



# RULE-MAKING ORDER PERMANENT RULE ONLY

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

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STATE OF WASHINGTON  
FILED

DATE: December 29, 2020

TIME: 4:52 PM

WSR 21-02-039

**Agency:** Washington 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:** These rules ensure the proper implementation and enforcement of the Clean Energy Transformation Act (CETA), as provided for in RCW 19.405.100, and establish methodologies, reporting and planning requirements, and procedures for electric utilities subject to CETA. The rules: establish reporting requirements for electric utilities to demonstrate compliance with CETA, establish content and process requirements for clean energy implementation plans, establish requirements for utilities to evaluate and track the equity and distributional effects of their clean energy transformation actions, provide a methodology for use if a utility exercises the cost limitation provision in RCW 19.405.060, provide a methodology for incorporating the cost of greenhouse gas emissions in resource evaluation and acquisition decisions, require that utilities adopt standards to ensure adequate and reliable electric service, establish verification approaches for various standards in CETA, provide standards for thermal renewable energy credits, and establish other requirements to ensure proper implementation and enforcement of CETA. The proposed rules apply to consumer-owned utilities, such as municipal utilities, public utility districts, and rural cooperative or mutual utilities. In some cases, the proposed rules also apply to investor-owned utilities.

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

New: 21  
 Repealed:  
 Amended:  
 Suspended:

**Statutory authority for adoption:** RCW 19.405.100; RCW 19.405.060

**Other authority:**

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

Adopted under notice filed as WSR 20-21-108 on Oct. 21, 2020 (date).

Describe any changes other than editing from proposed to adopted version: Corrected definition of "CEIP," clarified reporting of resources subject to WAC 194-40-340 by adding a cross-reference in WAC 194-40-040, clarified reporting by utilities using incremental cost compliance approach by adding a cross-reference in WAC 194-40-040, clarified requirement to retire renewable energy credits to verify claims of renewable energy use by adding a clarifying statement in WAC 194-40-400. The Department made these changes in response to comments received, to ensure clarity, consistency, and understanding by regulated entities, and to meet the intent of the statute.

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	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	<u>21</u>	Amended	___	Repealed	___

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

New	___	Amended	___	Repealed	___
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**The number of sections adopted on the agency's own initiative:**

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


New	___	Amended	___	Repealed	___
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**The number of sections adopted using:**

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	___	Amended	___	Repealed	___

<b>Date Adopted:</b> December 29, 2020
<b>Name:</b> Dave Pringle
<b>Title:</b> Policy Advisor and Rules Coordinator

**Signature:**



NEW SECTION

**WAC 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.

NEW SECTION

**WAC 194-40-030 Definitions.** Unless specifically provided otherwise, the terms defined in RCW 19.405.020 have the same meaning in this chapter.

"100% Clean electricity standard" means the standard established in RCW 19.405.050(1) and any requirements necessary for compliance with that standard.

"BPA" means the Bonneville Power Administration.

"CEIP" means a clean energy implementation plan prepared in compliance with RCW 19.405.060.

"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.

"Indicator" means an attribute, either quantitative or qualitative, of a condition, resource, program or related distribution investment that is tracked for the purpose of evaluating change over time.

"Interim performance 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 performance period or a GHG neutral compliance period.

"REC" means renewable energy credit.

"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.

"WREGIS" means the Western Renewable Energy Generation Information System.

NEW SECTION

**WAC 194-40-040 Performance and compliance reporting for the GHG neutral standard and 100% clean electricity standard.** (1) Each consumer-owned utility and each investor-owned utility must submit an interim performance report by July 1, 2026, and by July 1, 2030, documenting the utility's progress during the prior interim performance period in reaching compliance with the GHG neutral standard beginning in 2030.

(2) Each consumer-owned utility and each investor-owned 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 and its progress in reaching compliance with the 100% clean electricity standard beginning in 2045.

(3) Each consumer-owned utility and each investor-owned utility must submit a compliance report by July 1, 2046, and by July 1st of each year thereafter, documenting the utility's compliance with the 100% clean electricity standard.

(4) Each report required under subsections (1) and (2) of this section must be submitted using a form provided by commerce and must include the following information for the relevant interim performance period or GHG neutral compliance period:

(a) The amount of renewable resources and nonemitting electric generation used during the period, as a percentage of retail electric loads, compared to the target amount established and reported in the CEIP of the utility for that period.

(b) 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.

(c) 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.

(d) The amount of electricity used from renewable resources, in megawatt-hours, compared to the target amount established and reported in the CEIP of the utility for that period.

(e) The amount of electricity used from nonemitting resources, in megawatt-hours over the period.

(f) Identification of any resources subject to the requirements of WAC 194-40-340 and acquired during the period and demonstration that the acquisition was consistent with the requirements of WAC 194-40-340.

(g) A detailed report of any use of each of the following alternative compliance options:

(i) Alternative compliance payments;

(ii) Unbundled renewable energy credits;

(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).

(h) A report to demonstrate whether and how, consistent with RCW 19.405.040(8) and the utility's CEIP for the period, all customers are benefiting from the transition to clean energy. The report must provide:

(i) Results for each indicator established in the CEIP;

(ii) An explanation of how the specific actions taken by the utility are consistent with the requirements in RCW 19.405.040(8); and

(iii) An analysis of whether the forecasted distribution of benefits and reductions of burdens accrued or are reasonably expected to accrue to highly impacted communities, vulnerable populations, and all other customers.

(i) For each specific action identified in the CEIP for the period, pursuant to WAC 194-40-200(1), a summary of the actions taken and their results.

(j) For any measurement of achievement reported under (a) through (e) of this subsection that is less than the respective target established in the CEIP, an explanation of the variation from target and any intended actions to offset the variation in the next period.

(k) The information required under WAC 194-40-230(4), if the utility relied on the incremental cost provision in RCW 19.405.060(4)(a) during the period.

(l) Any other information necessary to demonstrate compliance with the requirements of CETA that are applicable during the period.

#### NEW SECTION

##### **WAC 194-40-050 Submission of clean energy implementation plan.**

(1) Each utility must submit by January 1, 2022, and every four years thereafter, a CEIP for resources to be acquired and other actions to be undertaken during the next interim performance period or GHG neutral 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 conducted in compliance with WAC 194-40-220 and a description of how public comments were reflected in the specific actions under WAC 194-40-200(4), including the development of one or more indicators and other elements of the CEIP and the utility's supporting integrated resource plan or resource plans, as applicable.

#### NEW SECTION

##### **WAC 194-40-060 Reporting fuel mix and greenhouse gas emission.**

(1) Each consumer-owned utility and each investor-owned utility must submit by July 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 July 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, including unspecified sources, of electricity identified in the source and disposition report required under subsection (1) of this section 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.

NEW SECTION

**WAC 194-40-110 Methodologies to incorporate social cost of greenhouse gas emissions.** (1)(a) 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 and clean energy action plans; and evaluating and selecting intermediate term and long-term resource options.

(b) The greenhouse gas emissions cost adder may be adjusted to account for any explicit tax or fee on greenhouse gas emissions that is known or assumed in the resource analysis.

(2) A utility may comply with the requirements of subsection (1) of this section by using one of the following analytical approaches, as appropriate and consistent with the utility's overall analytical approach for resource planning, 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 added to the cost of each resource portfolio;

(c) If the utility does not use a comprehensive resource portfolio evaluation and optimization approach: 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.

(5) The social cost of greenhouse gas emissions values used to meet the requirements of this chapter are specified in WAC 194-40-100.

NEW SECTION

**WAC 194-40-200 Clean energy implementation plan.** (1) **Specific actions.** Each utility must identify in each CEIP the specific actions the utility will take during the next interim performance 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 under subsection (2) of this section and the specific targets under subsection (3) of this section. Specific actions must be consistent with the requirements of RCW 19.405.060 (2) (a) (iv).

