37-080(2) from its share of the NWPCC's conservation resource potential for its subsequent assessment.

(5) Modified conservation calculator option.

A utility that chooses this option will document consistency with the NWPCC's methodologies by modifying its ten-year potential and biennial target as identified through the use of the conservation calculator by making the following adjustments to the NWPCC's analysis in the NWPCC's most recently published power plan:

(a) Deduct conservation measures in the NWPCC's list not applicable to the utility's service territory;

(b) Add conservation measures, that are not included in the NWPCC's list, but are applicable to the utility's service territory;

(c) Modify the number or ratio of applicable units, such as the ratio of electrically heated houses or square footage of commercial space, if the utility has data surveys indicating that their data on applicable units varies from the NWPCC's;

(d) Increase and/or reduce the per unit incremental resource savings for conservation measures, relative to the NWPCC's data for savings per unit;

(e) Increase and/or reduce forecasted program costs;

(f) Increase or decrease retail sales growth rates; and

(g) Increase or decrease avoided distribution capacity cost savings.

(6) Utility analysis option.

(a) The NWPCC's analytical methodology for establishing the conservation resource potential and conservation targets for the Northwest power system is outlined in procedures (a)(i) through (xv) of this subsection. A utility that chooses this option will document that it established a ten-year potential using an analytical methodology consistent

with these NWPCC procedures (a)(i) through (xv) of this subsection:

(i) Analyze a broad range of energy efficiency measures considered technically feasible;

(ii) Perform a life-cycle cost analysis of measures or programs, including the incremental savings and incremental costs of measures and replacement measures where resources or measures have different measure lifetimes;

(iii) Set avoided costs equal to a forecast of regional market prices, which represents the cost of the next increment of available and reliable power supply available to the utility for the life of the energy efficiency measures to which it is compared;

(iv) Calculate the value of the energy saved based on when it is saved. In performing this calculation, use time differentiated avoided costs to conduct the analysis that determines the financial value of energy saved through conservation;

(v) Conduct a total resource cost analysis that assesses all costs and all benefits of conservation measures regardless of who pays the costs or receives the benefits. The NWPCC identifies conservation measures that pass the total resource cost test as economically achievable;

(vi) Identify conservation measures that pass the total resource cost test, by having a benefit/cost ratio of one or greater as economically achievable;

(vii) Include the increase or decrease in annual or periodic operations and maintenance costs due to conservation measures;

(viii) Include deferred capacity expansion benefits for transmission and distribution systems in its cost-effectiveness analysis;

(ix) Include all nonpower benefits that a resource or measure may provide that can be quantified and monetized;

(x) Include an estimate of program administrative costs;

(xi) Discount future costs and benefits at a discount rate based on a weighted, after-tax, cost of capital for utilities and their customers for the measure lifetime;

(xii) Include estimates of the achievable customer conservation penetration rates for retrofit measures and for lost-opportunity (long-lived) measures. The NWPCC's twenty-year achievable penetration rates, for use when a utility assesses its twenty-year potential, are eighty-five percent for retrofit measures and sixty-five percent for lost opportunity measures achieved through a mix of utility programs and local, state and federal codes and standards. The NWPCC's ten-year achievable penetration rates, for use when a utility assesses its ten-year potential, are sixty-four percent for non-lost opportunity measures and twenty-three percent for lost-opportunity measures; the weighted average of the two is a forty-six percent ten-year achievable penetration rate;

(xiii) Include a ten percent bonus for conservation measures as defined in 16 U.S.C. § 839a of the Pacific Northwest Electric Power Planning and Conservation Act;

(xiv) Analyze the results of multiple scenarios. This includes testing scenarios that accelerate the rate of conservation acquisition in the earlier years; and

(xv) Analyze the costs of estimated future environmental externalities in the multiple scenarios that estimate costs and risks.

(b) In addition to the requirements in subsection (6) of this section, the utility may document any variable listed in subsection (5) of this section to indicate that its conservation resource assessment methodology is consistent with the NWPCC's but results in unique conservation resource assessment outcomes.

[Statutory Authority: RCW 19.285.080(2), 08-07-079, § 194-37-070, filed 3/18/08, effective 4/18/08.]

