

**ACTION ITEM #2**  
**Revisions to the WAC Chapter 504-49 Energy Program**  
**(Daniel J. Bernardo)**

September 21, 2018

TO ALL MEMBERS OF THE BOARD OF REGENTS

**SUBJECT:** Revisions to the WAC Chapter 504-49

**PROPOSED:** That the Board of Regents approve revisions to the WAC Chapter 504-49

**SUBMITTED BY:** Daniel J. Bernardo, Provost and Executive Vice President

**SUPPORTING INFORMATION:** Effective October 1, 2017 and per legislation passed over the summer in ESSB 5939, a large share of the responsibility for administering the Renewable Energy System Incentive Program was transferred from the Washington State Department of Revenue to the Washington State University Energy Program. The WSU Energy Program resides within the College of Agricultural, Human, and Natural Resource Sciences and is administered by WSU Extension.

In order to meet the requirements of ESSB 5939 and be able to provide immediate guidance to the public, Washington State University, under the delegated authority to President Schulz, filed the attached, revised chapter with the state Code Reviser's Office as emergency rules on October 30, 2017. Prior to the submission, the Renewable Energy System Incentive Program, the College of Agricultural, Human, and Natural Resource Sciences (WSU Extension), the Office of the Provost, and the Office of the President carefully reviewed and approved the filing. The Renewable Energy System Incentive Program has been operating under the emergency rules since October 30, 2017.

The WSU Energy Program has developed the permanent rules for operating the Renewable Energy System Incentive Program and introduced those rules as a future action item at the March 2018 meeting of the Board of Regents. The proposed permanent rules have been published and open to a public commenting phase that extended through April 12, 2018. As a result of comments received, the WSU Energy Program made changes to the permanent rules prior to adoption by the Board of Regents. Making changes to the rules then required another draft, review and approval

process, as well as another public hearing prior to sending the rules forward for approval by the Board of Regents.

In the interim timeframe, Washington State University refiled the emergency rules on July 18, 2018. The refiling process was critical as the Energy Program cannot operate without rules needed to administer the incentive program as mandated by the state legislature.

Prior to the submission, the Renewable Energy System Incentive Program, the College of Agricultural, Human, and Natural Resource Sciences, the Office of the Provost, and the Office of the President carefully reviewed and approved of the filing.

The permanent rules pertaining to the Renewable Energy System Incentive Program and the WAC Chapter 504-49 are attached for the Board of Regent's consideration and approval.

ATTACHMENT: Attachment A

RENEWABLE ENERGY SYSTEM INCENTIVE PROGRAM

NEW SECTION

**WAC 504-49-010 Introduction.** (1) The rules in this chapter explain the renewable energy system incentive program, which is administered by the Washington State University energy program (hereinafter referred to as "energy program"). It is the legislature's intent to provide the incentives as described in RCW 82.16.130 in order to ensure the sustainable job growth and vitality of the state's renewable energy sector. The purpose of the incentive is to reduce the costs associated with installing and operating renewable energy systems by persons or entities receiving the incentive. This incentive program authorizes an incentive payment based on electricity generated by renewable energy systems located in Washington state. Qualified renewable energy systems include:

(a) Solar energy systems;

(b) Wind generators; and

(c) Certain types of anaerobic digesters that process manure from livestock into biogas and dried manure using microorganisms in a closed oxygen-free container, in which the biogas (such as methane) fuels a generator that generates electricity.

(2) The rules in this chapter are divided into seven parts based on subject matter, as follows:

(a) Part I: Definitions;

(b) Part II: Participation and application requirements, and incentive levels by project type;

(c) Part III: Calculation of incentives;

(d) Part IV: General topics;

(e) Part V: Manufactured in Washington state;

(f) Part VI: Application process for currently certified renewable energy systems in the cost recovery incentive program; and

(g) Part VII: Appeals rights.

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PART I  
DEFINITIONS

NEW SECTION

**WAC 504-49-100 Overview.** The definitions in Part I of this chapter (this section and WAC 504-49-103 through 504-49-195) apply throughout this chapter unless the context clearly requires otherwise.

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NEW SECTION

**WAC 504-49-103 Administrator.** The term "administrator" has the following two meanings in this chapter:

(1) For purposes of a shared commercial solar project, the administrator is a utility or a business under contract with a utility which administers a shared commercial solar project that meets the eligibility requirements specified in this chapter. The administrator applies for certification on behalf of each of the project participants. In addition, the administrator performs administrative tasks on behalf of the owners as may be necessary, such as:

- (a) Receiving the renewable energy incentive payments;
- (b) Allocating and paying appropriate amounts of such payments to owners; and
- (c) Communicating with the energy program about any changes in participants.

(2) For purposes of a community solar project as defined in WAC 504-49-120, the administrator is the utility, nonprofit, or local housing authority (as defined in RCW 35.82.020) that organizes and administers the community solar project. The administrator is responsible for applying for the renewable energy system incentive on behalf of the system's owners. In addition, the administrator performs administrative tasks on behalf of the owners as may be necessary, such as:

- (a) Receiving the renewable energy incentive payments;
- (b) Allocating and paying appropriate amounts of such payments to owners; and
- (c) Communicating with the energy program about any changes in participants.

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NEW SECTION

**WAC 504-49-105 Caps and limits.** "Caps and limits" are defined as follows:

(1) "Annual incentive limits" means the annual limits on total incentives paid per person, business, or household for a given fiscal year of electricity generation from the four project types described in chapter 36, Laws of 2017, 3rd sp. sess. (ESSB 5939). Each incentive recipient may qualify for payments up to the incentive cap within each project type. However, incentive recipients who have multiple projects within one project type are subject to the cap for the applicable project type. These caps are as follows:

- (a) Residential-scale systems: Five thousand dollars;
- (b) Commercial-scale systems: Twenty-five thousand dollars;

(c) Shared commercial solar projects: Up to thirty-five thousand dollars per year per project participant, as determined by the terms specified in chapter 36, Laws of 2017, 3rd sp. sess. (ESSB 5939); and

(d) Community solar projects: Five thousand dollars per project participant.