(2) **Interim target.** The CEIP must establish an interim target for the percentage of retail load to be served using renewable and nonemitting resources during the period covered by the CEIP. The interim target must demonstrate progress toward meeting the standards under RCW 19.405.040(1) and 19.405.050(1), if the utility is not already meeting the relevant standard.

(3) **Specific targets.** The CEIP must establish specific targets, for the interim performance period or GHG neutral compliance period covered by the CEIP, for each of the following categories of resources:

(a) **Energy efficiency.**

(i) The CEIP must establish 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).

(ii) A utility may update its CEIP to incorporate a revised energy efficiency target to match a biennial conservation target established by the utility under RCW 19.285.040 (1)(b) and WAC 194-37-070.

(b) **Demand response resources.** The CEIP must specify a target for the amount, expressed in megawatts, of demand response resources 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 quantity in megawatt-hours of renewable electricity to be used in the period.

(4) **Specific actions to ensure equitable transition.** To meet the requirements of RCW 19.405.040(8), the CEIP must, at a minimum:

(a) Identify each highly impacted community, as defined in RCW 19.405.020(23), and its designation as either:

(i) A community designated by the department of health based on cumulative impact analyses; or

(ii) A community located in census tracts that are at least partially on Indian country.

(b) Identify vulnerable populations based on the adverse socioeconomic factors and sensitivity factors developed through a public process established by the utility and describe and explain any changes from the utility's previous CEIP, if any;

(c) Report the forecasted distribution of energy and nonenergy costs and benefits for the utility's portfolio of specific actions, including impacts resulting from achievement of the specific targets established under subsection (3) of this section. The report must:

(i) Include one or more indicators applicable to the utility's service area and associated with energy benefits, nonenergy benefits, reduction of burdens, public health, environment, reduction in cost, energy security, or resiliency developed through a public process as part of the utility's long-term planning, for the provisions in RCW 19.405.040(8);

(ii) Identify the expected effect of specific actions on highly impacted communities and vulnerable populations and the general location, if applicable, timing, and estimated cost of each specific action. If applicable, identify whether any resource will be located in highly impacted communities or will be governed by, serve, or other-

wise benefit highly impacted communities or vulnerable populations in part or in whole; and

(iii) Describe how the specific actions in the CEIP are consistent with, and informed by, the utility's longer-term strategies based on the analysis in RCW 19.280.030 (1)(k) and clean energy action plan in RCW 19.280.030 (1)(l) from its most recent integrated resource plan, if applicable.

(d) Describe how the utility intends to reduce risks to highly impacted communities and vulnerable populations associated with the transition to clean energy.

(5) **Use of alternative compliance options.** The CEIP must identify any planned use during the period of alternative compliance options, as provided for in RCW 19.405.040 (1)(b).

(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 consistent with the 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) The CEIP must identify the resource adequacy standard and measurement metrics adopted by the utility under WAC 194-40-210 and used in establishing the targets in its CEIP.

(9) If the utility intends to comply using the two percent incremental cost approach specified in WAC 194-40-230, the CEIP must include the information required in WAC 194-40-230(3) and, if applicable, the demonstration required in WAC 194-40-350(2).

(10) Any utility that is not subject to RCW 19.280.030(1) may meet the requirements of this section through a simplified reporting form provided by commerce.

## NEW SECTION

**WAC 194-40-210 Resource adequacy standard.** (1) Each utility that is required to prepare an integrated resource plan under RCW 19.280.030(1) must establish by January 1, 2022, a standard for resource adequacy to be used in resource planning, including assessing the need for and contributions of generating resources, storage 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, such as peak load standards and loss of load probability or loss of load expectation;

(b) Methods of measurement, such as probabilistic assessments of resource adequacy; and

(c) Measures of resource contribution to resource adequacy, such as effective load carrying capability applicable to all resources available to the utility including, but not limited to, renewable, storage, hybrid, and demand response resources.

(2) Each utility not subject to subsection (1) of this section must identify by January 1, 2022, the resource adequacy standard relied on by the utility in preparing its resource plan and CEIP.

(3) In each CEIP submitted after 2022, each utility must identify and explain any changes to its resource adequacy standard.



NEW SECTION

**WAC 194-40-220 Public input for planning.** (1) Each utility must provide reasonable opportunities for its customers and interested stakeholders to provide input to the utility during the development of, and prior to the adoption of, plans identifying actions to comply with RCW 19.405.040(8) and other requirements of RCW 19.405.040 and 19.405.050. A utility may use a single coordinated public input process in the development of its clean energy implementation plan, its integrated resource plan or resource plan, as applicable, and its clean energy action plan or 10-year action plan, as applicable.

(2) In assessing whether a public input opportunity is reasonable, the utility must consider barriers to public participation due to language, cultural, economic, technological, or other factors consistent with community needs.

NEW SECTION

**WAC 194-40-230 Compliance using two percent incremental cost of compliance.** (1) For any period in which a utility relies on RCW 19.405.060 (4) (a) to meet an interim target during an interim performance period or as the basis for compliance with the standard under RCW 19.405.040(1) or 19.405.050(1), the utility must:

(a) Document, as provided in this section, incremental costs 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 incremental costs identified under (a) of this subsection are at least equal to an annual threshold amount that would result from a two percent revenue increase at the beginning of each year of the period, divided by the number of years in the period. For a period consisting of four years, the mathematical formula for the annual threshold amount is:

$$\text{Annual Threshold Amount} = \frac{(RR_0 \times 2\% \times 4) + (RR_1 \times 2\% \times 3) + (RR_2 \times 2\% \times 2) + (RR_3 \times 2\%)}{4}$$

Where *RR* indicates retail revenue requirement and the numerical subscript indicates the year of the period.

Example calculation of annual threshold amount:

Year	Retail Revenue Requirement	Annual Amount from Revenue Increase Equal to 2% of Prior Year Revenue Requirement	Number of Years in Effect	Threshold Amount over Four Years	Sum of Threshold Amounts	Annual Threshold Amount
0	\$100					
1	\$105	\$2.00	4	\$8.00	\$21.00	\$5.30
2	\$110	\$2.10	3	\$6.30		
3	\$115	\$2.20	2	\$4.40		
4	\$120	\$2.30	1	\$2.30		
Annual Threshold Amount as a Percentage of Average Retail Revenue Requirement						4.7%

(2) For the purposes of compliance using RCW 19.405.060 (4) (a), a cost is directly attributable to actions necessary to comply with the

requirements of RCW 19.405.040 and 19.405.050 only if all of the following conditions are met:

(a) The cost is incurred during the period;

(b) The cost is part of the lowest reasonable cost and reasonably available portfolio of resources that results in compliance with RCW 19.405.040 and 19.405.050;

(c) The cost 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 19.405.050; and

(d) The cost 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) A utility using the compliance method in this rule must include in its CEIP for the period the following information:

(a) Identification of all costs that it intends to incur during the period in order to comply with the requirements of RCW 19.405.040 and 19.405.050;

(b) Demonstration that the costs identified in (a) of this subsection 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.

(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 costs incurred during the period for the costs identified in subsection (1)(a) of this section.

(b) Documentation by year of the costs that the utility would have incurred to acquire the alternative lowest reasonable cost and reasonably available portfolio of investments.

(c) A calculation of the average annual incremental costs by summing the differences between costs reported in (a) of this subsection and costs reported in (b) of this subsection and dividing by the number of years in the period.

(d) A comparison demonstrating that average annual incremental costs for the period, calculated as specified in (c) of this subsection, equal or exceed the annual threshold amount calculated as specified in subsection (1)(b) of this section.

(5) If a resource included in an actual or alternative portfolio has a useful life or contract duration of greater than one year, the cost of 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) of this section 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 all cost calculations under this rule the effects on resource selection and acquisition of the social cost of greenhouse gas emissions cost adder requirement under WAC 194-40-110. A utility may not include in the cost calculations any greenhouse gas emissions costs, fees, or taxes unless customers will pay those amounts through their electricity purchases.

