

Local Government Alternative Fuel & Vehicle “Extent Practicable” Rulemaking Meeting Notes – December 15, 2014

Introductions

Participants in the room recorded their names and organization on a sign-up sheet. Participants on the phone, as best as could be captured, included:

- Ron Green, City of Kent
- Kevin Willis, City of Richland
- Matt Stewart, Jefferson County
- John Noble, City of Kennewick
- Susan Knotts, City of Yakima and Yakima County
- Colleen Murphy, Community Transit
- Gene Jakubczak, City of Spokane
- Charlie Phillips, Spokane Transit
- John Bush, Northstar Gas
- Kurt Patterson, City of Arlington
- John Barclay, Emerald Energy
- Brittany Jarnot, Outcomes by Levy
- Unidentified representatives of Puget Sound Energy, Whatcom County, City of Auburn, and City of Vancouver

Background and Progress To Date

Peter Moulton, Washington Department of Commerce, reviewed the state’s rulemaking procedures, and provided a brief history of alternative fuel and vehicle procurement and use policies directed at state and local governments. The enabling legislation for this rulemaking process was first adopted in 2007, and has since been amended three times by the Legislature. Most recently, the Governor’s Executive Order 04-14 directed Commerce to consider the cost of carbon emissions in the rules, and to explore incentives for public sector procurement.

Peter described the rulemaking process used for state agencies and the rules which were adopted under WAC 194-28 in May of 2013. The first steps were to define biofuels and potentially affected agencies, identify sources of data regarding fuel consumption, and discuss potential exemptions from the rules. Key findings during this process include:

- In addition to biodiesel, ethanol and associated blends, Renewable Natural Gas (aka biomethane) is considered a biofuel under existing state code.
- There is no standard definition of an “agency” so the definition utilized by Ecology for greenhouse gas emission reporting purposes, which includes four-year educational institutions, was selected.
- All agencies are expected to comply, though reporting and coordination efforts will target the 16 agencies and universities that consume more than 50,000 gallons/year of petroleum fuels for vehicles and vessels. These represent almost 99% of the state’s total fuel consumption.

- The law references “publicly owned” vehicles, so the agency rules do not directly address leasing, which has actually become a preferred method of alternative vehicle procurement given the rapid rate of technological change.
- The Alternative Fuels and Vehicles Technical Advisory Group (AFV-TAG) was established to coordinate implementation efforts, discuss core technical issues, and explore joint procurement and management opportunities. At present, the AFV-TAG meets on a bimonthly basis.
- Compliance rules for light- and medium-duty passenger vehicles focus on electrification. While recognizing duty cycles and replacement schedules, procurement of EVs is practicable if the total cost of ownership (TCO) is within 5% of the best conventional hybrid available under the state contract. Department of Enterprise Services (DES) approves all agency vehicle procurement requests, including whether they’ve addressed total cost of ownership.
- Compliance rules for biodiesel focus on realizing existing state law calling for state ferries to use a minimum of 5% biodiesel, and all other agencies a combined 20% biodiesel on an annualized basis. Ethanol is already blended into nearly all gasoline distributed in the state at about a 10% level. Use of E85 (85% ethanol) fuel in “flex-fuel” vehicles is required if available on a cost-competitive basis relative to energy density. Natural gas and propane were not actively considered in the agency rules as there is little interest from agencies.

The current rulemaking process was then describing, including initial discussions by an advisory group comprised of associations representing local governments. Topics discussed to date include:

- As with agencies, there is no standard definition under state code of a “local government,” so participants opted for the broadest definition likely to consume meaningful levels of fuels: cities, counties, school districts, ports, park districts, PUDs, transit agencies, and independent fire districts.
- Fuel use data is readily available for some forms of government (e.g. school districts, transit agencies) but not for others. The associations asked their members to participate in a brief online survey regarding fuel use, but the results are still incomplete. Based on initial responses, it appears a reporting threshold of 200,000 gallons/year of petroleum fuels would capture the vast majority of local government fuel use statewide. The associations will be asked to help identify and contact those local governments which may be near this threshold to collect their fuel consumption data.
- As with agencies, the initial suggestion is that all local governments are expected to comply, though only those over the reporting threshold would be targeted for coordination and compliance efforts. Reporting could be on an annual or biennial basis, and would likely limited to fuel consumption, vehicle procurement plans, and discussion of their experiences and plans regarding alternative fuels and vehicles. An estimated 60 to 70 local governments would likely participate at the 200,000 gallons/year threshold.
- The initial advisory group also discussed related state and federal programs, compliance expectations, and the need for ongoing coordination and technical assistance.