(2) "Utility credit cap" means that the maximum annual incentives paid by an electrical utility may not exceed one and one-half percent of the businesses' taxable power sales generated in calendar year 2014 and due under RCW 82.16.020 (1)(b) or two hundred fifty thousand dollars, whichever is greater, up to the utility's public utility tax liability.

(3) "Project type cap" has the following two meanings in this chapter:

(a) For commercial-scale systems, the project type cap is twenty-five percent of the remaining funds for credit available to a utility as of July 1, 2017; and

(b) For community solar and shared commercial solar projects combined, the project type cap is fifty percent of the remaining funds for credit available to a utility as of July 1, 2017.

(4) "Incentive rate limit" for shared commercial solar project participants means that the incentive rate must not exceed the difference between the levelized cost of energy output and the participant's retail rate.

(5) "Total program limit" means that the total incentive payments made under this program (in this chapter) may not exceed one hundred ten million dollars.

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#### NEW SECTION

**WAC 504-49-108 Certification.** "Certification" means the authorization issued by the energy program establishing a system's eligibility and the eligibility of a person, business, or household to receive annual incentive payments from the serving utility for the incentive program term.

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#### NEW SECTION

**WAC 504-49-110 Commercial-scale system.** "Commercial-scale system" means a renewable energy system or system other than a community solar project or a shared commercial solar project with a direct current combined nameplate capacity greater than twelve kilowatts that meets the applicable system eligibility requirements established in section 6, chapter 36, Laws of 2017, 3rd sp. sess. (ESSB 5939).

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NEW SECTION

**WAC 504-49-115 Community solar project.** "Community solar project" means a solar energy system that:

(1) Has a nameplate generating capacity that is no larger than one thousand kilowatts direct current;

(2) Must have at least ten participants or one participant for every ten kilowatts direct current nameplate capacity, whichever is greater; and

(3) Meets the applicable eligibility requirements established in sections 6 and 7, chapter 36, Laws of 2017, 3rd sp. sess. (ESSB 5939).

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NEW SECTION

**WAC 504-49-120 Consumer-owned utility.** "Consumer-owned utility" has the same meaning as in RCW 19.280.020.

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NEW SECTION

**WAC 504-49-125 Customer-owner.** "Customer-owner" means the owner of a residential-scale or commercial-scale renewable energy system, where such owner:

(1) Is not a utility;

(2) Is the primary account holder of the utility account; and

(3) Either owns or occupies the premises where the renewable energy system is installed.

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NEW SECTION

**WAC 504-49-130 Direct current.** "Direct current" means the unidirectional flow of electric charge.

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NEW SECTION

**WAC 504-49-135 Electric utility or utility.** "Electric utility" or "utility" means a consumer-owned utility or investor-owned utility as those terms are defined in RCW 19.280.020.  
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NEW SECTION

**WAC 504-49-140 Fiscal year.** "Fiscal year" means July 1st through June 30th of the following year for the purposes of this rule. For example, fiscal year 2018 goes from July 1, 2017, through June 30, 2018.  
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NEW SECTION

**WAC 504-49-145 Nonprofit organization.** "Nonprofit organization" means an organization exempt from taxation under 26 U.S.C. Sec. 501(c)(3) of the federal Internal Revenue Code of 1986, as amended, as of January 1, 2009.  
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NEW SECTION

**WAC 504-49-150 Person, business, and household.** "Person, business, and household" means any individual, firm, partnership, corporation, company, association, agency, or any other legal entity that resides on a property or has a business located on a property within the service area of the utility where the renewable energy system is located.

(1) No person, business, or household is eligible to receive incentive payments provided under section 1, chapter 36, Laws of 2017, 3rd sp. sess. (ESSB 5939) of more than:

(a) Five thousand dollars per year for residential-scale systems or community solar projects;

(b) Twenty-five thousand dollars per year for commercial-scale systems; or

(c) Thirty-five thousand dollars per year for shared commercial solar projects.

(2) Example: Two or more individuals living together in one household, with one customer account with the participating utility, constitutes a household. Although they may each individually participate in this incentive program, these same individuals living together in one household receive incentives in accordance with this chapter.

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NEW SECTION

**WAC 504-49-155 Program term.** "Program term" means eight years, or until cumulative incentive payments for electricity produced by the project reach fifty percent of the total system price, including applicable sales tax, whichever occurs first. Eight years is equivalent to ninety-six months of electricity generation from the time of certification.

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NEW SECTION

**WAC 504-49-160 Project participant.** "Project participant" has the two following meanings:

(1) For purposes of community solar projects, a utility customer who participates in a community solar project in order to obtain a beneficial interest. Eligible participants of a community solar project that are business entities, such as a limited liability company or a corporation, are analyzed for participant eligibility and applicable incentive caps and limits by looking through the business entity to the members or stockholders that own the business entity.

(2) For purposes of shared commercial solar projects, a customer of a utility and located in the state of Washington.

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NEW SECTION

**WAC 504-49-165 Renewable energy system.** "Renewable energy system" means a grid-connected:

(1) ~~((An-s))~~ Solar energy system;

(2) ~~((An-a))~~ Anaerobic digester as defined in RCW 82.08.900; or

(3) ~~((A-w))~~ Wind generator.

