

MEMO

April 28, 2020

TO: CETA Rulemaking Stakeholders

FROM: Glenn Blackmon, Manager, Energy Policy Office

RE: CETA rules – 1st discussion draft

The Department of Commerce is posting today its first discussion draft of rules to implement the Clean Energy Transformation Act (CETA). This draft benefits from your extensive input and participation. Since July 2019, Commerce has conducted 12 rulemaking workshops and collected nine rounds of informal written comments.

Over the remainder of 2020 we will work with stakeholders and other state agencies to revise and improve these rules for eventual adoption. We will review the first discussion draft rules in public workshops, beginning on May 7 with a workshop focused on draft rules about utility planning. Additional workshops will provide the opportunity to discuss draft rules about compliance, reporting, and other topics. Opportunities for written comment will follow each workshop.

Please note that almost all of the draft rules apply to consumer-owned utilities, a group that includes municipal utilities, public utility districts, and rural cooperative utilities. The Washington Utilities and Transportation Commission regulates investor-owned utilities and is conducting a [parallel rulemaking process](#) to implement CETA. Our agencies are working closely to develop rules that achieve consistent interpretation of the law between the two agencies.

Workshop notices, future rule drafts, stakeholder comments, and other rulemaking material will be posted on Commerce's [CETA implementation webpage](#).

Chapter 194-40 Clean Energy Transformation

194-40-010 – Purpose and scope. *(already in effect)*

The purpose of this chapter is to implement the requirements of the Clean Energy Transformation Act, chapter 19.405 RCW, and Chapter 19.280 RCW.

194-40-020 – Applicability. *(already in effect)*

Unless specifically provided otherwise, the provisions of this chapter apply to consumer-owned electric utilities that provide electrical service to retail customers in the state of Washington.

194-40-022 – 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.

194-40-030 – Definitions.

Unless specifically provided otherwise, the terms defined in RCW 19.405.020 have the same meaning here.

<> “100% Clean Electricity Standard” means the standard established in RCW 19.405.050(1) and any requirements necessary for compliance with that standard.

<> “GHG neutral compliance period” means each of the periods identified in RCW 19.405.040(1)(a).

<> “GHG Neutral Standard” means the standard established in RCW 19.405.040(1) and any requirements necessary for compliance with that standard.

<> “Interim compliance period” means either of the following periods: (a) from January 1, 2022, until December 31, 2025, and (b) from January 1, 2026, until December 31, 2029.

<> “Interim target” means a target established in compliance with RCW 19.405.060(2)(a)(i). An interim target may cover an interim compliance period or a GHG neutral compliance period.

<> “Retail revenue requirement” means that portion of a utility's annual budget approved by its governing body that is intended to be recovered through retail electricity sales in the state of Washington in the applicable year. It includes revenues from any retail rate or charge that is necessary to receive electric service from the utility and does not include the effect of taxes imposed directly on retail customers.

<> "Verification protocol" means a procedure or method used, consistent with industry standards, to establish with reasonable certainty that a conservation, energy efficiency, or demand response measure was installed and is in service. Industry standards include a range of appropriate protocols reflecting a balance of cost and accuracy, such as tracking installation of measures through incentive payments and the use of on-site inspection of measures installed as part of a customer-specific project. *[Expanded from definition in 194-37 to include demand response.]*

Reporting

194-40-040 – Compliance reporting for the GHG Neutral Standard¹ [Sec. 19.405.100(4)]²