The initial timeline and topics for this rulemaking process include:

- January: electrification and biofuels
- February: natural gas and propane
- March: review draft rules
- April: File final proposed rules
- May: Final adoption

Discussion

The Commerce presentation was followed by open feedback and discussion:

- What percent of fuel use would be represented by the 200,000 gallons/year reporting requirement? We need a more accurate picture of individual and total fuel use by local governments to answer this question. The Transit Association indicated the 200,000 gallon reporting threshold was within the range they anticipated.
- Schools may prefer annual to biennial reporting since many existing reports must already be completed on an annual basis. Other participants indicated support for biennial reporting.
- Have state agencies completed compliance reports? Agencies are reporting under Ecology greenhouse gas emission rules, biannual biodiesel reports, “extent practicable” rules, and Results Washington metrics. There’s strong desire to consolidate data and reporting. There are no specific penalties for either reporting or compliance, other than audit findings. This is fundamentally a moral argument from the Legislature and the Governor about transitioning to cleaner fuels and vehicles.
- Have cities already established fuel reduction goals related to emissions, sustainability and/or economics? Yes, at least Seattle and Tacoma, and probably others.
- How might investments in solar and/or wind affect compliance? Could this offset requirements for alternative fuels? The RCW doesn’t address this.
- Concerns were voiced about heavy equipment compliance. Participants were reminded that under the enabling legislation, the rules can’t require affected parties to violate warranties or replace vehicles before the end of their service life.
- Weight classes under the current agency rules need to be revisited to ensure consistency with WSDOT definitions.
- Existing rules will also need to be adjusted to account for leasing options and define “reasonably available” with regard to use of propane and natural gas.
- Concern was expressed about the general availability of biofuels. Low-level blends (such as B5, or 5% biodiesel) should be readily available throughout the state. B5 is required to meet the same ASTM standard as neat diesel. DES continues to work on contract amendments for fuel procurement that will make a range of biodiesel blends available at or near the same price as diesel. All fuel terminals in the state already have inline blending capacity.
- Reporting should be helpful to fleets, and work to support compliance. A lack of reporting would reduce compliance. Even if the data isn’t used, reporting would still spur actions toward greater alternative fuel use. All jurisdictions could be invited to report, and participate in the regular Alternative Fuels & Vehicles Technical Advisory Group meetings.

- Existing language regarding exemptions appears appropriate. Allowing fire districts to exempt themselves is good, as most of their vehicles engage in emergency response. A similar question comes up for utilities and certain social service entities, are they first responders or essential service providers, and does this make a difference? Might there be parallel efforts to reduce, rather than just displace consumption, such as idle reduction technologies and strategies?
- What about agencies with their own fueling capacity versus those limited to retail fuel stations, will there be different levels of compliance? DES' new management fee for use of the state contract is a disincentive.
- Concern was expressed about biofuel blends going bad when stored for long periods. Stationary generators, the primary concern, are exempt under agency rules and will likely be excluded under the local government rules as well.
- Exemption of emergency vehicles is up to the respective local government, is there a way to maintain communication regarding ongoing technology developments?
- How much knowledge does the auditor's office have regarding these rules?

Next Steps

The meeting concluded with discussion of next steps:

1. Send Jim Jensen an email with your contact information if you'd like to be placed on the stakeholder contact list.
2. The next two meetings will be scheduled promptly, based upon availability of key association representatives.
3. Associations are asked to identify and notify all members who may be affected by the 200,000 gallons/year reporting threshold, and request that they provide recent fuel consumption data.

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Public Meeting - December 15, 2014

Building 5, 1st Floor Conference Room, 1pm (Peter Moulton)

Name	Organization
STEVE Halye	WEST PIERCE FIRE & RESCUE WASH FIRE Mech Rep.
Keith Sweavingen	Kitsap County Public Works - ESD
Hayward M. Seymore	Kitsap Transit ; Director of Bremerton, WA MAINTENANCE
Lary Stephenson	Klickitat county Public works Goldendale WA 98620 Equipment Supervisor
JESS GREENOUGH	CITY OF PASCO
Derek Witala	City of Pasco
Don Corey	
Don Corey	Cummins NW
SEAN POWNALL	CITY OF BELLEVUE
Brad Burdick	City of Lacey
Brad Brian Guggenmos	City of Lacey
Kathy Lindner	I/C Metro
Peter M Hachett	Vista NATURAL GAS / ASC
Ron Kahler	City of Renton
William Snyder	Inter city transit
PAUL KOLBERG	INTERCITY TRANSIT
Dan macmillan	Intercity Transit

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Lindy McCarthy	Intercity Transit
Dave Catterson	Assoc. Washington Cities
Al Schaner	Skagit Transit
ALLAN JONES	OSP1
DAVE WARREN	WA PVD Assoc
Kimberley Cline	Western WA Clean Cities
ANDREW GREEN	ALSO "PUGET SOUND CLEAN AIR AGENCY"
FREN CHAN	City of Tacoma
Scott Dewees	Western Washington Clean Cities
JEFF JENSEN	WASH. FIRE chiefs
Tom McBride	McBride Public Affairs
Brandi Vena	Wash. Public Ports Assoc.
Tim Baker	King County Housing Authority
Davor Ujarsic	community Transit
Geni Beardley	Wash St Transit Assoc
Ron Stuart	Port of Tacoma

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Name	Organization
Scott Road	Clark County Public Works
Paul Chamberlain	Fleet Services mgr Clark Public Utilities