~~((All systems must be grid connected and used for the generation of electricity.))~~

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NEW SECTION

**WAC 504-49-170 Residential-scale system.** "Residential-scale system" means a renewable energy system or systems located at a single

situs with combined nameplate capacity of twelve kilowatts direct current or less that meets the applicable system eligibility requirements established in section 6, chapter 36, Laws of 2017, 3rd sp. sess. (ESSB 5939).  
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NEW SECTION

**WAC 504-49-175 Shared commercial solar project.** "Shared commercial solar project" means a solar energy system, owned or administered by an electric utility, which:

(1) Has a combined nameplate capacity of greater than one megawatt direct current and not more than five megawatts direct current;

(2) Has at least five participants; and

(3) Meets the applicable eligibility requirements established in sections 6 and 8, chapter 36, Laws of 2017, 3rd sp. sess. (ESSB 5939).  
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NEW SECTION

**WAC 504-49-180 Solar energy system.** "Solar energy system" means any device or combination of devices or elements that rely on direct sunlight as an energy source for use in the generation of electricity.  
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NEW SECTION

**WAC 504-49-185 Solar inverter.** "Solar inverter" means the device used to convert direct current to alternating current in a solar energy system.  
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NEW SECTION

**WAC 504-49-190 Solar module.** "Solar module" means the smallest nondivisible, self-contained physical structure housing interconnected photovoltaic cells and providing a single direct current electrical output.  
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NEW SECTION

**WAC 504-49-195 Total system price.** (1) "Total system price" includes only the renewable energy system components and fees that are integral and necessary for the generation of electricity. Components and fees include:

(a) Renewable energy system equipment (depends on system type):

(i) Solar energy system: Solar modules, inverter(s);

(ii) Wind generator: Turbine(s), tower(s), inverter(s);

(iii) Anaerobic digester: Digester/reactor, electrical generator.

(b) Balance of system (such as racking, wiring, switch gear, meter base);

(c) Nonhardware costs incurred up to the date of the final electrical inspection (such as fees associated with engineering, permitting, interconnection, application);

(d) Labor;

(e) Sales tax (as applicable).

(2) Total system price does not include structures and fixtures that are not integral and necessary to the generation of electricity, such as carports, roofing, and ((battery)) energy storage.

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PART II

PARTICIPATION AND APPLICATION REQUIREMENTS, AND INCENTIVE LEVELS  
BY PROJECT TYPE

NEW SECTION

**WAC 504-49-200 Participation by a utility in the renewable energy system incentive program is voluntary.** (1) A utility electing to participate in the incentive program must notify the energy program of such election in writing.

(2) The utility may terminate its voluntary participation in the incentive program by providing notice in writing to the energy program to cease issuing new certifications for renewable energy systems that would be served by that utility.

(3) Such notice of termination of participation is effective after fifteen days, at which point the energy program may not accept new applications for certification of renewable energy systems that would be served by that utility.

(4) Upon receiving a utility's notice of termination of participation in the incentive program, the energy program must report on its web site that customers of that utility are no longer eligible to receive new certifications under the incentive program.

(5) A utility's termination of participation does not affect the utility's obligation to continue to make annual incentive payments for electricity generated by systems that were certified prior to the

effective date of the notice. The energy program must continue to process and issue certifications for renewable energy systems that were received by the energy program before the effective date of the notice of termination.

(6) A utility that has terminated participation in the program may resume participation upon filing notice with the energy program.  
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NEW SECTION

**WAC 504-49-205 Certification restrictions.** No new certification may be issued under this chapter for a system which an applicant received notice of eligibility from the department of revenue under the cost recovery program (RCW 82.16.120), or for a renewable energy system served by a utility that has elected not to participate in the incentive program, as provided in WAC 504-49-200.  
[ ]

NEW SECTION

**WAC 504-49-210 Renewable energy project requirements.** Any person, business, or household, as defined in WAC 504-49-150, that participates in any of the four types of renewable energy projects defined in sections 5 through 8, chapter 36, Laws of 2017, 3rd sp. sess. (ESSB 5939), must meet the specified participation requirements and is subject to the system capacity limits, application requirements, and incentive limits, as follows:

(1) Residential-scale:

(a) Participation: The participant must be an owner of a residential-scale renewable energy system that is not a utility and:

(i) Is a customer of the utility that serves that location and has established an interconnection agreement with the utility for the renewable energy system; and

(ii) (~~Is located on contiguous property; and~~  
~~(iii)~~)) Either owns or occupies the premises where the renewable energy system is installed.

(b) Capacity: Twelve kilowatts direct current or less, combined:

(i) Example 1: A property with a six kilowatts direct current solar system on one structure and a five kilowatts direct current system on the same or separate structure qualifies for the residential-scale incentive rate because the total capacity is less than twelve kilowatts direct current, combined.

(ii) Example 2: A property with a six kilowatts direct current solar system on one structure and a seven kilowatts direct current system on the same or separate structure does not qualify for the residential-scale incentive rate because the total capacity is greater

than twelve kilowatts direct current, combined. This combined system instead qualifies for the commercial-scale incentive rate.

(iii) Example 3: A property with a twelve kilowatt direct current solar system, production metered and applying for the incentive, and any additional direct current system, production metered or not, and not applying for the incentive, on the same or separate structure, does not qualify for the residential-scale incentive rate because the combined capacity is greater than twelve kilowatts direct current. This combined system instead qualifies for the commercial-scale incentive rate.

(iv) In the case of multiple renewable energy systems on a structure such as a condominium or commercial building, each having a separate customer-owner and separate utility and production meters, each system, if under twelve kilowatts direct current, would qualify for the residential-scale rate.

(c) Application: The owner submits a completed application to the energy program for certification per requirements specified in WAC 504-49-220.