- (1) Each utility must submit an interim compliance report by July 1, 2026, and by July 1, 2030, documenting the utility's progress during the prior interim compliance period in reaching compliance with the GHG Neutral Standard beginning in 2030.
- (2) Each utility must submit a compliance report by July 1, 2034, and within six months of the end of each subsequent GHG neutral compliance period, documenting the utility's compliance with the GHG Neutral Standard during the GHG neutral compliance period.
- (3) Each report required by this rule must be submitted using a form provided by Commerce and must include the following information about compliance during the relevant interim compliance period or GHG neutral compliance period:
 - a. The amount of conservation and energy efficiency resources acquired during the period, compared to the target amount established and reported in the CEIP of the utility for that period.
 - b. The amount of demand response resources acquired during the period, compared to the target amount established and reported in the CEIP of the utility for that period.
 - c. The amount of electricity used from renewable resources, as a percentage of the utility's retail electric loads over the period, compared to the target amount established and reported in the CEIP of the utility for that period. All renewable resources must be documented by the retirement of RECs as provided in WAC 194-40-400 and WAC 194-40-430.
 - d. The amount of electricity used from nonemitting resources, as a percentage of the utility's retail electric loads over the period. All nonemitting resources must be documented as provided in WAC 194-40-310.
 - e. Identification of any resources other than a renewable resource or energy storage acquired during the period. The utility must demonstrate that the acquisition of any such resource was necessary to achieve the interim target at the lowest reasonable cost, considering risk, as provided in WAC 194-40-340.
 - f. Any use of each of the following alternative compliance options:
 - i. Alternative compliance payments.
 - ii. Unbundled renewable energy credits. All unbundled RECs must retired consistent with the requirements of WAC 194-40-400 and WAC 194-40-430 (double counting prohibited).
 - iii. Credits from energy transformation projects.
 - iv. Electricity from the Spokane municipal solid waste to energy facility (if it is determined to provide a net reduction in GHG emissions).

¹ This rule would apply to all utilities, including IOUs.

² The reference in square brackets indicates the RCW section or subsection relevant to the draft rule. This text would not be included in the final rule language.

- g. Evidence demonstrating that, consistent with RCW 19.405.040(8) and pursuant to the CEIP for the period, all customers are benefitting from the transition to clean energy through:
 - i. The equitable distribution of energy and non-energy benefits;
 - ii. Reduction of burdens to vulnerable populations and highly impacted communities;
 - iii. Accounting of long-term and short-term public health and environmental benefits and reduction of costs and risks; and
 - iv. Energy security and resiliency.
- h. Any other information necessary to demonstrate compliance with the requirements of CETA that are applicable during the period.

194-40-050 – Submission of clean energy implementation plan [19.405.060(2)]

- (1) Each utility must submit by January 1, 2022, and every four years thereafter, a clean energy implementation plan (CEIP) for resources to be acquired and other actions to be undertaken during the next compliance period to comply with the GHG Neutral Standard and the 100% Electricity Clean Standard. The CEIP must be submitted using a form provided by Commerce.
- (2) Each utility must submit with its CEIP a summary of the public input process used in developing the CEIP and supporting integrated resource plan or resource plan, as applicable, and a summary and analysis of public input received during the process.
- (3) The CEIP must comply with the requirements of WAC 194-40-200 and must include sufficient detail to demonstrate compliance with the requirements of RCW 19.405.060.

194-40-060 – Reporting fuel mix and greenhouse gas emission [19.405.070(1)]

- (1) Each utility must submit by June 1, 2021, and each year thereafter a fuel mix source and disposition report for the previous calendar year, consistent with RCW 19.29A.140, using a form provided by Commerce.
- (2) Each utility must submit by June 1, 2021, and each year thereafter a greenhouse gas content calculation for the previous calendar year.
 - a. The greenhouse gas content calculation must be based on the quantities and fuel sources of electricity identified in the source and disposition report required under subsection (1) and must include all generating resources providing service to retail customers of that utility in Washington state, regardless of the location of the generating resource.
 - b. The greenhouse gas content calculation must comply with the calculation requirements established by the Department of Ecology in Chapter 173-444 WAC.

