



**HYDROPOWER  
REFORM  
COALITION**

*Putting water, wildlife,  
and people back in rivers.*

November 16, 2007

Howard Schwartz  
Washington Department of Community, Trade and Economic Development  
PO Box 43173  
906 Columbia Street, SW  
Olympia, WA 98504-3173

**RE: Comments on Rulemaking to implement chapter 19.285 RCW, the Energy Independence Act**

Dear Mr. Schwartz:

The Hydropower Reform Coalition offers the following comments on the Department's October 3, 2007 Notice of Proposed Rulemaking regarding the implementation of the Energy Independence Act, and pursuant to Initiative Measure No. 937 which was approved on November 7, 2006.

The Hydropower Reform Coalition (the Coalition) is a consortium of more than 140 outdoor recreation and conservation organizations nationwide that have effectively reduced the footprint of hydropower dams on rivers. Collectively, we engage and support more than one million fishermen, paddlers, birding enthusiasts, and environmental interests who are concerned with, and inspired by, rivers. Coalition's members around the nation advocate for river protection and restoration at individual hydropower dams regulated by the Federal Energy Regulatory Commission (FERC). The Coalition enjoys an especially strong membership in Washington State due to the value placed on our diverse, wild and beautiful river resources, as well as the intense degree of hydropower development and the considerable contribution of hydropower to Washington's energy portfolio.

Our membership supports this rulemaking which will increase Washington's requirements for renewable energy resources (fifteen percent by 2020 along with cost-effective energy conservation). Coalition participation in this rulemaking has sought to support this objective, while at the same time protecting the many rivers and streams that help to define the values and the lifestyle available in the Pacific Northwest. We would like to thank the many agencies, tribes, utilities, organizations, and others who took the time to collaborate and participate in this rulemaking, and who also recognized the importance of both renewable energy and the future of Washington's river resources.

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**Steering Committee:**

Alabama Rivers Alliance • American Rivers • American Whitewater • Appalachian Mountain Club • California HRC  
Coastal Conservation League • Friends of the River • Idaho Rivers United • Michigan HRC • Natural Heritage Institute  
New England FLOW • New York Rivers United • River Alliance of Wisconsin • Trout Unlimited

## **I. WAC 194-37-040 Definitions**

River resources in Washington State and nationally have benefited from the combination of a strong conservation ethic and the involvement, knowledge and dedication that outdoor users bring to resource protection. We believe that this combination will provide equal value, in terms of resource knowledge, economics, and support, for increasing Washington's requirements for renewable energy resources. To take advantage of this ethic, and the values contributed by outdoor users, we recommend that Washington State add recreation characteristics to the definition of "Nonpower attributes." A new definition would read:

(18) "Nonpower attributes" means all environmentally *and recreationally* 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.

## **II. Incremental Hydropower (RCW 19.285.030 (10)(b))**

As mentioned in our March 21, 2007 comments, we believe that any hydropower included as part of a renewable portfolio standard should drive improved performance at our dams by rewarding increased power generation with no additional impact. In our words, "more power from the same water."

We support the latest draft proposed rules which guarantee that hydropower efficiency will result in more power from the same water. The incremental hydropower provision reads in full:

(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.

Also in our March comments, we asked that the rulemaking 1. Define activities that constitute "efficiency improvements," again without increased diversions and impoundments, and 2. Clarify that increased generating capacity itself does not qualify as an efficiency improvement. We support the latest draft proposal's definition and clarification:

(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.

While we support this language, we offer the following suggestions:

- Regarding generation in irrigation pipes and canals, we suggest that this rule require appropriate screening at each site
- That Washington strengthen protections against potential new water diversions by adding the following language in the Incremental Hydropower Provision: "... is not a result of new water diversions or impoundments, that is restricted to water allocations already in use for irrigation, and that does not result in new or additional water rights."
- That efficiency improvements (above) be further strengthened by adding: "The determination of incremental hydropower production shall not be based on any operational changes at such facility not directly associated with the efficiency improvements. "

### **III. Wave, Ocean and Tidal Power (RCW 19.285.030 (18)(f))**

In the past two months, much has happened regarding emerging hydrokinetic (wave, ocean, tidal and in-channel) power. On October 2<sup>nd</sup>, FERC held a technical conference on hydrokinetics in Portland, pulling together utilities, state and federal agencies, organizations, local coastal governments, and other stakeholders to discuss development of a pilot-project process for these new technologies. The Washington Governor's Office of Regulatory Assistance participated as a panel member in this conference. In late October, FERC hosted a second hydrokinetic pilot-project meeting in Washington, DC.

Discussions at both the October conference and meeting reiterated many of the Coalition comments on new technologies submitted on this rulemaking in March. We urge Washington State to include language in its Renewable Portfolio Standard that complements other state and federal language dealing with hydrokinetic projects, and that is sufficient to protect Washington's natural resources from new and potential impacts. This language should be included in any state decisions regarding new renewable technologies and must:

- Identify appropriately-sited renewable energy facilities
- Recognize and protect sensitive species
- Distinguish and avoid potential impacts to recreation
- Address cumulative impacts
- Complete state, regional and national planning
- Guarantee effective and coordinated public and agency involvement

- Assess impacts to Washington rivers and streams

Before allowing new technology projects in state waters, Washington should work with other federal and regional agencies to develop a:

- Baseline information library, needed to complete appropriate siting, identify existing and potential species impacts, and any possible effects on recreational use
- State or regional plan for new technology development that addresses cumulative impacts
- System for coordinating the efforts of the Department of Ecology, Department of Fish and Wildlife, other departments and county planners, and stakeholders involved with hydrokinetics
- Memorandum of Understanding with other coastal states and Federal Agencies that have conditioning authorities for hydrokinetic projects
- Requirement for project decommissioning and removal in cases where the operation or installation of hydrokinetic projects results in significant adverse impacts to public aquatic resources

Thank you for the opportunity to submit comments. Please contact me with any questions about these comments or the Coalition.

Respectfully,



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