(8) As used in this rule, "period" means the years covered by each CEIP developed in compliance with RCW 19.405.060(2).

NEW SECTION

**WAC 194-40-300 Documentation concerning coal-fired resources.**

(1) Each utility must publish by June 1, 2027, and each year thereafter, an attestation by a properly authorized representative 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. The utility must provide additional documentation as the auditor may require.

(2) A transaction to purchase electricity, where the source is unknown at the time of purchase, for a term not to exceed thirty-one days, is not a coal-fired resource for the purposes of this rule.

(3) A utility must not engage in a series or combination of short-term transactions for unspecified electricity for the purpose of avoiding the restrictions on use of coal-fired resources under RCW 19.405.030(1).

NEW SECTION

**WAC 194-40-310 Documentation of nonemitting electric generation.**

(1) Any utility using nonemitting electric generation to comply with a requirement under RCW 19.405.040 or 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 contractual records or attestations of ownership and transfer by properly authorized representatives of the generating facility, all intermediate owners of the nonemitting electric generation, and a properly authorized representative of the utility.

(3) A utility may demonstrate ownership of the nonpower attributes of the nuclear portion of BPA's 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.

NEW SECTION

**WAC 194-40-330 Methodologies for energy efficiency and demand response resources. (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. The analysis must include the social cost of greenhouse gas emissions as specified in WAC 194-40-110.

(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:

(A) Use the conservation methodology established in RCW 19.285.040(1) and the rules implementing that subsection; or

(B) Establish the reasonable utility-level proportion of a conservation potential assessment prepared at a regional or multi-utility level using a methodology that:

(I) Evaluates resource alternatives on a total resource cost basis, in which all costs and all benefits of conservation measures are included regardless of who pays the costs or receives the benefits; and

(II) Includes the social cost of greenhouse gas emissions as specified in WAC 194-40-110.

(b) **Target.** The energy efficiency target for any interim performance period or GHG neutral 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) and (4).

(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 19.280.100.

(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. The utility must document the methodologies, assumptions, and factual inputs used in its measurement and verification of demand response resources.

## NEW SECTION

**WAC 194-40-340 Acquisition of new resources other than renewable resources and energy storage.** A utility that acquires a new fossil fuel generating resource or new nonemitting electric generation must document through its integrated resource plan and any other analysis relied on in making its decision that the resource acquisition is consistent with meeting the utility's targets under RCW 19.405.040 or the standard in RCW 19.405.050 at the lowest reasonable cost, considering risk. For the purposes of this chapter, a resource that commenced operation on or before May 7, 2019, is not a new resource.

NEW SECTION

**WAC 194-40-350 Use of alternative compliance options by utilities using two percent incremental cost threshold.** (1) Except as provided in subsection (2) of this section, 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 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 uses renewable resources and nonemitting electric generation in an amount equal to at least eighty percent of its annual retail electric load during the period.

NEW SECTION

**WAC 194-40-360 Temporary exemption, demonstration of plan to achieve full compliance.** (1) A utility must notify commerce at least thirty days prior to consideration of 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 whether 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 thirty 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).

NEW SECTION

**WAC 194-40-400 Documentation and retirement of renewable energy credits.** (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)(a) Except as provided in (b) of this subsection, each utility must verify and document by the retirement of RECs all electricity from renewable resources used to meet a target in an interim performance period or to comply with the requirements of RCW 19.405.040 or 19.405.050.

(b) A utility is not required to comply with (a) of this subsection for electricity from renewable resources used to meet a target in an interim performance period if:

(i) The energy source for the generating facility is water;

(ii) The generating facility is not registered in WREGIS or the WREGIS account holder for the generating facility verifies that no RECs have been created for the electricity used to meet CETA requirements; and

(iii) The utility owned the generating facility or purchased the electricity directly from the owner of the facility or, in the case of federal generating facilities, from BPA.

(3) Each utility using a REC under this chapter 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 performance period or 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 performance period or compliance period.

(4) A utility may use any REC retired to comply with RCW 19.285.040 for the purposes identified in subsection (2) of this section 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) of this section.

(5) This rule does not require the retirement of RECs identified in a CEIP and not otherwise used to meet an interim target or to comply with the requirements of RCW 19.405.040 or 19.405.050.

#### NEW SECTION

**WAC 194-40-430 Thermal RECs—Applicability.** (1) A thermal renewable energy credit may be used as an unbundled REC under RCW 19.405.040 (1)(b) if it is 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 a thermal REC.

(2) Thermal energy may not be used to create a thermal REC if the thermal energy:

(a) Is used to operate the generating facility or process the facility's fuel;

(b) Is returned to the biomass conversion device that initially created the eligible thermal resource;

(c) Bypasses the electricity generation device; or

(d) Is produced while the electricity generation equipment is out of service.

#### NEW SECTION

**WAC 194-40-440 Thermal RECs—Measuring.** (1) Qualifying thermal energy must be measured and tracked using the following methods:

(a) **Large facilities:** Facilities with the capacity to generate one or more thermal 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 thermal 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 (2) of this section. 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) Any thermal energy measurement system used to comply with this rule 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) The components of a thermal energy measurement system must be installed in accordance with the manufacturer's specifications.

(2) The operator of a thermal energy generating facility must submit to the department for its approval a thermal energy measurement plan that:

(a) 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.

(b) Includes documentation, including drawings, specifications, piping and instrumentation diagrams, and other information, sufficient to verify the compliance of the system with the requirements of this rule.

(c) Is prepared by or under the supervision of a licensed professional engineer, as indicated by the engineer's stamp.

(3) The operator of a thermal energy generating facility must submit an updated thermal energy measurement plan and documentation for review and approval to the department upon the following:

(a) Installation, removal or changes in the configuration of the thermal energy measurement system and its components;

- (b) Installation of new thermal energy generation equipment or changes in thermal energy generation capacity;
- (c) Installation or removal of secondary purpose equipment, changes to secondary purpose use, or changes in the secondary purpose maximum thermal energy demand; or
- (d) Indications the thermal energy measurement system is not performing in accordance with the thermal energy measurement plan.

NEW SECTION

**WAC 194-40-450 Thermal RECs—Tracking.** (1) Where continual measurements are required to determine the quantity of qualifying thermal energy, the operator of the thermal energy 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 must be totaled for each twenty-four-hour period, each month, and each quarter.

(2) The operator of the generating facility must retain measured data and related thermal energy calculations on-site for five calendar years and make records available for audit.

(3) Prior to measuring qualifying thermal energy for the purpose of generating thermal RECs, the operator of 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 three hundred sixty-five 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.

(4) 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.

NEW SECTION

**WAC 194-40-460 Thermal RECs—Reporting.** All thermal RECs are subject to the requirements of WAC 194-40-400.



<b>Rule Section</b>	<b>Commenter</b>	<b>Suggested Change</b>	<b>Agency Response</b>
194-40-030	Avista	Suggested edit: "CEIP means a clean energy implementation plan prepared in compliance with RCW 19.405.060."	Suggested change accepted.
194-40-030	NW Energy Coalition	Strongly urges the department to maintain the definition of "indicator".	Comment noted.
194-40-030	NW Energy Coalition	To reflect changes in WAC 194-40-230 the department might consider adding definitions for "alternative lowest reasonable cost and reasonably available portfolio" and "lowest reasonable cost and reasonably available portfolio"	Comment noted. No action taken. Commerce believes the meaning of these phrases is apparent in the relevant rules.
194-40-030	NW Energy Coalition	Add definition of "system value" to support suggestions in WAC 194-40-330.	Not accepted. This definition is a broader scope than the current rules for demand response. See further explanation below for -330.
194-40-030	PSE	Remove definition of indicator or at least have the same definition in UTC and Commerce rules.	Not accepted. Commerce developed this definition through stakeholder input. Commerce and the UTC have different supporting rules and definitions that do not necessitate lining up this particular definition.
194-40-030	Renewable Northwest	Add a definition for "alternative lowest reasonable cost and reasonably available portfolio" and specify in the definition that the portfolio includes the SCGHG.	Not accepted. WAC 194-40-230 provides the requirements for determining the cost of the alternative lowest reasonable cost and reasonably available portfolio, and subsection (7) of that rule addresses the treatment of the SCGHG adder.
194-40-030	The Energy Project	Recommend that the Department include in the rules a definition of "energy assistance need." The definition should line up with the definition established by the UTC.	Not accepted. Commerce intends to initiate rulemaking related to this topic at a future date after reviewing utility data collected under RCW 19.405.120(3)(a).
194-40-030	The Energy Project	Recommend that the Department amend proposed WAC 194-40-030 to adopt a definition of "low income." The definition should line up with the definition established by the UTC.	Not accepted. Commerce intends to consider this suggestion after reviewing utility data collected under RCW 19.405.120(3)(a).