WAC 194-37-080 Documentation of conservation savings. (1) The utility shall document:

(a) That it achieved its biennial conservation target;

(b) The total savings in customer efficiency measures; and

(c) If included in the target, the savings in the production and distribution sectors.

(2) A conservation measure or program counts towards a utility biennial target if it meets the following criteria:

(a) The conservation has a measure life of at least two years, or, if the measure life is less than two years the utility can verify that it has acquired the conservation for the entire biennium;

(b) It meets the definitions of conservation and cost effective as contained in WAC 194-37-040; and

(c) The NWPCC includes the measure or program in its power plan, or the measure or program is not identified by the NWPCC but it meets the definition of cost effective in RCW 19.285.030.

(3) The utility shall count the total first year savings of a conservation measure in the year during which either the measure was installed or the utility paid for it.

(4) Each utility may count towards its biennial conservation targets the proportionate share of savings resulting in its service territory from the following conservation efforts during the one biennium in which either the measure or program was placed in service or the utility paid for the measure:

(a) End-use savings from region-wide conservation projects that are centrally funded by BPA and for which the utility shared in the funding through its BPA rates.

(b) Savings from regional market transformation efforts if the NWPCC includes the program measures in its most recently published *Power Plan's* conservation resource potential or, as a newly emerging technology, the measure has yet to be included in the NWPCC's resource potential. Each utility will report a proportion of savings from these programs using established distribution methods, based on each utility's relative share of funding the regional market transformation effort through both direct funding and indirect funding through their BPA rates.

(c) Savings from improved federal minimum energy efficiency standards or Washington state building energy code improvements or improved state appliance codes and standards in the biennium in which they become effective, as proportionate to the utility's service territory. After that biennium, a utility may no longer include savings from those specific codes and/or standards in its next ten-year potential.

(5) Utilities may count savings from more stringent local building and/or local equipment codes and standards, including utility new service or connection standards, towards meeting their biennial conservation target in the biennium in which they become effective and in each biennium the local

standards continue to be enforced and achieve incremental savings above minimum state energy codes or minimum federal energy standards.

(6) A utility cannot count the loss of load due to curtailments or matters outside of the utility's control (such as a facility shut-down) as achievement towards its conservation targets. However, such losses of load may change the level of current and future targets to the extent that they reduce the conservation potential available to the utility.

(7) The energy savings from an increase in distribution efficiencies are described, documented and counted under WAC 194-37-090. The energy savings from an increase in production efficiencies are described, documented and counted under WAC 194-37-100.

(8) Conservation savings from utility programs beginning in 2010 for measures for which the NWPCC and the regional technical forum have established per unit energy savings values will be based on the per unit savings set by the NWPCC's regional technical forum "planning, tracking and reporting system," unless the utility documents its variations in electricity saving estimates from the regional technical forum.

(9) Conservation savings from utility programs beginning in 2010 for custom measures shall be developed pursuant to the NWPCC's custom requirements available through the regional technical forum's "planning, tracking and reporting system" or through a similar analytical framework.

(10) A utility may count towards the utility's biennial end-use conservation target, twelve individual months' worth of conservation during the first twelve months of a high efficiency cogeneration facility's operations in its service territory. The high efficiency cogeneration facility shall be owned and used by a retail electric consumer to meet that consumer's heat and power needs. Only that output used by that customer to meet its own needs can count toward the utility's conservation target.

In order to count this in its conservation target, the utility shall prepare the following documentation, certified by a registered professional engineer licensed by the Washington department of licensing:

(a) That the cogeneration system has a useful thermal energy output of no less than thirty-three percent of the total energy output; and

(b) An analysis that indicates the reduction in annual electricity consumption due to high efficiency cogeneration. This reduction is calculated as the net facility's annual electrical energy production times the ratio of the fuel chargeable to power heat rate of the cogeneration facility divided by the heat rate on a new and clean basis of a best-commercially available technology combined-cycle natural gas-fired combustion turbine.