(d) Annual incentive limit: Five thousand dollars per person, business, or household.

(2) Commercial-scale:

(a) Participation: The participant must be an owner of a commercial-scale renewable energy system that is not a utility and:

(i) Is a customer of the utility that serves that location and has established an interconnection agreement with the utility for the renewable energy system; and

(ii) (~~Is located on contiguous property; and~~ ~~(iii)~~) Either owns or occupies the premises where the renewable energy system is installed.

(b) Capacity: Greater than twelve kilowatts direct current, combined.

(i) Example 1: A property with a six kilowatts direct current solar system on one structure and a seven kilowatts direct current system on the same or separate structure qualifies for the commercial-scale incentive rate because the total capacity is greater than twelve kilowatts direct current, combined.

(ii) Example 2: A property with a six kilowatts direct current solar system on one structure and a five kilowatts direct current system on the same or separate structure qualifies for the residential-scale incentive rate because the total capacity is less than twelve kilowatts direct current, combined.

(c) Application: The owner submits a completed application to the energy program for certification per requirements specified in WAC 504-49-220.

(d) Annual incentive limit: Twenty-five thousand dollars per person, business, or household.

(3) Shared commercial solar:

(a) Administration: Administrators of this project type must be a utility or a business under contract with a utility;

(b) Participation: Projects must have at least five project participants, each of which is a customer of the utility and located in the state of Washington;

(c) Capacity: Combined nameplate capacity greater than one megawatt direct current and not more than five megawatts direct current;

(d) Application:

(i) Precertification. Prior to applying for certification, a shared commercial solar administrator must apply for precertification against the remaining funds available for incentive payments as of July 1, 2017. Precertification application requirements include, but are not limited to:

(A) The name of the utility serving the project location;

(B) Contact information for the project administrator and technical management personnel; and

(C) System information, including system component details and operation data such as global positioning system coordinates, tilt, estimated shading, and azimuth, as applicable;

(D) Additional information regarding deployment of projects in low- and moderate-income communities, as those terms are defined in RCW 43.63A.510, as requested.

(ii) Certification. The application for certification may not exceed the precertified system capacity. An application for certification must be completed by the shared commercial solar project administrator and approved by the energy program within one year of precertification issuance. Extensions past the three hundred sixty-five-day period are not granted. Projects that do not meet this deadline lose precertification status.

(e) Incentive rate: The incentive rate is set at the date of precertification approval;

(f) Annual incentive limit: Thirty-five thousand dollars per participant (person, business, household), consistent with their share of participation.

(4) Community solar project:

(a) Administration: A utility, nonprofit, or local housing authority that organizes or administers a solar project;

(b) Participation: The project must have at least ten participants, or one participant for every ten kilowatts direct current nameplate capacity, whichever is greater; and all participants must be customers of the participating utility;

(c) Capacity: Nameplate capacity that is no more than one thousand kilowatts direct current;

(d) There are no limitations on location unless stated in this section: Community solar project systems must be located in the state of Washington;

(e) Application:

(i) Precertification. Prior to applying for certification, a community solar project administrator must apply for precertification against the remaining funds available for incentive payments as of

July 1, 2017. Precertification application requirements include, but are not limited to:

- (A) The name of the utility serving the project location;
- (B) Contact information for the project administrator and technical management personnel; and
- (C) System information, including system component details and operation data such as global positioning system coordinates, tilt, estimated shading, and azimuth, as applicable.

(ii) Certification. The application for certification may not exceed the precertified system capacity. An application for certification must be completed by the community solar project administrator and approved by the energy program within one year of precertification issuance. Extensions past the three hundred sixty-five-day period are not granted. Projects that do not meet this deadline lose precertification status.

~~((e))~~ (f) Incentive rate: The incentive rate is set at the date of precertification approval;

~~((f))~~ (g) Annual incentive limit: Five thousand dollars per participant (person, business, household), consistent with their share of participation.

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#### NEW SECTION

**WAC 504-49-215 Department of revenue-certified renewable energy systems.** To continue to be eligible to receive incentive payments under the renewable energy system cost recovery program (as described in WAC 458-20-273), the applicants (as defined in WAC 458-20-273) with the department of revenue certification must reapply with the energy program. This reapplication process is described in Part VI of this chapter and must be completed by April 30, 2018.

(1) Participation: Only applicants with renewable energy systems previously certified by the department of revenue may reapply for continued incentives.

(2) Application: Submit a completed reapplication to the energy program for certification in accordance with the requirements specified in Part VI of this chapter. For community solar projects, also submit a list of participants in the project.

(3) Annual incentive limit: Five thousand dollars per individual, household, business, or local governmental entity.

(4) Deadline: Reapplications must be submitted by April 30, 2018.

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#### NEW SECTION

**WAC 504-49-220 Requirements to apply for certification—Residential-scale and commercial-scale projects.** The application must contain, but is not limited to, the following information; additional requirements are specified in WAC 504-49-210.

(1) The name and address of the customer-owner and location of the renewable energy system.

(2) System information, including system component details and operation data such as global positioning system coordinates, tilt, estimated shading, and azimuth, as applicable.

(3) An executed interconnection agreement with the serving utility.

(4) The date and supporting documentation verifying that the local jurisdiction issued its final electrical inspection of the renewable energy system.

(5) Documentation, including final sales invoice, and details of the total system price as defined in WAC 504-49-195.

(6) A signed statement that the applicant understands that this information is true, complete, and correct to the best of applicant's knowledge and belief under penalty of perjury.

(7) A signed statement that the applicant has not previously received a notice of eligibility from the department of revenue under RCW 82.16.120 entitling the applicant to receive annual incentive payments for electricity generated by the renewable energy system.

