



# RULE-MAKING ORDER

**CR-103P (May 2009)**  
**(Implements RCW 34.05.360)**

**Agency:** Department of Revenue

**Permanent Rule Only**

**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:**

WAC 458-20-273 (Rule 273) explains the cost recovery incentive program for renewable energy systems. The Department has amended Rule 273 to recognize ESSB 6170 (chapter 469, Laws of 2009) and ESSB 6658 (chapter 202, Laws of 2010). The legislation: (1) increases the annual payment limitations to customers, (2) increases the limitations on incentive payments made by participating light and power businesses, (3) changes the formula used to determine payment amounts based on "economic development kilowatt-hours," (4) extends the incentive program to community solar projects, (5) creates three types of community solar projects, (6) sets limitations on total payments for community solar projects and (7) sets capacity generating restrictions on systems in community solar projects.

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

Repealed:

Amended: WAC 458-20-273 Renewable Energy System Cost Recovery

Suspended:

**Statutory authority for adoption:** RCW 82.32.300 and 82.01.060

**Other authority :**

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

Adopted under notice filed as WSR 10-08-047 on April 2, 2010 (date).

Describe any changes other than editing from proposed to adopted version: **See attachment**

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting: **An analysis was not prepared.**

Name: \_\_\_\_\_ phone ( ) \_\_\_\_\_

Address: \_\_\_\_\_ e-mail \_\_\_\_\_

**Date adopted:** August 5, 2010

**NAME (TYPE OR PRINT)**

Alan R. Lynn

**SIGNATURE**

**TITLE**

Rules Coordinator

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: August 05, 2010**

**TIME: 8:59 AM**

**WSR 10-17-004**

**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:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	New	_____	Amended	<u>1</u>	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 in the agency's own initiative:**

New	_____	Amended	<u>1</u>	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:**

<b>Negotiated rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	_____	Amended	_____	Repealed	_____



STATE OF WASHINGTON  
DEPARTMENT OF REVENUE

Attachment for CR 103 of WAC 458-20-273

**Describe any changes other than editing from proposed to adopted version:**

The following language was added at subsection (2)(d)(i):

(i) "Capable of generating up to seventy-five kilowatts of electricity" means that the solar energy system will qualify if it generates 75 kilowatts of electricity or less. If the solar energy system or a community solar project produces more than 75 kilowatts the entire project is ineligible for the incentive payment program."

The following underlined language was added to subsection (2)(d)(iii):

(iii) "Local individuals, households, nonprofit organizations, or nonutility businesses" mean individuals, households, nonprofit organizations, or nonutility businesses that are:

- Located within the service area of the light and power business where the renewable energy system is located; and
- Residents of Washington state.

The following changes were made to subsection (2)(e)(i). Language added is underlined and language removed reflected in strikeout:

Except for utility-owned community solar projects, a system located on a leasehold interest does not qualify under this definition. For a community solar project requiring the cooperation of a local governmental entity, the ~~utility or~~ cooperating local governmental entity must own in fee simple the real property on which the solar energy system is located to qualify as "customer-generated electricity." A leasehold interest held by a ~~utility or~~ cooperating local governmental entity will not qualify. However, for nonutility community solar projects, a solar energy system located on land owned in fee simple by a cooperating local governmental entity that is leased to local individuals, households, nonprofit organizations, nonutility businesses or companies will qualify as "customer-generated electricity."

Subsection (2)(f) was changed to read as follows:

"Local governmental entity" means any unit of local government of Washington state including, but not limited to:

- Counties;
- Cities;
- Towns;
- Municipal corporations;
- Quasi-municipal corporations;
- Special purpose districts;

- Public stadium authorities; or
- Public school districts.  
“Local governmental entity” does not include a state or federal governmental entity, such as a:
- State park;
- State-owned building;
- State-owned university;
- State-owned college;
- State-owned community college; or
- Federal-owned building.

Subsection (4) of the rule was changed to read as follows:

**Must you be a customer of a light and power business to be a recipient of an incentive payment?**

Yes, only owners of qualifying renewable energy systems located on interconnected properties belonging to customers of a light and power business are eligible to receive incentive payments. This is because the electricity generated by the renewable energy system must be able to be transformed or transmitted for entry into or operated in parallel with electricity transmission and distribution systems. In the case of community solar projects, the land on which the renewable energy system is located may be owned in fee simple by a local governmental entity or owned in fee simple or leased by a utility and they will be the customer of the light and power business.

The following language was added to subsection (6)(c):

The utility acting as administrator must apply for the certification if it's a utility-owned community solar project on property owned or leased by the utility.

The underlined language below was added to subsection (8):

**(a) Information required on the application to the light and power business.**

(i) The name and address of the applicant and location of the renewable energy system . . .

(C) If the applicant is the utility involved with a utility-owned community solar project that is acting as an administrator, the application must also include the current name and address of each member of the company that is a participant in the community solar project.

The following language was added as a new subsection (12):

**(12) Must the renewable energy system be owned or can it be leased?** The renewable energy system must be owned by the individual, business, local governmental entity, utility in a utility-owned renewable energy system, local individuals, households, nonprofit organizations or nonutility business in a community-solar project, or company in a company-owned system. Leasing a renewable energy system does not constitute ownership.

The following language was added as a new subsection (21):

**When community solar projects are located on the same property, how do you determine whether their systems are one combined system or separate systems for determining the seventy-five kilowatts limitation?**

When more than one community solar project is located on one property, determining whether a community solar project's system is capable of generating more than seventy-five kilowatts of electricity, will treat each project's system as separate from the other projects if there are:

- Separate meters;
- Separate inverters;
- Separate certification documents submitted to the department of revenue; and
- Separate owners in each community solar project.