Planning Requirements

194-40-100 – Social cost of greenhouse gas emissions (*already in effect*)

194-40-110 – Methodologies to incorporate social cost of greenhouse gas emissions [19.280.030(3)]

- (1) Each utility must incorporate the social cost of greenhouse gas emissions as a cost adder for all relevant inputs when evaluating and selecting conservation policies, programs, and targets; developing integrated resource plans, resource plans, and clean energy action plans; and evaluating and selecting intermediate term and long-term resource options.
- (2) A utility may comply with the requirements of subsection (1) by using one of the following analytical approaches, as appropriate and consistent with the utility's overall analytical approach for resource evaluation and selection:
 - a. Performing a resource analysis in which it increases the input cost of each fossil fuel by an amount equal to the social cost of greenhouse gas emissions value of that fuel;
 - b. Conducting a resource analysis in which alternative resource portfolios are compared across multiple scenarios on the basis of cost, risk, and other relevant factors and the aggregate social cost of greenhouse gas emissions is included in the cost of each resource portfolio;
 - c. Adding the social cost of greenhouse gas emissions to the expected market price of electricity, using an estimate of the emissions rate of marginal generating resources; or
 - d. Using another analytical approach that includes a comprehensive accounting of the difference in greenhouse gas emissions and social cost of greenhouse gas emissions between resource alternatives.
- (3) Any methodology used to comply with this rule may assume that the social cost of greenhouse gas emissions cost adder does not affect short-term operations or dispatch decisions after energy resources are acquired and placed into service.
- (4) Any methodology used to comply with this rule must ensure that the social cost of greenhouse gas emissions cost adder is accounted for without unreasonable duplication or double counting. Examples of potential duplication include: (a) Applying the social cost of greenhouse gas emissions cost adder to fuel inputs and to electricity market prices that are derived from fuel costs, (b) Applying the social cost of greenhouse gas emissions cost adder to fuel inputs and resource portfolio outputs, and (c) Applying the social cost of greenhouse gas emissions cost adder and a carbon tax or fee.
- (5) The social cost of greenhouse gas emissions values used to meet the requirements of this rule are specified in WAC 194-40-100.

WAC 194-40-200 – Clean energy implementation plan [19.405.060]

- (1) Each utility must identify in each CEIP the specific actions to be taken by the utility during the next interim compliance period or GHG neutral compliance period to demonstrate progress

toward meeting the standards under RCW 19.405.040(1) and 19.405.050(1) and the interim targets proposed under subsections (2) and (3).

- (2) The CEIP must specify an interim target for the percentage of retail load to be served using renewable and nonemitting resources during the period covered by the CEIP.
 - a. The interim target may provide for the use of alternative compliance options identified in RCW 19.405.040(1)(b).
 - b. The interim target may reflect an assumption of median water conditions for the utility's owned or contracted hydroelectric resources.
- (3) The CEIP must specify specific targets, for the interim compliance period or GHG neutral compliance period covered by the CEIP, for each of the following categories of resources:
 - a. **Energy efficiency.** The utility must specify a target for the amount, expressed in megawatt-hours of first-year savings, of energy efficiency resources expected to be acquired during the period. The energy efficiency target must comply with WAC 194-40-330(1).
 - b. **Demand response resources.** The utility must specify a target for the amount, expressed in megawatts, of demand response resources expected to be acquired during the period. The demand response target must comply with WAC 194-40-330(2).
 - c. **Renewable energy.** The utility's target for renewable energy must identify the increased quantity in MWh of renewable electricity, relative the average quantity of renewable electricity used in the four years prior to the period.
- (4) The CEIP must describe specific actions to be taken during the period by the utility to ensure that all customers are benefiting from the transition to clean energy, as required by RCW 19.405.040(8). The CEIP must, at a minimum:
 - a. Assess the potential effect of the utility's planned resource acquisitions and programs on the distribution of energy and nonenergy benefits among the utility's customers. For example, any action, resource acquisition, or program that modifies the electricity consumption of individual customers has a potential positive or negative effect on the equitable distribution of energy and nonenergy benefits.
 - b. Identify the highly impacted communities, as defined in RCW 19.405.020(23), that are affected by the utility's operations and assess the potential effect of the utility's planned resource acquisitions and programs on the benefits and burdens of those communities.
 - c. Identify the vulnerable populations, as defined in RCW 19.405.020(40), that are affected by the utility's operations and assess the potential effect of the utility's planned resource acquisitions and programs on the benefits and burdens of those populations.
 - d. Describe the potential effect of the utility's planned resource acquisitions and programs on (i) long-term and short-term public health and environmental benefits and (ii) energy security and resiliency.
 - e. Describe the process of outreach and public input conducted by the utility to make the assessments required by this subsection (4).