(8) A signed statement authorizing the energy program and the serving utility to share information related to issuing annual incentive payments, including application details and energy generation.

(9) Payment of the one hundred twenty-five dollar application fee.

(10) Provisional certification. The energy program may grant provisional certification prior to proof of final electrical inspection. Provisional certification expires one hundred eighty days after issuance, unless the applicant submits proof of the final electrical inspection from the applicable local jurisdiction, or the energy program extends the certification for a term or terms of thirty days due to extenuating circumstances.

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#### NEW SECTION

**WAC 504-49-225 Requirements to apply for certification—Shared commercial and community solar projects.** The application must contain, but is not limited to, the information detailed below. Additional requirements are specified in WAC 504-49-210.

(1) The name and address of the project administrator and location of the renewable energy system.

(2) System information, including system component details and operation data such as global positioning system coordinates, tilt, estimated shading, and azimuth, as applicable.

(3) An executed interconnection agreement with the serving utility.

(4) The date and supporting documentation verifying that the local jurisdiction issued its final electrical inspection of the renewable energy system.

(5) Documentation, including final sales invoice, and details of total system price as defined in WAC 504-49-195.

(6) A signed statement that the administrator understands that this information is true, complete, and correct to the best of administrator's knowledge and belief under penalty of perjury.

(7) A signed statement that the administrator has not previously received a notice of eligibility from the department of revenue under RCW 82.16.120 entitling the community solar project participants to receive annual incentive payments for electricity generated by the solar energy system.

(8) A signed statement authorizing the energy program and the serving utility to share information related to issuing annual incentive payments, including application details and energy generation.

(9) Payment of the one hundred twenty-five dollar application fee.

(10) Additional information required for certification of shared commercial solar and community solar projects (~~may~~) includes, but is not limited to:

(a) Shared commercial solar projects:

(i) Project design details;

(ii) Levelized cost of energy output of the system over its production life, and the calculations used to determine such cost;

(iii) A list of participants, including:

(A) Name;

(B) Address;

(C) Retail rate; and

(D) Utility account number;

(iv) Interconnection information; and

(v) Details regarding the majority of the installation work. If the majority of the installation of a shared commercial solar project is awarded to out-of-state contractors, the administrator must submit to the energy program:

(A) The reasons for using out-of-state contractors;

(B) The percentage of installation work performed by out-of-state contractors; and

(C) A cost comparison of the installation services performed by out-of-state contractors compared to the same services performed by Washington-based contractors.

(b) Community solar projects:

(i) System ownership information and business address;

(ii) Project design details;

(iii) Proof of (~~administrator~~) registration with the utilities and transportation commission, as (~~applicable~~) defined in commission rules;

(iv) A list of participants, including:

(A) Name;

(B) Address; and

(C) Utility account number.

(v) Subscription information, including:

(A) Rates;

(B) Fees;

(C) Terms and conditions.

(vi) Executed interconnection agreement if the project size is greater than five hundred kilowatts direct current; and

(vii) Updated information regarding deployment of projects in low- and moderate-income communities, as those terms are defined in RCW 43.63A.510, as requested.

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#### NEW SECTION

**WAC 504-49-230 Response from the energy program.** Within thirty days of receipt of the application for precertification or certification, the energy program must notify the customer-owner or administrator, electronically or by mail, whether the renewable energy system qualifies for incentive payments. This notice must state the rate to be paid per kilowatt-hour of electricity generated by the renewable energy system, as provided in section 6(12), chapter 36, Laws of 2017, 3rd sp. sess. (ESSB 5939), subject to any applicable caps and limits on total annual payment as defined in this chapter.

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#### NEW SECTION

**WAC 504-49-235 Public disclosure.** System certifications and the information contained therein are subject to public disclosure. In addition, all energy generation and incentive payment information associated with the certified system (as collected by the energy program) is subject to public disclosure.

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#### NEW SECTION

**WAC 504-49-240 Denial or revocation of system certification.** The energy program may deny or revoke the approval of a system's

certification and an appeal of this final determination may be initiated. The appeal provisions under Part VII of this chapter apply here.  
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NEW SECTION

**WAC 504-49-245 Utility liability.** A utility is not liable for incentive payments to a customer-owner if the utility has disconnected the customer due to a violation of a customer service agreement, such as nonpayment of the customer's bill or a violation of an interconnection agreement.  
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NEW SECTION

**WAC 504-49-250 Modification to system.** Modification details must be provided to the energy program. Examples are provided in WAC 504-49-305.  
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PART III  
CALCULATION OF INCENTIVES

NEW SECTION

**WAC 504-49-300 Incentive payment rate.** The incentive payment rate is the sum of the base rate and the made-in-Washington bonus, if applicable. To determine the incentive payment, the incentive payment rate is then multiplied by the system's gross kilowatt-hours generated during the fiscal year to determine the incentive payment.

(1) Determining the base rate. The first step in computing the incentive payment is to determine the correct base rate to apply. This rate depends on the fiscal year in which the system was certified and the type of renewable energy project under consideration, as defined in the table in subsection (2) of this section.

(2) Made-in-Washington bonus. The bonus rate is determined by whether all applicable system components (solar modules, wind turbines or towers) are manufactured in Washington state. See additional manufacturing details in Part V of this chapter. Bonus rates vary depending on the fiscal year in which the system is certified, as provided in the table below.