<b>Rule Section</b>	<b>Commenter</b>	<b>Suggested Change</b>	<b>Agency Response</b>
194-40-030	Washington Environmental Council	The definition of “indicator” should be maintained in the final rules.	Comment noted.
194-40-030	WPUDA	Oppose use of the verb “establish” with respect to interim targets. It creates an inference that the target is an obligation.	Comment noted. No action taken. Commerce’s understanding of the statute is that specific and interim targets are not binding during the pre-2030 interim performance periods. Commerce believes this is sufficiently clear in the final rule.
194-40-040	Avista	Add language clarifying that it is sufficient for IOUs to submit reports they file with the Commission to Commerce to avoid duplicative reporting requirements.	Not accepted. Using a standard reporting format for all utilities will aid in comparison. This is current practice under the Energy Independence Act and is not burdensome.
194-40-040	Climate Solutions	Suggests additional progress report midway through a four-year CEIP or compliance period beginning in 2024 and every subsequent four years.	Not accepted. Mid-reporting could be considered later based on implementation experience, but at this time the merits of the suggested additional requirement are not demonstrated.
194-40-040	NW Energy Coalition	Applauds the revised language at (4)(h) regarding reporting on the success of meeting indicators.	Comment noted.
194-40-040	NW Energy Coalition	Urges the department to require a biennial short report update on progress towards indicators during any compliance period, to assure the public that progress towards the standards and interim targets is underway. Could be addressed in annual short updates (see next comment)	Not accepted. Mid-reporting could be considered later based on implementation experience, but at this time the merits of the suggested additional requirement are not demonstrated.
194-40-040	Snohomish PUD	Commerce’s draft rules appropriately recognize pre-2030 filings as “performance” filings rather than “compliance filings.”	Comment noted.
194-40-040	WPUDA	Oppose requirement to include other information necessary to demonstrate compliance with CETA.	Comment noted. No action taken. Each utility is responsible for determining what is required to demonstrate compliance with CETA, and this provision ensures that such information is not

Rule Section	Commenter	Suggested Change	Agency Response
			omitted from the performance report or compliance report.
194-40-040 194-40-230	NW Energy Coalition	Reinstate the requirement that compliance reports include the actual incremental costs if a utility is employing the incremental cost limitation be reinstated at 194-40-040 (l), to reinforce the requirement at 194-40-230(3) and (4).	Accepted. This change is consistent with the requirement in 194-40-230(4) to include cost information in the compliance report when using the incremental cost compliance method.
194-40-040(1)	WPUDA	We have no problem with the July reporting timeframe so long as the information is available from BPA.	Comment noted.
194-40-040(4)	Washington Environmental Council	The Department has an important role in collecting information made publicly available from all utilities and part (4)(f) and (h) should be maintained in final rules.	Comment noted.
194-40-040(4)	WPUDA	Support clarification in (h) but continue to have concerns regarding the equity mandate.	Comment noted.
194-40-040(4)	WPUDA	Appreciate and agree with Commerce's explanation in prior draft.	Comment noted.
194-40-040(4)(f)	Snohomish PUD	Clarify that the requirement to identify new resources acquired does not apply to short-term balancing market acquisitions.	Accepted. The language is revised to align more closely with RCW 19.405.040(6).
194-40-050	NW Energy Coalition	The Coalition has requested before that simple annual progress reports be required to demonstrate progress. We have suggested detailed language in our previous comments; if the first round of CEIPs show lagging compliance, then the progress reports should be made mandatory.	Comment noted. No action taken.
194-40-050	Renewable Northwest	Require biennial progress reports, in which a utility could revise its CEIP targets, similar to provision allowing updates of conservation targets.	Not accepted. Making mid-period changes in targets would not necessarily strengthen a utility's incentives to make progress toward full compliance. The purpose of the provision allowing

Rule Section	Commenter	Suggested Change	Agency Response
			updates to conservation targets to two align two statutory requirements and does not support a general approach of allowing target revisions.
194-40-050	The Energy Project	Include a “mid-stream” progress report during the four-year CEIP implementation period for both the clean energy and equitable distribution goals.	Not accepted. Mid-reporting could be considered later based on implementation experience, but at this time the merits of the suggested additional requirement are not demonstrated.
194-40-050	Washington Environmental Council	Appreciate the clarifying language in subsection (2) about public participation in the CEIPs	Comment noted.
194-40-050	WPUDA	Commerce should reconsider the requirement in (2) to provide information concerning public input.	Comment noted. No action taken. This requirement ties into the requirement of CETA to provide reasonable opportunity for customers and stakeholders to provide input during the development of CETA plans and ensures proper implementation of CETA.
194-40-110	Climate Solutions	Strongly supports the inclusion of upstream emissions associated with fossil fuels in SCGHG calculations, and are disappointed that the current draft rules have removed this requirement. We recommend confirming in rules that utilities must include all emissions that occur as a result of generation, including those from the extraction, production, and transportation of a fuel used to generate electricity.	Not accepted. The statute does not require that upstream emissions be included in the calculation of greenhouse gas costs, and including those emissions would make Commerce’s rules inconsistent with those of UTC and Ecology.
194-40-110	Climate Solutions	We continue to have substantial reservations with the overly flexible approach Commerce provides in these rules for applying the SCGHG. While there is value in flexibility, we worry that an inconsistent application among differing utilities of SCGHG risks market distortions and roadblocks to stakeholder participation in the	Comment noted. Commerce will consider changes to this rule after utilities and stakeholders have more experience with its application.

Rule Section	Commenter	Suggested Change	Agency Response
		numerous planning process across Washington's significant number of utilities. Commerce guidance is necessary	
194-40-110	NW Energy Coalition	We are pleased to see the requirement that all utilities must incorporate the SCGHG in both IRPs and Resource Plans (RPs) reinstated and aligned with the requirements of 19.405.120.	Comment noted.
194-40-110	NW Energy Coalition	Reinstate the requirement to include upstream emissions in the SCGHG calculation and request it be reinstated. The explanation that the change is to align with UTC and Ecology ignores the plain intent of CETA. (See attached legal memo of November 10, 2020). Include two SCGHG methodologies to accommodate utilities that do and do not utilize optimization in their modeling.	Not accepted. The statute does not require that upstream emissions be included in the calculation of greenhouse gas costs, and including those emissions would make Commerce's rules inconsistent with those of UTC and Ecology.
194-40-110	NW Energy Coalition	At minimum, if the suggested language above is not accepted, the department should commit to an analysis comparing the methodologies, assumptions and data used by utilities in the first IRPs if rule changes are warranted in the future.	Comment noted. Commerce will consider changes to this rule based on additional information such as that provided in utility integrated resource plans.
194-40-110	PGP	Requirement that small utilities include the social cost of greenhouse gases is contrary to statutory direction.	Comment noted. Commerce does not believe that the requirement is inconsistent with statutory directives.
194-40-110	PNGC/NRU	Disagree with Commerce's reversal of position in proposed WAC 194-40-110 to apply the social cost of carbon to small utility resource plans. Simplified approach of adding social cost to expected market prices still presents challenges.	Comment noted. Commerce has not identified any other simplified approach that is consistent with its understanding that RCW 19.280.030(3) applies to the evaluation and selection of conservation policies, programs, and targets and to intermediate term and long-term resource options.