- (5) The CEIP must include a summary of public comments from the process conducted in compliance with WAC 194-40-220 and a description of how those comments were reflected in the CEIP.
- (6) The CEIP must be consistent with the most recent integrated resource plan or resource plan, as applicable, prepared by the utility under RCW 19.280.030.
- (7) The CEIP must be informed by the consumer-owned utility's clean energy action plan developed under RCW 19.280.030(1) or other ten-year plan developed under RCW 19.280.030(5).
- (8) If applicable, the CEIP must include the information required in WAC 194-40-230.

WAC 194-40-210 – Resource adequacy standard [19.280.030]

- (1) Each utility must establish a standard for resource adequacy to be used in resource planning, including assessing the need and type of generating resources, demand response resources, and conservation resources. The resource adequacy standard must be consistent with prudent utility practices and relevant regulatory requirements and must include reasonable and nondiscriminatory:
 - a. Measures of adequacy, including peak load standards,
 - b. Methods of measurement, and
 - c. Measures of resource contribution to resource adequacy applicable to all resources available to the utility, including but not limited to renewable, storage and demand response resources.
- (2) A utility that establishes a resource adequacy standard that is inconsistent with the resource adequacy standard of the Northwest Power Planning Council and the resource adequacy program of the NW Power Pool must demonstrate that its standard meets the requirements of subsection (1) and does not burden customers of other utilities with a risk of inadequate resources.

WAC 194-40-220 – Public input for planning [19.405.060]

- (1) Each utility must establish and implement a public input process that provides reasonable opportunity for its customers and interested stakeholders to provide input to the utility prior to the adoption by the utility of a CEIP, an integrated resource plan, or a resource plan, as applicable.
- (2) In assessing whether a public input opportunity is reasonable, the utility must consider any barriers to public participation due to language, cultural, economic or other factors.

WAC 194-40-230 – Compliance using 2% incremental cost threshold

- (1) For any interim compliance period or GHG neutral compliance period in which a utility relies on RCW 19.405.060(4)(a) as the basis for compliance with the standard under RCW 19.405.040(1) or RCW 19.405.050(1), the utility must:

- a. Document, as provided in this rule, incremental expenditures that are directly attributable to actions necessary to comply with the requirements of RCW 19.405.040 and 19.405.050; and
 - b. Demonstrate that the average annual increase in incremental expenditures, as a percentage of retail revenue requirement in each prior year, equals or exceeds 2 percent over the period.
- (2) For the purposes of compliance using RCW 19.405.060(4)(a), a resource acquisition or expenditure is directly attributable to actions necessary to comply with the requirements of RCW 19.405.040 and RCW 19.405.050 only if all of the following conditions are met:
- a. The resource acquisition or other expenditure is made during the interim compliance period or GHG neutral compliance period;
 - b. The resource acquisition or other expenditure is part of the lowest reasonable cost and reasonably available portfolio of resources that results in compliance with RCW 19.405.040 and RCW 19.405.050;
 - c. The resource acquisition or other expenditure is additional to the costs that would be incurred for the lowest reasonable cost and reasonably available resource portfolio that would have been selected in the absence of RCW 19.405.040 and RCW 19.405.050; and
 - d. The resource acquisition or other expenditure is not required to meet any statutory, regulatory, or contractual requirement or any provision of Chapter 19.405 RCW other than sections RCW 19.405.040 or 19.405.050.
- (3) The utility must include in its CEIP for the period the following information:
- a. Identification of all resource acquisitions or other expenditures that it intends to make during the period in order to comply with the requirements of RCW 19.405.040 and 19.405.050;
 - b. Demonstration that the resource acquisitions or expenditures identified in subsection (a) are directly attributable to actions necessary to comply with the requirements of RCW 19.405.040 and 19.405.050, and
 - c. Documentation of the expected cost of the utility's planned resource portfolio and the expected cost of the alternative lowest reasonable cost and reasonably available portfolio of investments.
- (4) The utility must include in the compliance report required by WAC 194-40-040 the following:
- a. Documentation by year of the actual and lowest reasonable cost expenditures incurred during the period for the resource acquisitions or other expenditures identified in subsection (1)(a).
 - b. Documentation by year of the cost that that the utility would have incurred to acquire the alternative lowest reasonable cost and reasonably available portfolio of investments.
 - c. A calculation, for each year of the period, of the annual increase in incremental costs directly attributable to actions necessary to comply with the requirements of RCW 19.405.040 and RCW 19.405.050, as a percentage of the retail revenue requirement in the year preceding that year.

