



# EXPEDITED RULE MAKING

## CR-105 (December 2017) (Implements RCW 34.05.353)

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STATE OF WASHINGTON  
FILED

DATE: January 06, 2021

TIME: 10:29 AM

WSR 21-02-090

**Agency:** Washington Utilities and Transportation Commission

**Title of rule and other identifying information:** (describe subject) Expedited Repeal of WAC 480-100-238.

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** Rulemaking to permanently repeal WAC 480-100-238, which was superseded by rules adopted under WSR 21-02-022 and repealed by emergency rulemaking under WSR 21-02-025, effective January 1, 2021.

**Reasons supporting proposal:** The Commission contemplated repeal of WAC 480-100-238 during the rulemaking process that culminated in WSR 21-02-022, but inadvertently did not include that repeal in the CR-102 adopting the new rules. The new rules (WAC 480-100-600 through -665) adopted under WSR 21-02-022 went into effect on January 1, 2021, and replace WAC 480-100-238. The Commission repealed that rule in an emergency rulemaking also effective on January 1, 2021. Should the repeal expire, it would create duplicative and conflicting standards for utilities. The Commission adopted the new rules to replace and expand upon WAC 480-100-238, and thus permanently repealing WAC 480-100-238 would fulfill the expected outcome of the rulemaking process carried out in dockets UE-191023 and UE-190698 to implement the Clean Energy Transformation Act as it relates to Integrated Resource Planning.

**Statutory authority for adoption:** RCW 80.01.040, RCW 80.04.160, RCW 80.28, RCW 19.280, and RCW 19.405

**Statute being implemented:** RCW 19.405, RCW 80.28, and RCW 19.280

**Is rule necessary because of a:**

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

If yes, CITATION:

**Name of proponent:** (person or organization) Washington Utilities and Transportation Commission

- Private
- Public
- Governmental

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting:	Bradley Cebulko	P.O. Box 47250, Olympia, WA 98504-7250	(360) 259-5315
Implementation:	Mark L. Johnson	P.O. Box 47250, Olympia, WA 98504-7250	(360) 664-1115
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**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:**

**Expedited Adoption - Which of the following criteria was used by the agency to file this notice:**

- Relates only to internal governmental operations that are not subject to violation by a person;
- Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;
- Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect;
- Content is explicitly and specifically dictated by statute;
- Have been the subject of negotiated rule making, pilot rule making, or some other process that involved substantial participation by interested parties before the development of the proposed rule; or
- Is being amended after a review under RCW 34.05.328.

**Expedited Repeal - Which of the following criteria was used by the agency to file notice:**

- The statute on which the rule is based has been repealed and has not been replaced by another statute providing statutory authority for the rule;
- The statute on which the rule is based has been declared unconstitutional by a court with jurisdiction, there is a final judgment, and no statute has been enacted to replace the unconstitutional statute;
- The rule is no longer necessary because of changed circumstances; or
- Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

**Explanation of the reason the agency believes the expedited rule-making process is appropriate pursuant to RCW 34.05.353(4):** The Commission consistently contemplated repealing WAC 480-100-238 in conjunction with adopting new rules to implement the Clean Energy Transformation Act, and that rulemaking process involving significant stakeholder input and ample opportunity for interested persons to comment. The Commission adopted the new rules but through administrative oversight did not repeal the conflicting WAC 480-100-238 as part of that adoption. The Commission thus repealed the rule by emergency rulemaking and now proposes to complete the repeal process.

**NOTICE**

**THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO**

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Other:

**AND RECEIVED BY** (date) March 9, 2021

**Date:** January 6, 2021

**Name:** Mark L. Johnson

**Title:** Executive Directory and Secretary

**Signature:**