(11) A utility may document shortfalls in meeting its biennial conservation target due to lack of customer participation. Documentation of such shortfalls shall include a demonstration that:

(a) A broad array of marketing and program options were provided to customers throughout the biennium; and

(b) The utility offered throughout the biennium to pay customers an incentive in an amount equal to the utility's full avoided cost over the lifetime of measures, up to one hundred percent of the incremental cost of measures. Any such short-

fall cannot be automatically deducted from the utility's conservation potential assessment for the subsequent biennium.

[Statutory Authority: RCW 19.285.080(2). 08-07-079, § 194-37-080, filed 3/18/08, effective 4/18/08.]

WAC 194-37-090 Additional documentation of efficiency from distribution system loss reduction improvements, including peak demand management and voltage regulation.

(1) To the extent a utility can document a distribution system upgrade or management practice results in lower line losses and/or transformation losses, the avoided energy supply requirement to serve customers may be included in the utility's assessment of its ten-year resource potential and may count as conservation achievement towards the utility's biennial target.

(2) A utility that counts distribution system improvements in meeting its obligations under RCW 19.285.040 shall document these savings on either a component-performance basis or a system-analysis basis and shall indicate these savings distinctly from end-use and production efficiency savings.

(a) Component-performance basis. A utility that implements the component-performance basis for documenting distribution system improvements shall identify the components of the distribution system that were replaced, and the savings from replacement. For components that are not included in the list of measures approved by the regional technical forum and listed on the planning, tracking and reporting web site, the calculation shall be prepared under the direction of, and carry the stamp of a registered professional electrical engineer licensed by the Washington department of licensing.

(b) System-analysis basis. A utility that implements the system analysis basis for documenting conservation savings from distribution system improvements shall provide the following:

(i) For distribution system upgrades, the utility will prepare a distribution flow analysis to compare the annual energy losses of the system being replaced or upgraded to the final system as installed.

(ii) For conservation voltage regulation, the utility will prepare a distribution flow analysis to compare the annual energy losses of the system before and after the implementation of a voltage regulation program. The difference in annual kilowatt-hour requirement at the utility point(s) of receipt (for distribution utilities) or net energy for load for generating utilities may be counted as conservation savings.

(iii) For peak demand management, the utility will prepare a distribution flow analysis to compare the annual energy losses of the system before and after implementation of the peak demand management program. The change in net energy losses may be counted as conservation savings. Any net reduction in energy sales (economic curtailment) shall not be included in conservation savings.

(iv) The distribution flow analysis conducted for (b)(i), (ii), or (iii) of this subsection shall be prepared under the direction of, and carry the stamp of a registered professional electrical engineer licensed by the Washington department of licensing.

[Statutory Authority: RCW 19.285.080(2). 08-07-079, § 194-37-090, filed 3/18/08, effective 4/18/08.]

WAC 194-37-100 Additional documentation of improved efficiency from production facilities. (1) A utility will measure production efficiency improvements as the fraction of fuel savings achieved by the utility. The percentage reduction in fuel use per kilowatt-hour will be applied to the annual generation to determine the amount that is to be reported as conservation.

(2) A utility that includes production efficiency improvements in its annual report pursuant to RCW 19.285.070 shall document the electricity savings for each generating unit with the following information certified by a registered professional engineer licensed by the Washington state department of licensing:

(a) The first twelve-month electricity savings that the utility is counting towards its biennial target;

(b) A description of the efficiency improvements made to the generating unit;

(c) Annual fuel use for three preceding years, in quantity units and million British thermal units;

(d) Annual electrical output for three preceding years, in kilowatt-hours;

(e) The amount of capital investment and/or annual operating expenditure associated with the efficiency improvements;

(f) The cost-effectiveness analysis prepared by the utility in planning the efficiency improvement(s);

(g) Any post-retrofit analysis prepared by the utility in evaluating the performance and/or cost-effectiveness of the efficiency improvement(s);

(h) A simple calculation showing the fuel use per kilowatt-hour before the efficiency improvement, the fuel use per kilowatt-hour after the efficiency improvement, and the amount of energy conservation being reported as the product of the percentage improvement in fuel use per kilowatt-hour and the number of kilowatt-hours generated; and

(i) If efficiency improvements are installed at the same time as pollution control equipment that may itself affect efficiency, the utility may provide documentation of the effect of the efficiency improvements alone on the fuel consumption per kilowatt-hour of the production facility. In this situation, the utility shall provide a description of the changes made, the capital cost expended for both efficiency changes and pollution control equipment, and an analysis of the impact of each on the fuel use per kilowatt-hour of the production facility.