- (5) If a resource acquisition or an alternative resource has a useful life or contract duration of greater than one year, expenditures on that resource must be allocated over the expected useful life or contract duration using a levelized cost or fixed charge factor.
- (6) The CEIP must substantiate the information required in subsection (3) using a comprehensive assessment of alternative resource portfolios, such as an integrated resource plan prepared in compliance with Chapter 19.280 RCW.
- (7) A utility must include in its calculation of incremental costs under subsection (4) a reasonable estimate of the effect of RCW 19.405.040 and 19.405.050 on wholesale power markets, such as any change in the utility's wholesale power expenses or revenues.

250 – Interval for developing resource plans and integrated resource plans [19.280.030(8)]

<No rule contemplated at this time>

260 – Clean energy action plan [19.280.030(1)(l)]

<No rule contemplated at this time>

270 – Action plan for small or full requirements utilities [19.280.030(5)(d)]

<Discussed at April workshop. Rule language pending>

280 – Incorporation of cumulative impact analysis into clean energy action plans [19.280.030(1)(k) and (11)]

<To be developed>

Compliance Standards

194-40-300 – Documentation concerning coal-fired resources [19.405.030(1)]

- (1) Each utility must publish by June 1, 2027, and each year thereafter, an attestation by the chief executive officer of the utility certifying that the utility's allocation of electricity for Washington retail electric load in the prior calendar year did not include any electricity generated at a coal-fired resource.
- (2) The purchase of electricity, where the source is unknown at the time of purchase, for a term not to exceed one month, is not a coal-fired resource and does not preclude a utility from making the attestation required by subsection (1).
- (3) If the utility purchased or otherwise acquired electricity for Washington retail electric load for a term greater than one month and the source of that electricity is unknown at the time of purchase, the utility may rely on operational data, such as electronic tags used to schedule the transmission and delivery of the electricity, to demonstrate that the electricity was not generated using coal as a fuel source.

194-40-310 – Documentation of nonemitting electric generation [19.405.040(1)]

- (1) Any utility using nonemitting electric generation to comply with a requirement under RCW 19.405.040 or RCW 19.405.050 must demonstrate that it owns the nonpower attributes of that electricity and that it has committed to use the nonpower attributes exclusively for the stated compliance purpose.
- (2) A utility may demonstrate ownership of nonpower attributes using attestations of ownership and transfer by properly authorized representatives of the generating facility, all intermediate owners of the nonemitting electric generation, and the chief executive officer of the utility.
- (3) A utility may demonstrate ownership of the nonpower attributes of the nuclear portion of BPA's standard electricity product by relying on a representation of a properly authorized representative of BPA stating the nonemitting percentage of its electricity product and verifying that BPA did not separate the nonpower attributes associated with the nuclear generation.

