



PROPOSED RULE MAKING

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

Do NOT use for expedited rule making

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FILED

DATE: March 24, 2021

TIME: 11:08 AM

WSR 21-07-150

Agency: Department of Commerce

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 19-14-050 ; or

Expedited Rule Making--Proposed notice was filed as WSR _____; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) Chapter 194-40 WAC – Clean Energy Transformation Act

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
04/28/2021	1:00 p.m.	Zoom meeting	This hearing will be virtual only. Please check the Clean Energy Transformation Act (CETA) webpage for meeting information: https://www.commerce.wa.gov/growing-the-economy/energy/ceta/

Date of intended adoption: 05/21/2021 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Sarah Vorpahl

Address: P.O. Box 42525, Olympia, WA 98504

Email: ceta@commerce.wa.gov

Fax:

Other:

By (date) 04/28/2021

Assistance for persons with disabilities:

Contact Austin Scharff

Phone: 360.764.9632

Fax:

TTY:

Email: ceta@commerce.wa.gov

Other:

By (date) 04/28/2021

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The proposed rule establishes definitions for 'energy assistance need' and 'low-income' in WAC 194-40-030. The definitions affect requirements for electric utilities in RCW 19.405.120 and are proposed to ensure proper implementation of CETA. These definitions do not limit any utility from designing a program that uses values below the defined threshold for energy assistance need and low-income to define eligible participants.

Reasons supporting proposal: The rule implements Commerce's statutory directive to adopt rules establishing reporting requirements for electric utilities to demonstrate compliance with CETA and to ensure proper implementation of CETA. Both of the statutory definitions of "energy assistance need" and "low-income" in RCW 19.405.020 direct Commerce to provide specific thresholds for the terms. The proposed regulatory definitions provide the thresholds for those terms. These definitions are identical to definitions already adopted by the Utilities and Transportation Commission.

Statutory authority for adoption: RCW 19.405.100; RCW 19.405.120

Statute being implemented: Chapter 19.405 RCW

Is rule necessary because of a:

- Federal Law? Yes No
Federal Court Decision? Yes No
State Court Decision? Yes No

If yes, CITATION:

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

Name of proponent: (person or organization) Department of Commerce

- Private
 Public
 Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Sarah Vorpahl	1011 Plum Street SE P.O. Box 42525 Olympia, WA 98504-2525	360 688-6000
Implementation:	Department of Commerce	1011 Plum Street SE P.O. Box 42525 Olympia, WA 98504-2525	360 407-6000
Enforcement:	Attorney General	1125 Washington Street SE PO Box 40100 Olympia, WA 98504-0100	360 725-6200

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

- Yes No

If yes, insert statement here:

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

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

Is a cost-benefit analysis required under RCW 34.05.328?

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

- Name:
Address:
Phone:
Fax:
TTY:
Email:

Other:

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

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

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

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

Citation and description:

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

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

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

- | | |
|---|--|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> RCW 34.05.310 (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |

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

Explanation of exemptions, if necessary:

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES


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

No Briefly summarize the agency's analysis showing how costs were calculated. The proposed rule does not impose any additional cost on any person. It establishes definitions, as required by RCW 19.405.020, used in the implementation of RCW 19.405.120.

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

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

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

Date: March 24, 2021	Signature: 
Name: Amber Siefer	
Title: Rules Coordinator	

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.

"Energy assistance need" means the amount of assistance necessary to achieve an energy burden equal to six percent for utility customers.

"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.

"Low-income" means household incomes that do not exceed the higher of eighty percent of area median income or two hundred percent of federal poverty level, adjusted for household size.

"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.