(3) Improvements that are included in the list of measures approved by the regional technical forum and listed on the planning, tracking and reporting web site need not carry the certification of a professional engineer and may instead use the savings deemed by the regional technical forum.

(4) A utility shall not count towards its biennial conservation target the results from efficiency improvements made to hydropower facilities that are qualified incremental hydropower efficiency improvements and are counted towards any utility's renewable energy targets under RCW 19.285.040 or 19.285.050.

[Statutory Authority: RCW 19.285.080(2), 08-07-079, § 194-37-100, filed 3/18/08, effective 4/18/08.]

WAC 194-37-110 Renewable resource energy reporting. Each utility shall submit a renewable resource

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energy report to the department by June 1 of each year, beginning in 2012. Reporting requirements vary, as follows, depending upon how the utility elects to comply with chapter 19.285 RCW.

(1) Universal renewable energy reporting requirements. The renewable resource energy report shall include the following information:

(a) The utility's annual load for the two years preceding each renewable energy target year and the average load for those two years.

(b) The amount of megawatt-hours needed to meet the utility's annual renewable energy targets identified in RCW 19.285.040. These annual targets are established as a percentage of the utility's average retail load for the two years prior to the renewable energy target year: Three percent of each year 2012 through 2015; nine percent of each year 2016 through 2019; and fifteen percent for year 2020 and each year thereafter.

(c) The names of the eligible renewable resource facilities and/or the vintage (year in which associated power was generated) of renewable energy credits by generator that the utility owns or with which the utility has a contract dated no later than January 1 of the target year; and the estimated annual quantity (megawatt-hours) of eligible renewable resources or RECs that will be produced, or has been produced, through these resources or contracts to meet its annual targets.

(i) A utility may count any purchases of:

(A) Electricity from BPA that are generated by eligible renewable resources, for which no RECs have been created or, if RECs have been created, for which the RECs have been or will be retired by BPA on behalf of the utility; or

(B) RECs from the BPA generated by eligible renewable resources to meet all or any portion of its annual eligible renewable resource targets.

To document the annual amount of power supplied by BPA from eligible renewable resources, the utility may rely on BPA's determination of the portion of its power supply provided by eligible renewable resources during a calendar year for which no RECs have been created, or, if RECs have been created, that the RECs have been or will be retired by BPA on behalf of the utility.

(ii) The list of resources will identify any resource that both commenced operations after December 31, 2005, and meets the apprenticeship construction practice standards as adopted by the council per WAC 194-37-120(1), thereby earning a 1.2 multiplier credit on its electricity output.

(iii) The list of resources will identify any resource that meets the definition of distributed generation and that the utility owns or contracts for the associated REC, thereby earning a 2.0 multiplier credit on the electricity output.

(d) A utility that does not meet the renewable energy requirements in RCW 19.285.040(2), the financial requirements in RCW 19.285.050, or the financial requirements in RCW 19.285.040 (2)(d) shall include the following information in its June 1 report of each year beginning in 2014:

(i) The quantity of eligible renewable resources acquired by December 31 of the target year;

(ii) The quantity of RECs acquired from the target year, the year prior or the year subsequent to the target year; or

(iii) The combination of (d)(i) and (ii) of this subsection.

(e) The most recent final audit report(s), if any, that evaluate(s) the utility's compliance with chapter 19.285 RCW and the information reported per this chapter.

(2) Renewable energy target reporting.

(a) A utility that meets the renewable energy requirements in RCW 19.285.040(2) shall include the following in its June 1 report of each year beginning in 2014.

(i) Demonstration that it acquired:

(A) By January 1 of the target year, megawatt-hours of eligible renewable resources and that those megawatt-hours were actually generated by December 31 of the target year.

