



PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: March 28, 2018

TIME: 10:55 AM

WSR 18-08-039

Agency: Washington State Department of Commerce

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 17-23-185 ; 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); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) WAC 194-37-140(2) Documentation of renewable resource financial path for no-load growth utilities

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
May 17, 2018	11:00 AM	Washington Department of Commerce 1011 Plum Street SE Olympia, WA 98504	

Date of intended adoption: May 18, 2018 (Note: This is **NOT** the effective date)

Submit written comments to:

Name: Glenn Blackmon

Address: Washington Department of Commerce, PO Box 42525, Olympia, WA 98504

Email: eia@commerce.wa.gov

Fax:

Other:

By (date) May 17, 2018

Assistance for persons with disabilities:

Contact Carolee Sharp

Phone: 260 725-3118

Fax:

TTY: 360 586-0772

Email: carolee.sharp@commerce.wa.gov

Other:

By (date) May 10, 2018

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The proposed rule revises the method of determining whether a qualifying utility is eligible to use the no-growth compliance method under RCW 19.285.040(2)(d) of the Energy Independence Act. The revision is proposed in response to a request from the State Auditor for an interpretation of the existing calculation rule. The proposed method more closely tracks the language in the statute. The proposed method supports the policy objectives of the Energy Independence Act by clarifying and limiting the application of the no-growth cost cap provision.

Reasons supporting proposal: The proposed amendment will improve clarity by identifying the baseline year. The statute is ambiguous in that it specifies that a utility's weather-adjusted load "for the previous three years on average did not increase over that time period" without stating the baseline to which the three-year average must be compared. The proposed rule specifies that the baseline period is the year prior to the three-year period. The proposed rule will maintain consistency and fairness by establishing a single calculation method applicable to all qualifying utilities in all compliance years. The proposed rule will support the ability of qualifying utilities to make plans based on expected eligibility or ineligibility to use the no-growth method.

Statutory authority for adoption: RCW 19.285.080(2)

Statute being implemented: RCW 19.285.040(2)(d)

Is rule necessary because of a:

Federal Law? Yes No

Federal Court Decision? Yes No

State Court Decision? Yes No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None

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: Commerce	Glenn Blackmon, Department of	1011 Plum Street SE PO Box 42525 Olympia, WA 98504-2525	360 725-3115
Implementation: Commerce	Washington State Department of	1011 Plum Street SE PO Box 42525 Olympia, WA 98504-2525	360 407-6000
Enforcement:	Attorney General of Washington	1125 Washington Street SE PO Box 40100 Olympia, WA 98504-0100	360 753-6200

Is a school district fiscal impact statement required under RCW 28A.305.135?

Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

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:

TTY:

Email:

Other:

No: Please explain: RCW 34.05.328 does not apply to the Department of Commerce.

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

RCW 34.05.310 (4)(b)
(Internal government operations)

RCW 34.05.310 (4)(e)
(Dictated by statute)

RCW 34.05.310 (4)(c)
(Incorporation by reference)

RCW 34.05.310 (4)(f)
(Set or adjust fees)

RCW 34.05.310 (4)(d)
(Correct or clarify language)

RCW 34.05.310 (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under RCW .

Explanation of exemptions, if necessary:

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's analysis showing how costs were calculated. The rule applies to 14 entities, none of whom is a small business. The rule does not impose any additional cost on any entity.

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Date: March 28, 2018

Name: Jaime Rossman

Title: Rules Coordinator

Signature: