



# RULE-MAKING ORDER PERMANENT RULE ONLY

## CR-103P (August 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

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STATE OF WASHINGTON  
FILED

DATE: September 13, 2017

TIME: 1:14 PM

WSR 17-19-057

**Agency:** Washington State Department of Commerce

**Effective date of rule:**

**Permanent Rules**

31 days after filing.

Other (specify) \_\_\_\_\_ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

Yes  No If Yes, explain:

**Purpose:** Establish documentation requirements and the baseline generation methodology for incremental generation from qualified biomass energy facilities, consistent with the requirements of Chapter 315, Laws of 2017 (Engrossed Senate Bill 5128).

**Citation of rules affected by this order:**

New: None  
Repealed: None  
Amended: WAC 194-37-135  
Suspended: None

**Statutory authority for adoption:** RCW 19.285.080(2)

**Other authority:**

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as WSR 17-16-103 on July 28, 2017 (date).

Describe any changes other than editing from proposed to adopted version: None

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Web site:

Other:

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

|                                  |     |          |         |          |          |          |
|----------------------------------|-----|----------|---------|----------|----------|----------|
| Federal statute:                 | New | <u>0</u> | Amended | <u>0</u> | Repealed | <u>0</u> |
| Federal rules or standards:      | New | <u>0</u> | Amended | <u>0</u> | Repealed | <u>0</u> |
| Recently enacted state statutes: | New | <u>0</u> | Amended | <u>1</u> | Repealed | <u>0</u> |

**The number of sections adopted at the request of a nongovernmental entity:**

|     |          |         |          |          |          |
|-----|----------|---------|----------|----------|----------|
| New | <u>0</u> | Amended | <u>0</u> | Repealed | <u>0</u> |
|-----|----------|---------|----------|----------|----------|

**The number of sections adopted on the agency's own initiative:**

|     |          |         |          |          |          |
|-----|----------|---------|----------|----------|----------|
| New | <u>0</u> | Amended | <u>0</u> | Repealed | <u>0</u> |
|-----|----------|---------|----------|----------|----------|

**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

|     |          |         |          |          |          |
|-----|----------|---------|----------|----------|----------|
| New | <u>0</u> | Amended | <u>0</u> | Repealed | <u>0</u> |
|-----|----------|---------|----------|----------|----------|

**The number of sections adopted using:**

|                                |     |          |         |          |          |          |
|--------------------------------|-----|----------|---------|----------|----------|----------|
| Negotiated rule making:        | New | <u>0</u> | Amended | <u>0</u> | Repealed | <u>0</u> |
| Pilot rule making:             | New | <u>0</u> | Amended | <u>0</u> | Repealed | <u>0</u> |
| Other alternative rule making: | New | <u>0</u> | Amended | <u>0</u> | Repealed | <u>0</u> |

**Date adopted:** 9/13/17

**Name:** Brian Bonlender

**Title:** Director

**Signature:**



**WAC 194-37-135 Documentation of multifuel biomass energy ((and)), qualified biomass energy, and incremental biomass energy.**

(1) **Multifuel biomass energy.** A utility using biomass energy produced by a multifuel generating facility, where the biomass energy fuel provides less than ninety-eight percent of the total heat input, must document the eligible renewable energy using RECs created by WREGIS pursuant to the multifuel generating unit procedures of WREGIS.

(2) **Qualified biomass energy.** A utility using qualified biomass energy must document the eligible renewable energy using RECs created by WREGIS and must document:

(a) Information about the facility generating electricity from biomass energy:

(i) Ownership of the biomass energy facility;

(ii) Date of commercial operation of the biomass energy facility;

and

(iii) Specific type of biomass used for generation by the biomass energy facility.

(b) Information about the industrial facility that hosts the biomass energy facility:

(i) The utility's load in megawatt hours that results from serving the industrial facility;

(ii) Evidence that the industrial facility had not ceased operation, other than for purposes of maintenance or upgrade, during the target year;

(iii) Evidence that the industrial facility engages in industrial pulping or wood manufacturing; and

(iv) If the facility generating electricity from biomass energy is not owned by the utility, evidence that the industrial facility owns the biomass energy facility and is directly interconnected with the electricity facilities that are owned by the utility and capable of carrying electricity at transmission voltage.

(3) **Incremental biomass energy.**

(a) A utility using incremental electricity produced as a result of a capital investment at a qualified biomass energy facility must document the eligible renewable energy using RECs created by WREGIS and must document:

(i) The status of the generating facility as a qualified biomass energy facility as provided in subsection (2) of this section;

(ii) Evidence of the quantity, in megawatt hours, of renewable energy electric power generation during the baseline period, which must be determined using the methodology provided in (b) of this subsection;

(iii) Evidence of the nature and amount of the capital investment, demonstrating that the capital investment project was completed after January 1, 2010, and that the expenditure was not on operation and maintenance in the normal course of business;

(iv) Evidence demonstrating that the incremental generation was a result of the capital investment; and

(v) The method or procedures that the facility owner uses to measure or calculate incremental generation and to track incremental generation within WREGIS separately from qualified biomass energy produced by the facility.

(b) Methodology for establishing baseline generation.

(i) The baseline level of generation for determining incremental generation must be established as the average quantity of net generation using eligible renewable energy fuel sources during the most recent three consecutive years of operation prior to the effect of the first capital investment completed after January 1, 2010. The three-year period must begin on or after January 1, 2007. Subsequent capital investments that result in additional amounts of incremental generation do not require a new baseline determination.

(ii) The baseline period must exclude any periods in which operation of the qualified biomass generation facility was unrepresentative of normal operating conditions.

(iii) Baseline generation must be documented using plant-level reports of net generation by fuel type submitted to the U.S. Energy Information Administration or, if such reports are not available, by business records of the generation facility owner.