(B) By January 1 of the target year, RECs produced during the target year, the year prior or the year subsequent to the target year; or

(C) Any combination of (a)(i)(A) and (B) of this subsection, in amounts sufficient to meet the percent of load target for the calendar year two years prior. Utilities may report shortfalls in expected generation from resources documented in (a)(i)(A) of this subsection and production of RECs documented in (a)(i)(B) of this subsection and may document that the shortfalls were offset by additional purchases of RECs or eligible renewable resources.

(ii) Documentation of the amount of megawatt-hours purchased or generated, the amount of WREGIS-certified RECs purchased and the names of the respective eligible renewable facilities that produced the associated power, specified by the year it was generated.

(b) The utility may, in addition, submit a copy of its fuel mix report, per chapter 19.29A RCW, for each target year.

(3) Resource cost reporting.

Each year that a utility does not meet the renewable energy target requirements in RCW 19.285.040, but meets the financial requirements in RCW 19.285.050, the utility shall include the following information in its June 1 report of that year:

(a) Its annual revenue requirement for the target year;

(b) The annual levelized delivered cost of its eligible renewable resource(s) reported separately for each resource;

(c) The annual levelized delivered cost of its substitute resources and the eligible renewable resource with which it is being compared;

(d) The total cost of renewable energy credits to be applied in the reporting year;

(e) The percentage of its annual revenue requirement invested in the incremental cost of eligible renewable resources and the cost of RECs; and

(f) The most current information required by WAC 194-37-160 used for this financial demonstration.

(4) Nonload growing utility reporting.

Each year that a utility does not meet the renewable energy target requirements in RCW 19.285.040 (2)(a), but meets the financial requirements in RCW 19.285.040 (2)(d), the utility shall report to the department each June 1 its:

(a) Annual revenue requirement for the target year;

(b) Weather-adjusted load for each of the three years immediately prior to the target year;

(c) Delivered cost of its eligible renewable resource(s), RECs or a combination of both for the target year to be applied to the one percent of annual revenue requirement, reported separately for each resource;

(d) Quantity of megawatt-hours for each target year for which the utility:

(i) Commenced or renewed ownership of nonrenewable resources after December 7, 2006; or

(ii) Made electricity purchases from nonrenewable energy resources, incremental to its annual electricity purchases made or contracted for prior to December 7, 2006. Sources of power for daily spot market purchases are not counted; and

(e) List of RECs that the utility acquired, in addition to any RECs purchased in (c) of this subsection, to offset nonrenewable purchases listed in (d) of this subsection.

(5) Reporting of uncontrollable events.

For any target year that a utility demonstrates to the auditor that it did not meet the annual renewable resource requirements in chapter 19.285 RCW due to events beyond the reasonable control of the utility per RCW 19.285.040 (2)(i), the utility shall summarize these events in its June 1 report to the department immediately following the target year.

[Statutory Authority: RCW 19.285.080(2), 08-07-079, § 194-37-110, filed 3/18/08, effective 4/18/08.]

WAC 194-37-120 Documentation of renewable energy achievement. Each utility shall provide the auditor access to contracts indicating purchases of or documentation indicating ownership of RECs and/or megawatt-hours from eligible renewable/ resources equal to or exceeding the annual percentage standard for the target year. The megawatt-hours from owned eligible renewable resources count towards the percentage annual renewable energy target as long as the associated nonpower attributes, or RECs, if any have been created, are not owned by a separate entity or have not been used in an optional pricing program. A utility's power purchase contract, for eligible renewable resources, provides documentation for this section if the contract specifies that the nonpower attributes, or RECs if any have been created, associated with the power from the eligible renewable resources have been acquired by the utility.

(1) Each utility that claims a 1.2 multiplier credit for the electricity output from an eligible renewable resource per RCW 19.285.040 (2)(h)(i) shall provide a copy of written documentation from the council that the facility met the apprenticeship labor standard of fifteen percent of the total labor hours used in its construction.

(2) A utility may provide a copy of documentation from the BPA indicating a quantity of power that BPA sold to the utility for the target year that was supplied by an eligible renewable resource.

(3) Each utility that claims a 2.0 multiplier credit for the electricity output from an eligible renewable resource per RCW 19.285.040 (2)(b) shall provide documentation that the REC applied in that year, associated with the distributed generation resource, is owned by the utility.

