



# PROPOSED RULE MAKING

## CR-102 (June 2012)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

**Agency:** Washington State Department of Commerce

- Preproposal Statement of Inquiry was filed as WSR 16-13-133; or
- Expedited Rule Making--Proposed notice was filed as WSR \_\_\_\_\_; or
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

- Original Notice
- Supplemental Notice to WSR \_\_\_\_\_
- Continuance of WSR \_\_\_\_\_

**Title of rule and other identifying information:** (Describe Subject)

WAC 194-37 Energy Independence Act. Requirements to document the methodologies used to identify all available and cost-effective energy conservation.

**Hearing location(s):**

Washington State Department of Commerce  
1011 Plum Street SE  
Olympia, WA 98504

Date: 11/16/2016 Time: 3:00 pm

**Submit written comments to:**

Name: Glenn Blackmon, Energy Office  
Address: P.O. Box 42525  
Olympia, WA 98504-2525  
e-mail EIA@commerce.wa.gov  
fax () \_\_\_\_\_ by (date) 11/16/2016

**Assistance for persons with disabilities:** Contact

\_\_\_\_\_ Carolee Sharp by 11/10/2016

TTY (360) 586-0772 or (360) 725-3118

**Date of intended adoption:** 11/23/2016

(Note: This is NOT the effective date)

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**

The proposed amendments update rules establishing requirements for documentation of energy conservation potential and energy conservation targets and allow utilities to use updated methodologies recently adopted by the regional power planning council.

**Reasons supporting proposal:**

The Energy Independence Act requires that electric utilities develop assessments of energy conservation potential using methodologies consistent with the Northwest Power Planning Council's regional power plan. The power council adopted a new power plan in 2016. Utilities may use the methodologies in the new plan only if Commerce adopts a rule to specify the new plan. The proposed new section and amended section would allow utilities to use the most up-to-date methodologies and would update the documentation requirements to reflect the new power plan.

**Statutory authority for adoption:** RCW 19.285.040(1);  
19.285.080(2).

**Statute being implemented:** Chapter 19.285 RCW

**Is rule necessary because of a:**

- Federal Law?  Yes  No
  - Federal Court Decision?  Yes  No
  - State Court Decision?  Yes  No
- If yes, CITATION: \_\_\_\_\_

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: **October 04, 2016**  
TIME: **4:02 PM**

**WSR 16-20-096**

**DATE**  
October 4, 2016

**NAME** (type or print)  
Jaime Rossman

**SIGNATURE**

**TITLE**  
Rules Coordinator

NEW SECTION

**WAC 194-37-045 Designation of regional power plan.** For the purposes of RCW 19.285.040 (1)(a) and as used in this chapter, "most recently published regional power plan" means the NWPCC's Seventh Northwest Conservation and Electric Power Plan, Council Document 2016-02, dated February 25, 2016. The document is available on the NWPCC's web site at this address: [www.nwcouncil.org/energy/powerplan/7/plan/](http://www.nwcouncil.org/energy/powerplan/7/plan/).

AMENDATORY SECTION (Amending WSR 15-07-002, filed 3/6/15, effective 4/6/15)

**WAC 194-37-070 Development of conservation potential and biennial conservation targets.** (1) Ten-year potential. By January 1st of each even-numbered year, each utility shall identify its achievable cost-effective conservation potential for the upcoming ten years.

(2) Biennial target. By January 1st of each even-numbered year, 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 the ten-year potential identified pursuant to subsection (1) of this section.

(3) Each utility must document the methodologies and inputs used in the development of its ten-year potential and biennial target and must document that its ten-year potential and biennial target are consistent with the requirements of RCW 19.285.040(1). Each utility must apply methodologies consistent with the most recently published regional power plan using inputs that reasonably reflect the specific characteristics of the utility and its customers and the general characteristics of the Pacific Northwest power system.

(4) Each utility must establish its ten-year potential and biennial target by action of the utility's governing board, after public notice and opportunity for public comment.

(5) The methodologies used by the NWPCC in its most recently published regional power plan are summarized in ~~((a) through (e) of)~~ this subsection ~~(+)~~.