<b>Rule Section</b>	<b>Commenter</b>	<b>Suggested Change</b>	<b>Agency Response</b>
194-40-110	Renewable Northwest	Clarify that the social cost of greenhouse gas cost adder is used to determine the lowest reasonable cost and reasonable available portfolio absent RCW 19.405.040 and .050.	Not accepted. The comment's intended effect apparently is to ensure that the GHG cost adder is applied when the 2% incremental cost increase provision is used. Commerce believes this issue is sufficiently addressed in WAC 194-40-230(7).
194-40-110	Snohomish PUD	The removal of "upstream" emissions from the greenhouse gas calculation helps avoid potential distortions	Comment noted.
194-40-110	Washington Environmental Council	Delete subsection (3) to remove assumptions around how the application of the cost adder will affect utility decision-making.	Not accepted. Commerce will consider changes to this rule after utilities and stakeholders have more experience with its application.
194-40-110	WPUDA	Disagree with statutory interpretation that small utilities are required to incorporate the social cost of greenhouse gases.	Comment noted. No action taken. Commerce does not believe that the requirement is inconsistent with statutory directives.
194-40-110	WPUDA	Appreciate that Commerce deleted the provision concerning upstream emissions.	Comment noted.
194-40-200	Climate Solutions	Require that utilities include targets for years beyond the period covered by the CEIP.	Not accepted. The interim target requirement in the proposed rule is consistent with the statutory language in RCW 19.405.060(2), which requires that the CEIP demonstrate progress toward meeting both the 2030 standard and the 2045 standard. Interim targets must be informed by an action plan that encompasses a 10-year period.
194-40-200	Cowlitz PUD No. 1	Include a statement affirming that CEIP targets are a non-binding planning tool that measures a utility's progress toward achieving proposed targets.	Not accepted. The legal status of CEIP targets is specified in the statute itself.
194-40-200	PGP	PGP has provided policy and legal reasons why the CEIP should be identified as a non-binding planning document. It is helpful that Commerce indicated that RCW 19.405.060 does not provide that every target or action the CEIP must be achieved by the utility.	Comment noted. The legal status of CEIP targets is specified in the statute itself.

<b>Rule Section</b>	<b>Commenter</b>	<b>Suggested Change</b>	<b>Agency Response</b>
194-40-200	Snohomish PUD	Remove the requirement to “demonstrate progress.”	Not accepted. The requirement to demonstrate progress is consistent with RCW 19.405.060(2). Commerce believes the rule sufficiently addresses the circumstance where a utility is already meeting the relevant standard.
194-40-200	Snohomish PUD	The CEIP is statutorily established as a planning document and should be viewed as such for purposes of compliance.	Comment noted. The legal status of CEIP targets is specified in the statute itself.
194-40-200	Tacoma Power	Include language that clarifies that the CEIP is a non-binding document.	Not accepted. The legal status of CEIP targets is specified in the statute itself.
194-40-200	The Energy Project	Support the addition of indicators associated with energy and non-energy benefits, reduction of burdens and other factors, to the CEIP requirements in proposed WAC 194-40-200(4)(c)(i).	Comment noted.
194-40-200(1)	WPUDA	Change “will take” to “intends to take.”	Not accepted. The verb “will take” is consistent with the language “to be taken” in RCW 19.405.060(2) and states the requirement in active voice.
194-40-200(10)	PNGC/NRU	Strongly support proposed provision to allow small utilities to adopt a CEIP using a simplified form provided by Commerce.	Comment noted.
194-40-200(2) and (3)	NW Energy Coalition	The clarification of “specific actions” is appreciated. We suggest a small edit to align “interim” and “specific” targets with the relevant subsections (2) and (3).	Suggested change accepted.
194-40-200(3)	WPUDA	We would appreciate Commerce confirming that utilities subject to the EIA may use efficiency targets prepared under RCW 19.285 to set and update the CEIP’s efficiency acquisition targets.	Comment noted. The substantive rule concerning efficiency targets is WAC 194-40-330(1).
194-40-200(3)(a)	NW Energy Coalition	The energy efficiency specific target should incorporate the SCGHG when setting the	Not accepted. The rules are organized with measurement and verification requirements

Rule Section	Commenter	Suggested Change	Agency Response
		avoided cost or evaluating energy efficiency resources, per 19.280.030(3)(a)(i). The circuitous reference to 194-40-330(1), which in turn refers to 194-40-110 is less clear than simply citing the statutory requirement	stated in WAC 194-40-330, CEIP requirements in WAC 194-40-200, and reporting requirements in WAC 194-40-040. Duplicate statements of requirements is unnecessary and potentially confusing.
194-40-200(3)(a)	Snohomish PUD	Snohomish supports the language found in draft rules allowing utilities to update the CEIP's four-year specific targets to align with biennial EIA energy efficiency targets.	Comment noted.
194-40-200(3)(a)(ii)	Washington Environmental Council	Amend the language to reinforce statutory direction already included in WAC 194-40-330 that if a COU revises its EE target, it must be sufficient to ensure pursuit of all cost-effective, reliable and feasible conservation and efficiency resources, and demand response.	No action taken. The revision to EE targets would be based on a potential assessment from a biennial conservation target established by the utility under RCW 19.285.040(1)(b) and WAC 194-37-070, which includes these requirements.
194-40-200(4)	Front and Centered	Supports: <ul style="list-style-type: none"> <li>● the requirements for reasonable opportunities for public input in the planning for compliance with the equity mandate (e.g., proposed WAC 194-40-220);</li> <li>● the requirements that CEIPs analyze and forecast specific effects on vulnerable populations and highly impacted communities to ensure an equitable transition (proposed WAC 194-40-200(4)); and,</li> <li>● the specific requirement that CEIPs include a plan to reduce risks to vulnerable populations and highly impacted communities (proposed WAC 194-40-200(4)(d)).</li> </ul>	Comment noted.
194-40-200(4)	NW Energy Coalition	In the current rule, the equity considerations are relegated to additional specific actions at 194-40-200(4), while the other specific actions	Not accepted. Defining specific actions for ensuring the equitable transition is critical for implementation of the chapter. Specific actions



<b>Rule Section</b>	<b>Commenter</b>	<b>Suggested Change</b>	<b>Agency Response</b>
		related to standards compliance are left with no equity consideration. This is not accurate. All actions must be considered for the equity considerations-- suggested edit to the heading at 194-40-200(4).	related to specific targets for energy efficiency, renewable energy, and demand response are covered as part of the provision under WAC 194-40-200(4)(c).
194-40-200(4)	Washington Environmental Council	4(b), (c)(i) and (d) clarify and guide implementation and should be maintained in the final rule.	Comment noted.
194-40-200(4)	WPUDA	The requirement to develop sensitivity factors through a public process is unworkable. It is more accurate to say that utilities will identify factors with the aid of a public process.	Comment noted. No action taken. Commerce does not believe the requirement is unworkable and has included the requirement to ensure that all customers are benefiting from the transition to clean energy.
194-40-200(4)(a)-(c)(ii)	Avista	Strike. Sections (c)(iii) and (d) are sufficient to ensure an equitable transition.	Not accepted. These requirements are integral to implementing the chapter. (4)(c)(iii) connects the CEIP to existing long term planning to ensure consistency and (4)(d) provides direction for the language in RCW 19.405.040(8).
194-40-200(8)	WPUDA	Delete requirement to identify the resource adequacy standard and measurement metrics. The utility will have already established this in the integrated resource plan or resource plan.	Not accepted. Identification of the resource adequacy parameters in the CEIP will help ensure proper implementation of CETA.
194-40-210	Cowlitz PUD No. 1	Withdraw Section -210 and monitor NWPP's planning process before promulgating any rules.	Not accepted. The proposed rule establishing minimum requirements for a utility's resource adequacy standard ensures effective implementation of CETA.
194-40-210	NW Energy Coalition	Clarify that storage, demand response and conservation resources should be assessed both as stand-alone resources and in combinations (i.e. solar plus storage).	Not accepted. The proposed rules does not preclude a utility from reporting on combination of resources. Suggested language does not add clarity to this provision.
194-40-210	NW Energy Coalition	RA standards and methodology should assess not just each resources energy and capacity to meet annual peaks, but also the resources	Comment noted.