194-40-320 – Use of electricity from renewable resources and nonemitting electric generation [19.405.040(1)]

- (1) For the purposes of RCW 19.405.040(1)(a)(ii), a utility uses electricity if it generated the electricity using its own generating facility or if it acquired, in a single transaction, ownership of the electricity and the nonpower attributes of that electricity. If the source of the electricity is outside the Western Interconnection, the utility must have had the capability to provide for delivery of that electricity to the utility's distribution system.

- (2) If a utility using electricity as provided in subsection (1) sells or transfers ownership of the electricity to any entity that is not its Washington retail customer, it may not use the nonpower attributes of that electricity for compliance with the GHG Neutral Standard unless the electricity transaction identified the electricity as unspecified electricity and the utility retained ownership of the nonpower attributes.

194-40-330 – Methodologies for energy efficiency and demand response resources [19.405.040(6)]

(1) Energy efficiency resources

a. Assessment of potential

- i. Any utility that is a qualifying utility under Chapter 19.285 RCW must assess the amount of energy efficiency and conservation that is available using the conservation methodology established in RCW 19.285.040(1) and the rules implementing that subsection.
- ii. Any utility that is not a qualifying utility under Chapter 19.285 RCW must establish the amount of energy efficiency and conservation that is available using either of the following methods:
 1. Use the conservation methodology established in RCW 19.285.040(1) and the rules implementing that subsection, or
 2. Establish the reasonable utility-level proportion of a conservation potential assessment prepared at a regional or multi-utility level using a methodology that evaluates resource alternatives on a total resource cost basis and includes the social cost of greenhouse gas emissions as specified in WAC 194-40-110.

- b. **Target.** The energy efficiency target for any compliance period must equal or exceed the target that would be calculated using the pro rata share approach specified in RCW 19.285.040(1)(b) and must be sufficient to ensure that the utility meets its obligation under RCW 19.405.040(6) to pursue all cost-effective, reliable, and feasible conservation and energy efficiency resources.

- c. **Measurement and verification.** All energy efficiency and conservation resources used to meet an energy efficiency target must be measured and verified using the measurement and verification requirements of WAC 194-37-080(3).

(2) Demand response resources

- a. **Assessment of potential.** Each utility must assess the amount of demand response resource that is cost-effective, reliable, and feasible.
- b. **Target.** The demand response target for any compliance period must be sufficient to meet the utility's obligation under RCW 19.405.040(6) and must be consistent with the utility's integrated resource plan or resource plan and any distributed energy resource plan adopted under RCW 19.2890.100.

- c. **Measurement and verification.** Each utility must maintain and apply measurement and verification protocols to determine the amount of capacity resulting from demand response resources and to verify the acquisition or installation of the demand response resources being recorded or claimed.

194-40-340 – Acquisition of new resources other than renewable resources and energy storage
[19.405.040(6)]

- (1) A utility may not acquire a new fossil fuel generating resource or new nonemitting electric generation unless the resource acquisition is necessary to comply with the utility's targets under RCW 19.405.040 and achieves targets at the lowest reasonable cost, considering risk.
- (2) A utility's making a resource acquisition subject to the requirements of subsection (1) must demonstrate compliance as follows:
 - a. The utility's integrated resource plan must demonstrate that the resource acquisition complies with subsection (1), and
 - b. An independent evaluator must confirm that the utility's resource acquisition complies with subsection (1). The independent evaluator must be qualified to perform electric resource evaluations and may not be affiliated with the utility or have participated in the utility's resource planning activities.
- (3) For the purposes of this rule, a resource that commenced operation on or before May 7, 2019, is not a new resource.