Fiscal year of system certification	Base rate: Residential-scale	Base rate: Commercial-scale	Base rate: Community solar	Base rate: Shared commercial solar	Made-in-Washington bonus
2018	\$0.16	\$0.06	\$0.16	\$0.06	\$0.05
2019	\$0.14	\$0.04	\$0.14	\$0.04	\$0.04
2020	\$0.12	\$0.02	\$0.12	\$0.02	\$0.03
2021	\$0.10	\$0.02	\$0.10	\$0.02	\$0.02

(3) Examples: A renewable energy system certified in fiscal year 2019 and generate:

(a) Residential-scale system: Two thousand five hundred kilowatt-hours; commercial-scale system: Fourteen thousand kilowatt-hours.

(i) If a residential-scale or commercial-scale renewable energy system has only solar modules manufactured out-of-state, the computation is as follows:

(A) Residential-scale:  $0.14 \times 2,500 = \$350.00$ ;

(B) Commercial-scale:  $0.04 \times 14,000 = \$560.00$ .

(ii) If a residential-scale or commercial-scale renewable energy system has all solar modules manufactured in Washington state, the computation is as follows:

(A) Residential-scale:  $(0.14 + 0.04) \times 2,500 = \$450.00$ ;

(B) Commercial-scale:  $(0.04 + 0.04) \times 14,000 = \$1,120.00$ .

(iii) If a residential-scale or commercial-scale renewable energy system has a solar module manufactured in Washington state combined with additional solar modules manufactured out-of-state, the computation would be as follows:

(A) Residential-scale:  $0.14 \times 2,500 = \$350.00$ ;

(B) Commercial-scale:  $0.04 \times 14,000 = \$560.00$ .

(iv) If residential-scale or commercial-scale wind generator equipment has an out-of-state turbine combined with a tower manufactured in Washington state, the computation is as follows:

(A) Residential-scale:  $(0.14 + 0.04) \times 2,500 = \$450.00$ ;

(B) Commercial-scale:  $(0.04 + 0.04) \times 14,000 = \$1,120.00$ .

(v) If residential-scale wind generator equipment has both an out-of-state turbine and tower, the computation is as follows:

(A) Residential-scale:  $0.14 \times 2,500 = \$350.00$ ;

(B) Commercial-scale:  $0.04 \times 14,000 = \$560.00$ .

(b) Shared commercial solar project system: Four million kilowatt-hours.

(i) If a shared commercial system has out-of-state solar modules, the computation is as follows:  $0.04 \times 4,000,000 = \$160,000.00$ . The solar project administrator distributes the incentive payments consistent with share of participation. If a participant is involved at five percent of the project, their incentive payment is  $\$160,000.00 \times 0.05 = \$8,000.00$  (contingent on the rates, fees, terms or conditions of the project).

(ii) If a shared commercial system has all solar modules manufactured in Washington state, the computation is as follows:  $(0.04 + 0.04) \times 4,000,000 = \$320,000.00$ . The solar project administrator distributes the incentive payments consistent with share of

participation. If a participant is involved at five percent of the project, their incentive payment is  $\$320,000.00 \times 0.05 = \$16,000.00$  (contingent on the rates, fees, terms or conditions of the project).

(c) Community solar project system: Fifty thousand kilowatt-hours.

(i) If a community solar energy system has all solar modules manufactured in Washington state combined with an out-of-state inverter, the computation is as follows:  $(0.14 + 0.04) \times 50,000 = \$9,000.00$ . The solar project administrator distributes the incentive payments consistent with share of participation. If a participant is involved at five percent of the project, their incentive payment is  $\$9,000.00 \times 0.05 = \$450.00$  (contingent on the rates, fees, terms or conditions of the project).

(ii) If a community solar energy system has some solar modules manufactured in Washington state combined with additional solar modules manufactured out-of-state, the computation is as follows:  $0.14 \times 50,000 = \$7,000.00$ . The solar project administrator distributes the incentive payments consistent with share of participation. If a participant is involved at five percent of the project, their incentive payment is  $\$7,000.00 \times 0.05 = \$350.00$  (contingent on the rates, fees, terms or conditions of the project).

[ ]

## NEW SECTION

**WAC 504-49-305 Additions or changes to existing certified systems.** (1) All additions or changes to existing certified systems (~~are~~) may be subject to existing utility standards and policies.

(2) If a residential-scale or commercial-scale customer-owner makes investments that result in an expansion of capacity, the applicant must provide this information to the energy program. The energy program may:

(a) Issue a new certification for an additional system installed with a previously certified system, as long as the new system meets the program requirements and its production can be measured separately from the previously certified system. (~~is not~~) These systems may be subject to additional annual reporting requirements including, but not limited to, production meter readings from each system.

(b) Issue a recertification if the additional capacity is not measured separately. Such recertification expires on the same day as the original certification for the residential-scale or commercial-scale system, and applies the incentive rates and program rules that are in effect as of the date of the recertification.

(3) The following examples illustrate how increases in system capacity may affect incentive payments:

(a) A five kilowatts direct current residential-scale system is certified in February 2019 and is eligible for the fourteen cents incentive rate. Two kilowatts direct current of capacity is added in

February 2021 without a separate production meter and the system is recertified in the same fiscal year. The incentive rate of ten cents per kilowatt-hour applies to all future incentive payments of the entire seven kilowatts direct current system. Incentive payments end in 2027 or when cumulative incentive payments reach fifty percent of the total system price plus the expansion price, including applicable sales tax, whichever comes first;

(b) A five kilowatts direct current residential-scale system is certified in February 2019 and is eligible for the fourteen cents incentive rate. If two kilowatts direct current of capacity is added in February 2021 with its own production meter, the addition may be certified separately and the ten cent rate applies only to the production from this separate system and ends in 2029. The originally certified five kilowatts direct current system continues to be certified at the fourteen cents rate, with those payments ending in 2027. Cumulative incentive payments of fifty percent of the total system price, including applicable sales tax, apply separately to the five kilowatts direct current and two kilowatts direct current installations;

(c) An increase in nameplate capacity, production metered or not, results in the total (~~(system size)~~) capacity being greater than twelve kilowatts direct current. (~~The system requires~~ recertification is required and the applicable commercial-scale incentive rate (~~applies~~) will apply.