<b>Rule Section</b>	<b>Commenter</b>	<b>Suggested Change</b>	<b>Agency Response</b>
		ability to meet annual, coincident and daily peaks, ramping needs and long-term duration stress events.	
194-40-210	NW Energy Coalition	Unclear why there are separate RA requirements for IRP and non-IRP utilities. This is inconsistent with legislative intent. At a minimum, the RA standard the non-IRP utilities rely on should meet the same requirements as those required of IRP utilities, even if the individual utility is not responsible for developing the RA assessment. If this distinction remains, we suggest a clarification for the short term and recommend that this issue be revisited in the future.	Comment noted.. No action taken. Commerce believes the distinguishing approach is appropriate because most small utilities rely entirely on BPA or another large utility for all resources and do not independently establish a resource adequacy standard.
194-40-210	PGP	Proposed rule is clearly beyond the scope of Commerce’s authority. The current version appears to be an improvement over the prior draft version. The approaches outlined in the rule may require some utilities to procure additional modeling tools.	Comment noted. No action taken. Commerce is authorized to adopt rules to ensure effective implementation of CETA, and resource adequacy, the subject of this rule component, is a core requirement of CETA.
194-40-210	PNGC/NRU	Support proposed rule provision excluding small utilities from more detailed elements of the resource adequacy rule.	Comment noted.
194-40-210	PNGC/NRU	Urge Commerce to consider a more flexible approach that allows for the adoption of comprehensive regional standards likely to go into effect in the near future.	Comment noted. No action taken. Commerce also considered opposition from industry members on specifically referencing developing regional standards. Commerce will consider future rule changes based on the development and adoption of regional standards.
194-40-210	Renewable Northwest Climate Solutions	Incorporate earlier amendments suggested by Renewable Northwest and PGP. Adopt more specific requirements for use of probabilistic assessments in resource adequacy standards.	Not accepted. Some elements of the RNW/PGP suggestion were already incorporated. Commerce will consider future rule changes based on the development and adoption of regional standards.

<b>Rule Section</b>	<b>Commenter</b>	<b>Suggested Change</b>	<b>Agency Response</b>
		Make the references to peak load standards, loss of load probability or expectation, and probabilistic assessment of resource adequacy mandatory rather than illustrative.	
194-40-210	Snohomish PUD	Commerce has adopted a practical approach to Resource Adequacy rule language	Comment noted.
194-40-210	Tacoma Power	Remove. No statutory basis. Could confuse or contradict NWPP. Not aligned with industry best practices. Utility's need flexibility in a changing world.	Not accepted. The proposed rule establishing minimum requirements for a utility's resource adequacy standard ensures effective implementation of CETA.
194-40-210	WPUDA	Commerce does not have the authority to adopt this rule. It addresses requirements of integrated resource planning in Chapter 19.280 RCW, and Commerce does not have authority to adopt rules on that subject.	Comment noted. No action taken. Commerce is authorized to adopt rules to ensure effective implementation of CETA, and resource adequacy, the subject of this rule component, is a core requirement of CETA.
194-40-220	Front and Centered	Believe that the Department's authority extends further, potentially enabling the Department to require more robust procedures for public engagement in utilities' planning processes. Asks the Department to commit to revisiting the rules at a fixed date in three to five years to both evaluate barriers to participation and amending the rules to reduce barriers to public participation due to language, cultural, economic, technological or other factors.	Comment noted. Commerce appreciates these suggestions for future work on CETA implementation and believes establishing this roadmap is best accomplished through guidance outside this rulemaking. Commerce looks forward to working with stakeholders to develop a roadmap for this work.
194-40-220	NW Energy Coalition	Request clarification in the guidelines as to what might be minimum considerations for public participation factors.	Comment noted.
194-40-220	NW Energy Coalition	Required creation of a diverse advisory group to inform the development of the CEIP.	Not accepted. The proposed rule requires that utilities provide reasonable opportunity for participation in the planning process. Commerce will consider the need for more specific

<b>Rule Section</b>	<b>Commenter</b>	<b>Suggested Change</b>	<b>Agency Response</b>
			requirements based on the experience of utilities and stakeholders.
194-40-220	Washington Environmental Council	The requirements for reasonable public input in utility planning in order to achieve the core equity mandate of the 100% clean law at RCW 19.405.040(8) establish good grounding for public processes.	Comment noted.
194-40-220	WPUDA	Proposed rule exceeds the requirements of CETA. Commerce has not provided any rationale to support this rule.	Comment noted. No action taken. Commerce believes that effective implementation of CETA requires reasonable opportunity for customers and stakeholders to provide input during the development of CETA plans.
194-40-230	Avista	Modify such that the minimum spending requirements to incur 2 percent per year is utilized to determine compliance.	Not accepted. The proposed rule establishes a threshold based on an amount equal to a 2% increase in revenue each year for the four-year period, which is consistent with the statute. This amount is used calculate the average annual threshold.
194-40-230	Avista	The determination of compliance using the incremental cost cap should not be on the total dollars spent over a CEIP, but rather on the average rate increase per year during a CEIP period as specified by RCW 19.405.060(3)(a)	Not accepted. The proposed rule establishes a threshold based on an amount equal to a 2% increase in revenue each year for the four-year period, which is consistent with the statute. This amount is used calculate the average annual threshold.
194-40-230	Climate Solutions	Support methodology in proposed rule but would prefer a methodology Climate Solutions proposed earlier.	Comment noted. No action taken.
194-40-230	Climate Solutions	Clarify that social cost of greenhouse gas emissions must be included in both the CETA-compliant and alternative portfolios.	Not accepted. This requirement is clearly stated in 194-40-230(7).
194-40-230	Climate Solutions	Add a definition of alternative lowest reasonable cost and reasonably available portfolio.	Not accepted. The meaning of this phrase is apparent from its use in the rule.

<b>Rule Section</b>	<b>Commenter</b>	<b>Suggested Change</b>	<b>Agency Response</b>
194-40-230	NW Energy Coalition	Add “or a GHG neutral compliance period” at 194-40-230(1) to align with subsection (8).	Not accepted. The proposed language already clearly applies to GHG neutral compliance periods.
194-40-230	NW Energy Coalition	Limit statutory references in subsection (3) to subsections (1) of RCW 19.405.040 and 19.405.050.	Not accepted. Compliance with the subsections (1) of the two statutes requires compliance with other subsections of those statutes. A reference to the entire section is appropriate.
194-40-230	PSE	The two percent calculation should compound over the four-year period and the calculation of the two percent should be completed during the filing of the CEIP.	Comment noted.
194-40-230	PSE	Not feasible to implement during the development of a CEIP, as it does not provide for the ability to identify the two percent upfront during the development and filing of a CEIP, but rather relies only on subsequent annual calculations.	Not accepted. The incremental cost provision in RCW 19.405.060(4) is based on whether cost “meets or exceeds” a specified level. This requires actual costs rather than projected costs.
194-40-230	Washington Environmental Council	Appreciate that the proposed rules require consistent application of the incremental cost of compliance methodology across all utilities. The final rules should not make any changes that allow for utilities to offer their own methodology, which would create uncertainty.	Comment noted.
194-40-230	WPUDA	Delay this rule because of its connection to the markets workgroup.	Not accepted. The issues considered by the markets workgroup are readily separated from the incremental cost provisions in this rule.
194-40-230(4)(b)	PSE	Revise or delete. Documentation over the four year compliance period will be more accurate and is consistent with the intent of the four year compliance period in statute.	Not accepted. There is no evidence that utilities lack financial records to support documentation by year, and documentation by year enhances the transparency of a utility’s compliance claims. This does not conflict with the four-year compliance period, since costs incurred in any year within the period are included in the calculation.