194-40-350 – Use of alternative compliance options by utilities using 2% incremental cost threshold
[19.405.060(4)(b)]

- (1) Except as provided in subsection (2), a utility may not use any alternative compliance option under RCW 19.405.040(1)(b) in any GHG neutral compliance period if it relies on RCW 19.405.060(4)(a) as the basis for compliance with the standard under RCW 19.405.040(1) or RCW 19.405.050(1).
- (2) A utility relying on RCW 19.405.060(4)(a) may use an alternative compliance option if:
 - a. The utility demonstrates that no renewable resources or nonemitting electric generation was reasonably available; or
 - b. The utility's uses renewable resources and nonemitting electric generation in an amount equal to at least 80 percent of its annual retail electric load during the period.

194-40-360 – Temporary exemption, demonstration of plan to achieve full compliance [19.405.090]

- (1) A utility must notify Commerce at least thirty days prior to action by the governing body to authorize a temporary exemption under RCW 19.405.090(5)(a). The notice must provide all information that the governing body will rely on in making a decision to authorize a temporary exemption.
- (2) If the governing body of a utility authorizes a temporary exemption under RCW 19.405.090(5)(a), the governing body must notify Commerce within 30 days of the action. The governing body's notice must include a plan to take specific actions to achieve full compliance with RCW 19.405.040(1).

194-40-370 – Eligibility of electricity from centralized wholesale markets [19.405.130]

<to be developed>

Renewable Energy Credits

194-40-400 – Documentation and retirement of renewable energy credits [19.405.040(1)(c)]

- (1) The Western Renewable Energy Generation Information System is the renewable energy credit tracking system for purposes of verification of RECs under chapter 19.405 RCW.
- (2) Each utility must verify and document by the retirement of RECs all electricity from renewable resources used to comply with the requirements of RCW 19.405.040, RCW 19.405.050, or an interim target in a clean energy implementation plan.
- (3) Each utility using a REC for compliance must document the following:
 - a. The REC represents the output of a renewable resource;
 - b. The vintage of the REC is a year within the applicable compliance period; and
 - c. The utility has retired the REC to a retirement subaccount of the utility within WREGIS using the following values in the certificate transfer:
 - i. Retirement type: Used by the account holder for a state-regulated renewable portfolio standard/provincial utility portfolio standard;
 - ii. State/province: Washington; and
 - iii. Compliance year: Within the applicable compliance period.
- (4) A utility may use any REC retired to comply with RCW 19.285.040 for the purposes identified in subsection (2) if the compliance year indicated in the retirement documentation of the REC is within the compliance period of the standard or target identified in subsection (2).

194-40-410 – Unbundled RECs used as an alternative compliance option under the GHG Neutral Standard [19.405.040(1)(c)]

<no rule contemplated at this point>

194-40-420 – Safeguards to prevent double-counting of RECs [Sec. 4(1)(b), 13(3)]

<to be developed>

194-40-430 – Thermal RECs – Applicability [19.405.100(8)]

- (1) Thermal renewable energy credits may be used to comply with the requirements of RCW 19.405.040 if they are created in association with the generation of qualifying thermal energy for a secondary purpose at a facility that generates electricity from biomass energy. For multiple-fuel facilities, only the portion of thermal energy generated from eligible biomass sources is eligible for the generation of thermal renewable energy credits.

- (2) Thermal energy may not be used to comply with RCW 19.405.040 if: (a) It is used to operate the generating facility or process the facility's fuel; (b) it is returned to the biomass conversion device that initially created the eligible thermal resource; (c) it bypasses the electricity generation device; or (d) it is produced while the electricity generation equipment is out of service.

194-40-440 – Thermal RECs - Measuring

Qualifying thermal energy must be measured and tracked using the following methods:

- (a) Large facilities: Facilities with the capacity to generate one or more T-RECs per hour of operation must install a thermal energy measurement system to continually measure qualifying thermal energy. The thermal energy delivered to the secondary purpose must be metered. All parameters needed to determine thermal energy delivered to the secondary purpose must be directly measured.
- (b) Small facilities: Facilities with the capacity to generate less than one T-REC per hour of operation must install a thermal energy measurement system to measure qualifying thermal energy delivered to the secondary purpose. Calculation parameters, such as heat capacity, and directly measured parameters, such as temperature and pressure, that do not vary more than two percent for the full range of expected operating conditions may be evaluated on an annual basis and used in the calculation methodology as a constant. These parameters may be based on such sources as manufacturers' published ratings or one-time measurements, but must be clearly defined and explained in the thermal energy measurement plan required under subsection (e). All other parameters used to determine the amount of qualifying thermal energy must be continually measured. The generating facility must assess the significance of any potential error that the methodology parameters have on the total annual quantity of qualifying thermal energy and include this analysis in the thermal energy measurement plan. The generating facility must also submit to the department for approval in the thermal energy measurement plan an appropriate discount factor to be applied to the qualifying thermal energy calculation methodology, and the department may revise this discount factor to account for variance due to parameters that are not continually measured.
- (c) The thermal energy measurement system must capture sufficient data, and make necessary calculations or provide all necessary data for calculations to be made using standard engineering calculation procedures, to determine the net thermal energy used by the secondary purpose over an interval specified in the thermal energy measurement plan.
- (d) Measurement system components must be installed in accordance with the manufacturer's specifications.
- (e) The generating facility must submit to the department a thermal energy measurement plan that describes the thermal energy generating equipment, secondary purposes, data measurements to be collected, all associated measurement devices, data formats and storage, data gathering techniques, measurement system calibration, calculation methodology, discount factors, and other relevant equipment and activities that will be used to determine the quantity of qualifying thermal energy. The generating facility must

also submit all necessary documentation, including drawings, specifications, piping and instrumentation diagrams, and other information as requested by the department for system review. The thermal energy measurement system must be reviewed and approved by the department as part of the certification of a facility as compliant with these rules.

- (f) The generating facility must submit an updated thermal energy measurement plan and documentation for review and approval to the department upon the following:
- Installation, removal or changes in the configuration of the thermal energy measurement system and its components;
 - Installation of new thermal energy generation equipment or changes in thermal energy generation capacity;
 - Installation or removal of secondary purpose equipment, changes to secondary purpose use, or changes in the secondary purpose maximum thermal energy demand; or
 - Indications the thermal energy measurement system is not performing in accordance with the thermal energy measurement plan.

194-40-450 – Thermal RECs - Tracking

- (a) Where continual measurements are required to determine the quantity of qualifying thermal energy, the generating facility must take data readings at least once per hour or more frequently as necessary to capture irregular or frequently varying parameters. For all facilities, the qualifying thermal energy produced shall be totaled for each 24-hour period, each month, and each quarter.
- (b) The generating facility must retain measured data and related thermal energy calculations on-site for five calendar years and make records available for audit as required by the department.
- (c) Prior to measuring qualifying thermal energy for the purpose of generating T-RECs, the generating facility must perform, or have performed, an initial calibration of the thermal energy measurement system and all associated measurement devices, or demonstrate that a calibration has been performed as specified by system component manufacturers or within the last 365 days of the application date for certification as compliant with these rules. All measurement devices shall be recalibrated annually or as specified by system component manufacturers to maintain specified accuracy. Calibrations must be performed using the calibration procedures specified by the meter manufacturer, calibration methods published by a consensus-based standards organization, or other industry accepted practice.
- (d) Individuals designing, installing, operating, and maintaining the thermal energy measurement system must have appropriate training and certification. The generating facility must maintain documentation of maintenance and calibration activities.

194-40-460 – Thermal RECs - Reporting

Reporting for the purpose of creating RECs must be conducted in accordance with all reporting requirements of the Western Renewable Energy Generation Information System.

194-40-500 – Energy burden and energy assistance need

510 – Energy assistance program requirements [Sec. 12(2)]

520 – Required disclosures by utilities [Sec. 12(3)]

530 – Utility assessment of energy assistance programs [Sec. 12(4)]

194-40-600 – Documentation of energy transformation projects [19.405.030(2)]

<to be developed>