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#### NEW SECTION

##### **WAC 504-49-310 Cumulative limit on incentive payments.**

Incentive payments continue for eight years or until cumulative incentive payments for electricity produced by the project reach fifty percent of the total system price, including applicable sales tax, whichever occurs first.

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#### PART IV MANUFACTURED IN WASHINGTON STATE

#### NEW SECTION

**WAC 504-49-400 What constitutes manufactured in Washington?** The energy program must, in consultation with the department of commerce, establish a list of equipment that is eligible for the bonus rates described in this chapter.

(1) In order for a solar module, or a wind turbine or tower, to qualify as manufactured in Washington state, the manufactured component must meet the following definitions:

(a) "Solar module" means the smallest nondivisible, self-contained physical structure housing interconnected photovoltaic cells and providing a single direct current electrical output. The lamination of the modules must occur in Washington state;

(b) "Wind turbine" refers to a device that converts the wind's kinetic energy into electrical energy and "tower" refers to the supporting structure.

(2) Is combining products considered to be manufacturing? When determining whether a solar module, or a wind turbine or tower, are manufactured in Washington, the energy program considers various factors to determine if a manufacturer combining various items into a single package is engaged in a manufacturing activity. Any one of the following factors is not considered conclusive evidence of a manufacturing activity:

(a) The ingredients are purchased from various suppliers;

(b) The manufacturer combining the ingredients attaches his or her own label to the resulting product;

(c) The ingredients are purchased in bulk and broken down to smaller sizes;

(d) The combined product is marketed at a substantially different value from the selling price of the individual components; and

(e) The manufacturer combining the items does not sell the individual items except within the package.

[]

#### NEW SECTION

**WAC 504-49-405 What is the process for a manufacturer to get its product qualified as made in Washington?** The manufacturer must request certification from the energy program that its product, such as a module, or wind turbine or tower, qualifies as made in Washington.

(1) Manufacturer's statement. The manufacturer must supply the energy program with a statement specifying what processes were carried out in Washington state to qualify the product.

(2) Penalty of perjury. The manufacturer's statement must be made under penalty of perjury.

(3) Field visit to view manufacturing process. The energy program performs a field visit to view the manufacturing process for the product, which may also include, but is not limited to:

(a) An inspection of the process by an engineer or other technical expert;

(b) Testing and evaluation of a product pulled off the production line;

(c) Review of purchase invoices to verify the vendor sources for the parts used in the manufacturing of the product;

(d) Inspection of the production line; and

(e) Requests for clarification concerning questions, if any, discovered during the inspection.

(4) Approval or disapproval of manufacturer's certification. Within thirty days of the field visit, the energy program issues a written decision to the manufacturer on its product's qualification as made in Washington state. The energy program makes the decision available to the public.

(5) Change in manufacturing process. The manufacturer must notify the energy program of any change in the manufacturing process for previously certified products within ten days of such a change.

(6) Inspection of previously certified product's manufacturing process. The energy program reserves the right to perform an inspection of the manufacturing processes for each product, such as a solar module, or a wind tower or turbine, that has been previously certified as manufactured in Washington state. The inspection is conducted to verify that the product continues to qualify as manufactured in Washington state.

(7) Denial or revocation of approval of certification. The energy program may revoke the approval of certification that a product, such as a module, or a wind turbine or tower, is made in Washington state when it finds that the product does not qualify for certification as manufactured in Washington state.

(8) The appeal provisions under Part VII of this chapter apply here.

(9) Document retention. The manufacturer must retain the documentation of the made in Washington certification process for five years after the application period for the related incentive program closes.

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## PART V GENERAL TOPICS

### NEW SECTION

**WAC 504-49-500 Is there a time limit on when incentive payment may be made for a system's generated electricity?** Yes. Incentive payments may only be made for kilowatt-hours generated on or after July 1, 2017, and for the following eight years, or until cumulative incentive payments for electricity generated by the project reach fifty percent of the total system price, including applicable sales tax, whichever occurs first.

(1) Authorization of incentive payments. No incentive payments may be authorized or accrued until the final electrical inspection and

executed interconnection agreement are submitted to the energy program.

(2) Certification is valid for the incentive program term. This certification entitles the person, business, or household to receive incentive payments for electricity generated from the date the renewable energy system commences operation, or the date the system is certified, whichever date is later.

(3) Changes to incentive rates. Incentive rates determined by certification date may not be retroactively changed except to correct errors that were made during the original application or certification process and that are discovered later.

(4) Incentive schedule. Incentives are issued based on the gross kilowatt-hours generated during the fiscal year beginning on July 1st and ending on June 30th. For the last year of incentive payments, the payment is the balance of the last year of generation less the first year of generation. A negative balance for the last year results in nonpayment.

(5) Certification date. Certification date is determined by the date when the energy program completes its review of a submitted application. However, due to the timing of this program, the following administrative processes apply:

(a) For applications submitted from July 1, 2017, to December 31, 2017:

(i) For purposes of systems that commenced operation on or after July 1, 2017: The certification date is assigned based on the date that the local jurisdiction issued its final approval of the electrical inspection of the renewable energy system.

(ii) For purposes of systems that commenced operation before July 1, 2017: The certification date is assigned as July 1, 2017.