<b>Rule Section</b>	<b>Commenter</b>	<b>Suggested Change</b>	<b>Agency Response</b>
194-40-230(5)	Avista	Remove. It is not required by law.	Not accepted. This provision ensures that a single one-time investment for assets used over multiple years is properly allocated over time. Adoption of it ensures proper implementation of CETA.
194-40-230(7)	Avista	Replace "RCW" with "WAC."	Accepted.
194-40-300	Chelan PUD	This rule could become a de-facto restriction on unspecified purchases longer than 31 days. Wait for the markets workgroup before finalizing this rule.	Not accepted. The proposed rule does not modify the statutory definition of "coal fired resource," which provides an exception for unspecified sources if they are purchased for a term less than one month. Commerce will consider future rule changes based on input from the markets workgroup and others.
194-40-300	Cowlitz PUD	Set aside this section for further analysis by the Markets Workgroup.	Not accepted. The proposed rule provides the mechanism for utilities to demonstrate compliance with the no-coal provision in RCW 19.405.030 and provides a clarification requested by several utilities of the term "month." Commerce will consider future rule changes based on input from the markets workgroup and others.
194-40-300	NW Energy Coalition	Remove "of" in -300(2) for clarity: "A transaction to purchase of electricity, where the source is..."	Accepted.
194-40-300	PGP	Concerned that implementation of the no-coal standard may focus on eliminating unspecified or system transactions, rather than solely focusing on eliminating coal. This would go beyond statutory intent.	Comment noted. The proposed rule provides the mechanism for utilities to demonstrate compliance with the no-coal provision in CETA and provides a clarification requested by several utilities of the term "month." Commerce will consider future rule changes based on input from the markets workgroup and others.
194-40-300	PNGC/NRU	Clarify that utility purchases from BPA are not unspecified.	Not accepted. The proposed rule provides a mechanism to document compliance with the no-coal requirement in RCW 19.405.030. It does not provide an interpretation of how the requirement

Rule Section	Commenter	Suggested Change	Agency Response
			applies to purchases of unspecified power for a term in excess of 30 days. Commerce will consider future rule changes based on input from the markets workgroup and others.
194-40-300	Tacoma Power	Postpone until the Markets Workgroup has concluded its work.	Not accepted. The proposed rule provides the mechanism for utilities to demonstrate compliance with the no-coal provision in CETA and provides a clarification requested by several utilities of the term “month.” Commerce will consider future rule changes based on input from the markets workgroup and others.
194-40-300	Washington Environmental Council	We appreciate that this section anticipates and rectifies a possible loophole in implementation by forbidding utilities from engaging “in a series or combination of short-term transactions for unspecified electricity”.	Comment noted.
194-40-300	WPUDA	Support clarifications of one month as 31 days and use of commercial data.	Comment noted.
194-40-300	WPUDA	Hold off on adopting this rule until the markets workgroup has completed its task.	Not accepted. The proposed rule provides the mechanism for utilities to demonstrate compliance with the no-coal provision in RCW 19.405.030 and provides a clarification requested by several utilities of the term “month.” Commerce will consider future rule changes based on input from the markets workgroup and others.
194-40-300	WPUDA	Add a provision stating that purchases from BPA are not considered to be an unknown source.	Not accepted. The proposed rule provides a mechanism to document compliance with the no-coal requirement in RCW 19.405.030. It does not provide an interpretation of how the requirement applies to purchases of unspecified power for a term in excess of 30 days. Commerce will consider future rule changes based on input from the markets workgroup and others.

<b>Rule Section</b>	<b>Commenter</b>	<b>Suggested Change</b>	<b>Agency Response</b>
194-40-300(2)	Avista	Replace “purchase” with “delivery” in subsection (2). As written, the rule will unintentionally prevent a utility from hedging multiple months with market purchases.	Not accepted. The statutory provision concerning unspecified sources is based on the point at which the utility enters into the transaction, rather than the point at which the electricity is delivered. The effect of subsection (2) is to establish 31 days as the definition of a month for the purpose of applying the statutory requirements. The rule does not change the ability of the utility to engage in financial transactions to hedge anticipated future purchases of electricity.
194-40-300(3)	Avista	Add a provision allowing consecutive day-ahead market transactions or market transactions less than 31 days if the cumulative duration of consecutive contracts does not exceed 31 days.	Not accepted. The suggested language does not directly address the circumstance where a utility engages in a series of transactions for the purpose of avoiding the restriction on use of coal-fired resources, and it could prevent transactions that do not have that purpose.
194-40-300(3)	WPUDA	Provision is unclear.	Comment noted. No action taken. Whether a utility has impermissibly engaged in transactions for the purpose of avoiding restrictions on use of coal-fired resources will be determined in the audit or enforcement stage.”
194-40-320 194-40-410 (neither section included in proposed rules)	Cowlitz, PSE, Snohomish	Adopt procurement-based approach included in Sections -320 and -410 of previous draft rules.	Not accepted. Commerce and UTC are engaged with stakeholders in additional discussion of this issue. Commerce will consider proposing a rule after those discussions.
194-40-320 194-40-410 (neither section included in proposed rules)	PGP	Support approach Commerce has considered in its draft rules or a similar approach developed with investor-owned rules. Disappointed this language was removed. Look forward to active participation in processes of Commerce and UTC to develop guidance or a proposed rule in 2021.	Comment noted. Commerce appreciates the information and suggestions provided on this topic and the willingness to continue the discussion.



<b>Rule Section</b>	<b>Commenter</b>	<b>Suggested Change</b>	<b>Agency Response</b>
194-40-330	NW Energy Coalition	Clarify that the total resource cost basis is the methodology required in RCW 19.285.040(1) or described in WAC 194-37-070.	Not accepted. RCW 19.405.040(6) requires that utilities pursue all cost-effective, reliable, and feasible conservation, but it applies the specific methodology requirements of RCW 19.285.040(1) only to larger utilities. A more general requirement to employ a total resource cost methodology, without requiring the specific methodology, is consistent with the statute.
194-40-330	NW Energy Coalition	Suggest replacing “capacity values” with “system values” in the rule to ensure a broad DR potential assessment. Also add a definition for “system value” to 194-40-030. Language provided.	Not accepted. System value is beyond the scope of how demand response is dealt with in these proposed rules. There will be further work to clarify methodologies for assessing DR potential and establishing targets based on emerging best practices.
194-40-330	PNGC/NRU	Support proposed provision to allow small utilities to use regional studies prepared by BPA. We have concerns about the ability of small utilities to effectively use the alternative “assessment of potential” methodology provided in this section given Commerce’s reversal of position in proposed WAC 194-40-110 to apply the social cost of carbon to small utility resource plans.	Comment noted.
194-40-330	WPUDA	Support use of regional studies and adjustments permitted by the term “reasonable utility-level proportion.” We are not aware of any regional entity that used the social cost of carbon at the levels specified in WAC 194-40-110. Also, unsure if the rule requires small utilities to prepare a full conservation potential assessment for the 2022 CEIP. Request that small utilities be allowed to use existing regional conservation potential assessments for 2022 CEIPs.	Comment noted. Commerce believes that regional assessments by the Power Council or BPA will provide a reasonable basis for establishing conservation targets for the 2022-2025 period.