[Statutory Authority: RCW 19.285.080(2), 08-07-079, § 194-37-120, filed 3/18/08, effective 4/18/08.]

WAC 194-37-130 Documentation of incremental hydropower. (1) Utilities may count toward their annual renewable resource targets incremental power acquired from qualified incremental hydropower efficiency improvements made at the following facilities since 1999:

(a) Hydropower facilities in the Pacific Northwest owned by a qualifying utility where the new generation does not result in new water diversions or impoundments.

(b) Hydroelectric generation facilities in irrigation pipes and canals located in the Pacific Northwest, where the additional generation does not result in new water diversions or impoundments.

(2) The utility shall calculate renewable resource power from incremental hydropower as the increase in annual megawatt-hours of generation attributable to the qualified incremental hydropower efficiency improvements under average water generation.

(3) The increase in annual megawatt-hours of generation attributable to the qualified incremental hydropower efficiency improvements shall be documented by engineering studies or with before and after generation data. The documentation shall clearly explain:

(a) Where the facility is located;

(b) When the improvements were made;

(c) How the amount of generation in "average water generation" was calculated;

(d) What other factors may have caused an increase in electricity production and how the amount "attributable to the qualified improvements" was extracted from the total increase;

(e) How and why the "qualified improvements" increased hydropower production; and

(f) How the utility came to acquire the incremental output associated with the qualified improvements.

[Statutory Authority: RCW 19.285.080(2). 08-07-079, § 194-37-130, filed 3/18/08, effective 4/18/08.]

WAC 194-37-140 Documentation of renewable resource financial path for no-load growth utilities. For each year that a utility meets the renewable energy financial cost cap, associated with no load growth, identified in RCW 19.285.040 (2)(d), the utility must document the following by January 1:

(1) That it used a consistent methodology from year to year to weather-adjust its retail load;

(2) That its weather-adjusted load for the most recent prior year is lower than the third year prior;

(3) That it invested at least one-percent of its total annual revenue requirement in each target year on eligible renewable resources, RECs, or a combination of both;

(4) That it executed contracts, dated no later than January 1 of the target year, for power purchases of sufficient eligible renewable resources and/or RECs;

(5) The quantity of megawatt-hours for each target year for which the utility:

(a) Commenced or renewed ownership of nonrenewable resources after December 7, 2006; or

(b) Made electricity purchases from nonrenewable energy resources, incremental to its annual electricity purchases made or contracted for before December 7, 2006.

Sources of power for daily spot market purchases are not included in this calculation;

(6) The RECs the utility acquired, in addition to any RECs acquired for subsection (3) of this section, to offset nonrenewable power purchases listed in subsection (5) of this section; and

(7) Annual revenue requirement for the target year.

[Statutory Authority: RCW 19.285.080(2). 08-07-079, § 194-37-140, filed 3/18/08, effective 4/18/08.]

WAC 194-37-150 Financial documentation of annual revenue requirement. (1) For purposes of the report filed pursuant to RCW 19.285.070, a utility shall document its annual revenue requirement.

(2) A utility that uses a different basis for the determination of its annual revenue requirement for purposes of calculating what it expects to recover or actually recovers through retail electricity sales in the state of Washington in that year may use that number in the calculation of the cost cap and must provide documentation to support this alternative approach.

[Statutory Authority: RCW 19.285.080(2). 08-07-079, § 194-37-150, filed 3/18/08, effective 4/18/08.]

WAC 194-37-160 Documentation of financial cost cap—Current information and timeline. By January 1 of the first target year that a utility fulfills its renewable energy requirements under RCW 19.285.050, the utility shall select one of the following methodologies for documenting the incremental cost of all eligible renewable resources acquired thereafter by that utility:

(1) Annual update methodology. In each year that a utility fulfills its renewable energy requirements by complying with the cost cap identified in RCW 19.285.050 it must document its calculations no later than January 1 of the target year. The utility will use the most current information available to the utility within twelve months prior to the initial documentation of the cost cap pursuant to WAC 194-37-170 through 194-37-190. The utility will update this documentation in its June 1 report submitted pursuant to RCW 19.285.070. These annual updates of costs, based on the most current information available, apply to both the eligible renewable resource and the substitute resource.