(b) For applications submitted on or after January 1, 2018: The certification date is assigned on the date when the energy program completes its review of a submitted application. The energy program encourages customer-owners to submit all applications on the date the local jurisdiction issues its final approval of the electrical inspection of the renewable energy system. In instances where the certification date might follow the final electrical inspection by more than thirty days, the customer-owner or the serving utility must provide additional information to ascertain the correct initial electrical generation amount to use in calculating the first year of incentive payments.

[ ]

#### NEW SECTION

**WAC 504-49-505 Must the customer-owner or administrator keep records regarding incentive payments?** (1) Customer-owners or administrators receiving incentive payments must keep and preserve, for a period of five years after the receipt of the last incentive

payment from the utility, suitable records as may be necessary to determine the amount of incentive received.

(2) Examination of records. Such records must be open for examination at any time upon notice by the energy program.  
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NEW SECTION

**WAC 504-49-510 How to determine if community solar or shared commercial solar projects located on the same property are one combined system or separate systems for determining the applicable limit?** In determining if a community solar or shared commercial solar project is within the applicable limit when more than one community solar or shared commercial solar project is located on one property, the energy program treats each project's system as separate from the other projects if there are separate production meters and separate certification applications have been submitted to the energy program.  
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NEW SECTION

**WAC 504-49-515 Are the renewable energy system's environmental attributes transferred when ownership of the renewable energy system changes?** The nonpower attributes of the renewable energy system belong to the utility customer who owns or hosts the system or, in the case of a community solar project or a shared commercial solar project, the participant. The attributes may be kept, sold, or transferred at the utility customer's discretion unless, in the case of a utility-owned community solar or shared commercial solar project, a contract between the customer and the utility clearly specifies that the utility retains the attributes.  
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NEW SECTION

**WAC 504-49-520 What do I have to do if I purchase property that has an existing renewable energy system?** If a person, business, or household purchases a property that has a (~~certified~~) renewable energy system certified in the renewable energy system incentive program, the new customer-owner must (at a minimum) notify the energy program of the transfer of ownership and provide an executed interconnection agreement with the utility serving the premises.  
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NEW SECTION

**WAC 504-49-525 What if I sell my share in a community solar or shared commercial solar project?** The administrator of a community solar project or shared commercial solar project must provide notice to the energy program of any changes or transfers in project participation.

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PART VI

APPLICATION PROCESS FOR CURRENTLY CERTIFIED RENEWABLE ENERGY SYSTEMS IN THE COST RECOVERY INCENTIVE PROGRAM

NEW SECTION

**WAC 504-49-600 Requirements to reapply for certification.** The reapplication for continued incentive payments through June 30, 2020, must be submitted to the energy program by April 30, 2018. This reapplication must contain, but is not limited to, the following information as specified in the applicant and eligibility requirements in WAC 458-20-273:

(1) The name and address of the applicant and location of the renewable energy system;

(2) The applicant's tax registration number;

(3) The utility name and utility account number;

(4) System information, including system component details and operation data such as global positioning system coordinates, tilt, estimated shading, and azimuth, as applicable;

(5) A signed statement that the applicant understands that this information is true, complete, and correct to the best of their knowledge and belief under penalty of perjury; and

(6) A signed statement authorizing the energy program and the serving utility to share information related to issuing annual incentive payments, including application details and energy generation.

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NEW SECTION

**WAC 504-49-605 May a renewable energy system that has already been certified by the department of revenue be certified in the new program for incentive payments beyond June 30, 2020?** No. If the applicant's renewable energy system has already been certified by the department of revenue for cost recovery incentives, that system is ineligible for the new incentive program.

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NEW SECTION

**WAC 504-49-610 May I increase the capacity of a department of revenue-certified system?** The person, business, or household may not increase the capacity of a department of revenue-certified system to receive additional cost recovery program incentive payments.  
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NEW SECTION

**WAC 504-49-615 Is there a fee to reapply?** No. There is no fee for reapplication for a department of revenue-certified renewable energy system.  
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PART VII  
APPEALS RIGHTS

NEW SECTION

**WAC 504-49-700 What are the appeal rights under the renewable energy system incentive payment program?** (1) The energy program may take four different types of actions that may result in a right to an appeal:

- (a) Denying a system's precertification or certification;
- (b) Revoking a system's precertification or certification;
- (c) Denying a manufacturer's statement of a product as qualifying as made in Washington state; and
- (d) Revoking a previously approved certification of a product qualifying as made in Washington.

(2) The same appeal procedures apply to all four types of action. All appeals involving the renewable energy system incentive program in this chapter are conducted as formal adjudicative proceedings under RCW 34.05.413 through 34.05.476 and chapter 10-08 WAC.

(3) The notice issued by the energy program provides an explanation of the reasons for the denial or revocation, and advises the recipient about how to appeal the decision if the recipient disagrees.

(4) The energy program's action is final unless the recipient files an appeal petition with the energy program within thirty days of service (receipt) of the notice of the energy program's action. RCW

34.05.010(19) defines "service" and includes service by postal mail, electronic mail, and personal service.  
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NEW SECTION

**WAC 504-49-705 Presiding officer—Final order—Review.** For both a denial of an application for certification and a notice of intent to revoke a previously approved certification, the presiding officer of a formal adjudicative proceeding is the Washington state office of administrative hearings. The presiding officer makes the final decision and enters a final order as provided in RCW 34.05.461 (1)(b).  
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NEW SECTION

**WAC 504-49-710 Petitions for reconsideration.** RCW 34.05.470 governs petitions for reconsideration. Petitions for reconsideration must be addressed to or delivered to the presiding officer at the address provided in the final order. The petition for reconsideration must be filed and served as required by WAC 10-08-110.  
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NEW SECTION

**WAC 504-49-715 Judicial review.** Judicial review of the final order of the presiding officer is governed by RCW 34.05.510 through 34.05.598.  
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