<b>Rule Section</b>	<b>Commenter</b>	<b>Suggested Change</b>	<b>Agency Response</b>
194-40-330(1)	WPUDA	Clarify that compliance with the EIA efficiency mandate makes a utility compliant with CETA's efficiency mandate.	Not accepted. The rule reconciles the requirements of CETA and EIA by using the EIA-calculated target as a minimum.
194-40-340	Washington Environmental Council	This section effectively translates statutory direction and drives progress toward the greenhouse gas-neutral standard and 100% clean electricity standard.	Comment noted.
194-40-360	WPUDA	Delete the requirement to provide notice to Commerce prior to considering action to authorize a temporary exemption.	Not accepted. The authorization of a temporary exemption under RCW 19.405.090(5)(a) could have a significant effect on achieving the objectives of CETA. Prior notice will assist Commerce and other stakeholders in monitoring potential actions and will help ensure effective implementation of CETA.
194-40-400	Cowlitz PUD No. 1	Current rule exceeds statutory authority by inserting a compliance obligation that does not exist in the law and reduce a utility's flexibility to best manage its resources during the interim compliance period. CEIP interim compliance report in Section -040 would be sufficient to demonstrate progress to meeting the Standards and make the retirement of RECs unnecessary.	Not accepted. The requirement to retire RECs for verification of all claims concerning use of renewable resources ensures proper implementation of CETA. Without these retirements, there is a potential that renewable claims would be double-counted.
194-40-400	PGP	The requirement to retire RECs prior to 2030 exceeds statutory direction and would essentially require compliance with the 2030 standard to start in 2022. The statute does not contemplate use of RECs as a mechanism with proposed renewable energy targets in CEIPs.	Comment noted. No action taken. The proposed rule does not affect a utility's obligations to use renewable resources in any period. Rather, it provides a method to ensure that any reported use of renewable resources, including claims made in interim performance reports, are verified and do not result in double-counting. The retirement of RECs to verify claims concerning use of renewable resources ensures proper implementation of CETA.

<b>Rule Section</b>	<b>Commenter</b>	<b>Suggested Change</b>	<b>Agency Response</b>
194-40-400	PNGC/NRU	Requiring utilities to retire RECs associated with pre-2030 targets exceeds statutory direction. The requirement to retire RECs prior to 2030 would essentially require compliance with the 2030 greenhouse gas neutral standard to start in 2022.	Not accepted. This rule does not require that a utility achieve any particular level of renewable resources or retire any particular amount of RECs. Rather, it requires that the utility retire an amount based on its own representation of the amount of renewable energy it used.
194-40-400	Tacoma Power	Exceeds statutory authority. No basis in the interim performance period or CEIP.	Not accepted. The retirement of RECs to verify claims concerning use of renewable resources ensures proper implementation of CETA. Without these retirements, there is a potential that renewable claims would be double-counted.
194-40-400	WPUDA	Clarify the circumstances where REC retirement is required to verify claims about use of renewable resources.	Accepted. The final rule adds a subsection to clarify this point.
194-40-400(4)	WPUDA	Requirements in (4)(a)-(d) raise concerns about the burden of compliance and legal issues.	Comment noted.
General	Convergent Energy + Power	Encourage additional discussions with industry stakeholders concerning the role of energy storage.	Comment noted.
General	Court Olson	Make the CETA rules mandate that transition off of fossil fuels as quickly as the legislation allows. Make sure that there are no loopholes for utilities like PSE to escape the rapid transition off of fossil fuels, including natural gas. Require utilities to implement low-income relief programs as they transition to clean fuels generation which could add capital costs into their budgets and potentially increase customer rates	Comment noted. The proposed rules require a transition from fossil fuels in a timeline that is consistent with the statute. The requirements for energy assistance programs are specified in RCW 19.405.120 and may be addressed in administrative rules later.
General	Front and Centered	Attached "Tools for Measuring Equity in 100% Renewable Energy Deployment: Literature Review," and "Metrics for Equitable Benefits: Recommendations for Washington State," to	Comment noted.

Rule Section	Commenter	Suggested Change	Agency Response
		help inform a dynamic process for centering equity in the clean energy transition.	
General	Front and Centered	<p>In three to five years, ask Commerce to commit to revisiting indicators and suggest:</p> <ul style="list-style-type: none"> <li>● assembling an ad-hoc working group for the development of equity performance indicators.</li> <li>● providing early guidance documents to utilities on early models, resources available, and literature that may apply;</li> <li>● committing to the delivery of a summary report and analysis by Department staff of “equity performance best practices” that have emerged following adoption of the currently proposed rules;</li> <li>● retrospectively reviewing the currently proposed rules to determine whether the open-ended approach; and</li> <li>● revisiting the rulemaking process to update the indicator requirements</li> </ul>	<p>Comment noted. Commerce appreciates these suggestions for future work on CETA implementation and believes establishing this roadmap is best accomplished through guidance outside this rulemaking. Commerce looks forward to working with stakeholders to develop a roadmap for this work.</p>
General	Front and Centered	<p>Commerce should actively engage the auditor’s office to assure that compliance with the legislature’s equity mandate can be reasonably, accurately, and fairly audited. In the interest of efficient and predictable audits of compliance with CETA, ask that Commerce consider:</p> <ul style="list-style-type: none"> <li>● discussion with auditor’s staff on how Commerce’s rulemaking can best serve the auditor’s need for effective audits of all requirements established by CETA including progress in meeting the requirements of the equity mandate; and</li> <li>● the importance of providing the auditor with a clear set of metrics for measuring equity</li> </ul>	<p>Comment noted. Commerce appreciates these suggestions for future work on CETA implementation and has included the State Auditor in development of the rules. Commerce believes establishing this roadmap is best accomplished through guidance outside the rules. Commerce looks forward to working with stakeholders to develop a roadmap for this work.</p>

Rule Section	Commenter	Suggested Change	Agency Response
		performance when revisiting equity performance indicators in the future.	
General	Patrick Binns	<p>Determination of social cost adders is inherently reliant on qualitative assessments of many factors that are difficult to quantify and verify; and yet the rules provide no guidance on how such costs should be added to a resource option's specific cost/benefit analysis in the CEIP.</p> <p>The proposed rules do not adequately address potential discrepancies between requiring a utility to include 'social cost adders' in their CEIP; while also planning their compliance with specific utility obligations to meet Resource Adequacy Standards</p>	Comment noted. The rule provides methodologies for use in developing and applying a social cost of greenhouse gas adder. After extensive discussion and written comments, Commerce concludes that a more prescriptive approach is not necessary at this time.
General	Patrick Binns	The CETA rules should acknowledge the importance of Effective Load Carrying Capability determinations in evaluating renewable energy resource options.	Comment noted. No action taken. The rule provides a reasonable level of specificity concerning the elements of a resource adequacy standard.
General	PNGC/NRU	Regarding equity provisions, we remain concerned about the broad scope, steep learning curve, and extensive workload related to complying with a groundbreaking policy area that has not traditionally been part of our core cost-of-service, energy-focused mission as utilities. We appreciate Commerce's acknowledgement of this challenge and ask that the agency grant flexibility and deference to consumer-owned utility governing boards who have historically embedded the concept of equity in their governance structures, as we seek to comply with these provisions.	Comment noted.

<b>Rule Section</b>	<b>Commenter</b>	<b>Suggested Change</b>	<b>Agency Response</b>
General	Snohomish PUD	Snohomish encourages Commerce to continue examining the effect of rules upon markets	Comment noted.

PGP: Public Generating Pool

PNGC/NRU: Pacific Northwest Generating Cooperative and Northwest Requirements Utilities

WPUDA: Washington Public Utility Districts Association