(2) Permanent one-time methodology. For each new investment in an eligible renewable resource, a utility shall perform a one-time calculation of the levelized incremental cost pursuant to WAC 194-37-170 through 194-37-190. The levelized incremental cost shall be a single annual value expressed in real, constant-year dollars. The levelized incremental cost for each eligible renewable resource project or purchase, calculated through this one-time analysis in the year of acquisition, shall be allowed to inflate utilizing the Producer Price Index over the life of the eligible renewable resource after the initial calculation. The utility will include a determination of incremental cost for each new investment in an eligible renewable resource and inflation-adjusted incremental costs for previous eligible renewable resource investments in its June 1 report submitted pursuant to RCW 19.285.070, beginning in the year the utility complies with the cost cap identified in RCW 19.285.050.

[Statutory Authority: RCW 19.285.080(2). 08-07-079, § 194-37-160, filed 3/18/08, effective 4/18/08.]

WAC 194-37-170 Documentation for financial path—Levelization of costs. (1) Each utility must document its calculation of the levelized annual incremental cost of eli-

gible renewable resources. Utilities are encouraged, but not obligated, to use the following methodology:

Step 1: Calculate the net present value of the cost of the utility's eligible renewable resource and substitute resource over an equivalent contract length or facility life.

Step 2: Calculate equal nominal values over the appropriate contract length or facility life that have a net present value equal to those calculated in Step 1, using the same discount rate.

Step 3: Calculate the annual difference between the levelized delivered cost for the eligible renewable resource and the substitute resource to determine the levelized incremental cost of the eligible renewable resource.

A utility that uses the annual update methodology must document the basis for any change to the levelization methodology used in a prior June 1 report to levelize the costs of an eligible renewable resource and its associated substitute resource.

(2) Regardless of the methodology chosen to levelize costs, utilities must document the basis for their chosen method for levelizing costs.

(3) Utilities must document the basis for the discount rate used in its levelized cost calculations.

(4) Utilities must document how the discount rate used to perform the levelized cost calculations is consistent with the inflationary assumptions incorporated into the delivered cost projections for the eligible renewable resource and substitute resource.

(5) Utilities must document how the method and assumptions used to levelize delivered costs for the eligible renewable resource are consistent with those used to levelize the delivered cost of the associated substitute resource.

[Statutory Authority: RCW 19.285.080(2), 08-07-079, § 194-37-170, filed 3/18/08, effective 4/18/08.]

WAC 194-37-180 Documentation of financial path—Delivered cost. (1) The delivered cost of a resource includes all direct and indirect costs associated with that resource being delivered to the distribution system of a utility over the contract length or facility life of the delivered resource. Direct and indirect costs may include operating and capital expenses related to the delivered resource.

(2) Using the Uniform System of Accounts of the Federal Energy Regulatory Commission (FERC) as an illustration, the reported resource costs are expected to generally fall within, but not necessarily be limited to, the following cost accounts:

Operating Expenses

Accounts 500-557:	Production Expense
Account 565:	Wholesale Wheeling Expense
Accounts 920-935:	Administrative and General Expense
Account 408.1:	Taxes Other than Federal Income Taxes

Capital Expenses

Accounts 403-407:	Depreciation and Amortization Expense
Accounts 427-431:	Interest-Related Expenses

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(3) A utility may include actual costs in order to equitably compare the costs of eligible renewable resources and substitute resources. This may include the actual costs of transmission, firming, shaping, integration, and project specific development costs.

(4) Utilities are encouraged to use the FERC system of accounts to document the delivered cost of resources. Regardless of the accounting convention used, utilities must document the delivered cost estimates for eligible renewable resources and their associated substitute resources in a manner consistent with generally accepted accounting standards.

[Statutory Authority: RCW 19.285.080(2), 08-07-079, § 194-37-180, filed 3/18/08, effective 4/18/08.]

WAC 194-37-190 Documentation of financial path—Substitute resource and resource equivalence. (1) In support of its annual filings to the department under RCW 19.285.070, utilities must document the type, availability, and cost of the reasonably available substitute resource used to calculate the incremental cost of an eligible renewable resource.