~~(a) Analyze a broad range of energy efficiency measures considered technically feasible;~~  
~~(b))~~.

(a) Technical potential. Determine the amount of conservation that is technically feasible, considering measures and the number of these measures that could physically be installed or implemented, without regard to achievability or cost.

(b) Achievable technical potential. Determine the amount of the conservation technical potential that is available within the planning period, considering barriers to market penetration and the rate at which savings could be acquired.

(c) Economic achievable potential. Establish the economic achievable potential, which is the conservation potential that is cost-effective, reliable, and feasible, by comparing the total resource cost of conservation measures to the cost of other resources available to meet expected demand for electricity and capacity. A utility may use either of the following approaches to identify economic achievable potential:

(i) Integrated portfolio approach. A utility may analyze, as a part of its integrated resource plan, the cost-effective potential of conservation resources over a range of potential future outcomes for unknown variables, such as future demand, costs, and resource availability. Economic achievable potential will be based on resource plan that achieves a long-run least-cost and least-risk electric power system considering all power system costs and quantifiable nonenergy costs and benefits.

(ii) Benefit-cost ratio approach. A utility may establish economic achievable potential as those conservation measures or programs that pass a total resource cost test, in which the ratio of total benefits to total costs is one or greater. The benefit-cost calculation must use inputs that incorporate the cost of risks that would otherwise be reflected in an integrated portfolio approach.

(d) Total resource cost. In determining economic achievable potential as provided in (c) of this subsection, perform a life-cycle cost analysis of measures or programs(, including) to determine the net leveled cost, as described in this subsection:

(i) 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;

(ii) Include the incremental savings and incremental costs of measures and replacement measures where resources or measures have different measure lifetimes;

~~((e) Set))~~ (iii) 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;

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

(v) Include avoided energy 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;

~~((d) 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;~~

~~(e) 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;~~

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

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

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

~~(i))~~;

(vii) Include deferred generation benefits consistent with the contribution to system peak capacity of the conservation measure;

(viii) Include the social cost of carbon emissions from avoided nonconservation resources;

(ix) Include a risk mitigation credit to reflect the additional value of conservation, not otherwise accounted for in other inputs, in reducing risk associated with costs of avoided nonconservation resources;

(x) Include all ~~((nonpower benefits))~~ nonenergy impacts that a resource or measure may provide that can be quantified and monetized;

~~((+j))~~ (xi) Include an estimate of program administrative costs;

~~((+k))~~ (xii) Include the cost of financing measures using the capital costs of the entity that is expected to pay for the measure;

(xiii) 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;~~

~~(l) Include estimates of the achievable conservation penetration rates for conservation measures;~~

~~(m))~~ equal to the discount rate used by the utility in evaluating nonconservation resources; and

(xiv) Include a ten percent bonus for the energy and capacity benefits of conservation measures as defined in 16 U.S.C. § 839a of the Pacific Northwest Electric Power Planning and Conservation Act ~~((+~~

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

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

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:**

**Name of proponent:** (person or organization)  
Washington State Department of Commerce

- Private  
 Public  
 Governmental

**Name of agency personnel responsible for:**

Name	Office Location	Phone
Drafting: Glenn Blackmon, Department of Commerce	1011 Plum Street SE Olympia, WA 98504-2525	(360) 725-3115
Implementation: Glenn Blackmon Washington State Department of Commerce	1011 Plum Street SE Olympia, WA 98504-2525	(360) 725-3115
Enforcement: Glenn Blackmon Washington State Department of Commerce	1011 Plum Street SE Olympia, WA 98504-2525	(360) 725-3115

**Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?**

Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone ( ) \_\_\_\_\_

fax ( ) \_\_\_\_\_

e-mail \_\_\_\_\_

No. Explain why no statement was prepared.

A SBEIS is not required for this rulemaking as none of the affected entities are small businesses. Not applicable.

**Is a cost-benefit analysis required under RCW 34.05.328?**

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone ( ) \_\_\_\_\_

fax ( ) \_\_\_\_\_

e-mail \_\_\_\_\_

No: Please explain:

Subsection 5(a)j of RCW 34.05.328 does not require Commerce to provide a cost-benefit analysis. Not applicable.