(a) In documenting the incremental cost under RCW 19.285.050 (1)(b), a utility is encouraged to identify substitute resources using its integrated resource planning process, if one is available. If a utility elects to choose a substitute resource from a different source other than its most recently published integrated resource plan, it must document the basis for this decision. Documentation of the cost of a substitute resource may include, but is not limited to, formal offers for the sale of electricity, or published cost projections from reputable third-party sources.

(b) In its selection of a substitute resource, the utility shall develop documentation demonstrating that the substitute resource satisfies the requirements set forth in RCW 19.285.050. The requirements are:

(i) Equivalence between the eligible renewable resource and the substitute resource by demonstrating the equivalence in the amount of energy produced by each resource;

(ii) Equivalence between the eligible renewable resource and the substitute resource by demonstrating the same contract length or facility life of each resource;

(iii) The substitute resource is reasonably available to the utility; and

(iv) The substitute resource does not qualify as an eligible renewable resource.

(c) Only supply-side substitute resources shall be used by utilities in the calculation of the incremental cost of eligible renewable resources.

(d) When the renewable requirements under RCW 19.285.040(2) result in a utility having resources in excess of its load, the utility may use that excess resource as the substitute resource if the substitute resource requirements of (b) of this subsection are otherwise satisfied. The utility will document the resale revenues, net of transaction costs, received through the sale of excess resources or the purchase price for the sale of the excess facility sold as a result of the requirement to acquire eligible renewable resources. A utility that uses a value other than the documented resale revenue in the determination of the levelized delivered cost of the substitute resource, such as a forecast of projected market prices, must provide documentation to support this alternative approach.

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(e) A utility may use foregone power purchases from BPA, plus any billing credit obtained for reducing its purchases from BPA, as the basis for the cost of the substitute resource if:

(i) The substitute resource requirements of (b) of this subsection are otherwise satisfied;

(ii) It is entitled under its BPA power sales contract to have the BPA meet its net power requirements for the expected life of an eligible renewable resource or eligible renewable resource purchase; and

(iii) As a result of meeting the renewable requirements under RCW 19.285.040(2), it foregoes part of its BPA entitlement in order to obtain that eligible renewable resource.

(2) For an eligible renewable resource acquired prior to the passage of chapter 19.285 RCW, November 7, 2006, a utility must support the selection of the related substitute resource used in the determination of the incremental cost under RCW 19.285.050 with documentation that was available at the time of the utility's decision to acquire the eligible renewable resource. If no such documentation is available, the incremental cost of an eligible renewable resource acquired prior to the passage of chapter 19.285 RCW will be assumed equal to zero.

[Statutory Authority: RCW 19.285.080(2). 08-07-079, § 194-37-190, filed 3/18/08, effective 4/18/08.]

WAC 194-37-200 Financial documentation path using renewable energy credits. A utility may elect to invest in RECs to meet any portion of, or the entirety of, each annual renewable resource target in RCW 19.285.040(2) or 19.285.050(1). If the cost of the RECs and the incremental cost of acquired renewable resources, as documented according to WAC 194-37-150 through 194-37-190, for any one year meets or exceeds four percent of the utility's annual revenue requirement, the utility shall document that the utility achieved the four percent cost cap alternative compliance path in RCW 19.285.050(1). The documentation must include copies of its WREGIS RECs, copies of purchase contracts, and its annual revenue requirement.

[Statutory Authority: RCW 19.285.080(2). 08-07-079, § 194-37-200, filed 3/18/08, effective 4/18/08.]

WAC 194-37-210 Selection of a renewable energy credit tracking system. Pursuant to RCW 19.285.030(17), the department selects WREGIS as the renewable energy credit tracking system. If WREGIS proves to be unworkable and if there are alternative tracking systems, the department may reopen these rules and solicit, through an open process, proposals from other tracking systems to allow it to verify renewable energy credits for compliance with chapter 19.285 RCW.

[Statutory Authority: RCW 19.285.080(2). 08-07-079, § 194-37-210, filed 3/18/08, effective 4/18/08.]