

**Local Government Alternative Fuel & Vehicle Procurement Rules**  
**Draft rules as filed June 3, 2015, in the Washington State Register**  
**Comments by Jefferson County, Department of Central Services, Fleet Services Division**

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**Comment #1**

RCW 43.325 explicitly requires a shift in fuel usage, but the draft rule uncomfortably attempts to mandate both fuel usage and asset procurement shifts. The draft rule does not handle these twin concerns effectively. 194-29-070 (1) requires the purchase of vehicles (EVs, PHEVs, HEVs), and 194-29-070 (2) requires the use of biofuels, but the two subsections do not together form a complete or intelligible route for local governments to follow to compliance with the rule. The draft rule needs to be revised both to refocus on the RCW's areas of emphasis and to provide clear direction for local governments. Suggested language follows:

**NEW SECTION**

**Asset procurement – general requirements and prioritization**

- (1) Local governments must for each of its planned vehicle, vessel and construction-equipment purchases, where practicable, purchase the asset providing the greatest reduction in petroleum-/fossil-fuel usage of the powertrain options considered practicable.
- (2) The following reductions in petroleum-/fossil-fuel usage are to be used for purposes of comparing vehicle, vessel and construction-equipment powertrains:
  - a. BEV: 100% reduction.
  - b. Fuel-cell EV: 100% reduction.
  - c. PHEV: 100% reduction multiplied by the percentage of the asset's duty cycle the local government reasonably expects to power with grid electricity to the exclusion of petroleum/fossil fuel on and after June 1, 2018.
  - d. Diesel-powered asset: Reduction equal to the percentage of biodiesel blended with petroleum diesel the local government reasonably expects to use in the asset on and after June 1, 2018.
  - e. Flex-fuel-powered asset: 60% reduction if the local government reasonably expects to use primarily E85 in the asset on and after June 1, 2018.
  - f. Natural-gas-powered asset (RNG): 100% reduction if the local government reasonably expects to use RNG in the asset on and after June 1, 2018, multiplied by the percentage of the asset's duty cycle the local government reasonably expects to power with RNG to the exclusion of petroleum/fossil fuel.
  - g. Other biofuel: Reduction equal to the percentage of biofuel blended with petroleum fuel the local government reasonably expects to use in the asset on and after June 1, 2018.
  - h. Natural-gas-powered asset (fossil): The reduction equal to the well-to-wheels reduction in greenhouse-gas emissions of petroleum natural gas versus the petroleum diesel or gasoline that would otherwise be used in the asset provided the local government reasonably expects to use fossil natural gas in the asset on and after June 1, 2018,

- multiplied by the percentage of the asset's duty cycle the local government reasonably expects to power with natural gas to the exclusion of petroleum/fossil fuel.
- i. Hydrogen internal-combustion-powered asset: The reduction equal to the well-to-wheels reduction in greenhouse-gas emissions of the hydrogen fuel versus the petroleum diesel or gasoline that would otherwise be used in the asset provided the local government reasonably expects to use hydrogen fuel in the asset on and after June 1, 2018, multiplied by the percentage of the asset's duty cycle the local government reasonably expects to power with hydrogen to the exclusion of petroleum/fossil fuel.
  - j. LPG-powered asset: The reduction equal to the well-to-wheels reduction in greenhouse-gas emissions of liquefied petroleum gas (LPG or propane) versus the petroleum diesel or gasoline that would otherwise be used in the asset provided the local government reasonably expects to use propane in the asset on and after June 1, 2018, multiplied by the percentage of the asset's duty cycle the local government reasonably expects to power with propane to the exclusion of petroleum/fossil fuel.
  - k. Other alternative fuel: Reduction equal to the well-to-wheels reduction in greenhouse-gas emissions of the alternative fuel versus the petroleum diesel or gasoline that would otherwise be used in the asset provided the local government reasonably expects to use alternative fuel in the asset on and after June 1, 2018, multiplied by the percentage of the alternative fuel blended with petroleum fuel (if applicable), further multiplied by the percentage of the asset's duty cycle the local government reasonably expects to power with the alternative fuel to the exclusion of petroleum/fossil fuel.
  - l. HEV: The reduction equal to the percentage by which the local government reasonably expects the asset to reduce petroleum fuel usage below the consumption of the non-hybrid asset that would otherwise be purchased.
- (3) This section applies to assets purchased under procurement processes begun on or after June 1, 2016, and to purchases after that date that make use of procurement processes begun prior that date to the extent that the existing procurement process or contract provides flexibility with regard to powertrain choice.
  - (4) Powertrain options described in paragraphs (2) h. through (2) l. of this subsection may be considered only after considering and discarding for reasons of practicability as defined and described in this section the powertrain options described in paragraphs (2) a. through (2) g.
  - (5) Only if no asset with a powertrain described in paragraph (2) of this subsection is practicably available may the local government purchase the asset with a powertrain not described therein.

## **NEW SECTION**

### **Asset procurement – practicability**

- (1) It is not considered practicable to procure an asset providing reduction in petroleum/fossil-fuel usage if any of the following conditions is met:
  - a. The asset type is not commercially available with the powertrain;
  - b. The asset type when fitted with the powertrain is unsuitable for the application, providing substandard performance or packaging inappropriate for the application;
  - c. The local government, if capable of on-site fueling, cannot accommodate at its facilities the infrastructure required for the asset or group of similarly powered assets due to property-size, environmental or safety concerns;

- d. The local government, if capable of on-site fueling, does not or does not reasonably expect to utilize and maintain effectively the additional infrastructure required for the asset or group of similarly powered assets; or
  - e. The lifecycle cost of the complete asset – including the cost of the fuel, the cost of the complete powertrain and the cost of infrastructure required for the asset or the prorated cost of infrastructure required for a group of similarly powered assets and subtracting the amount of all grants and incentives available to the local government – is greater than the lifecycle cost of an equivalent asset that the local government would otherwise procure.
- (2) It is not considered practicable to procure a BEV if the battery-charging requirements will substantially impair use of the asset.
  - (3) It is not considered practicable to procure an asset powered with any other alternative fuel if the range between fuelings will substantially impair use of the asset.
  - (4) Local governments may choose to purchase assets with powertrain options that are judged not to be practicable provided the elected powertrain provides a reduction in petroleum-/fossil-fuel usage equal to or greater than that of the practicable powertrain option with the greatest calculated reduction in petroleum-/fossil-fuel usage.

## **NEW SECTION**

### **Fuel usage – general requirements**

- (1) Electricity
  - a. Local governments must use grid or locally generated electricity to the exclusion of petroleum/fossil fuels in PHEVs to the extent allowed by each asset’s duty cycle.
- (2) Biodiesel
  - a. Local governments with on-site diesel-fueling infrastructure must purchase for use in all diesel-powered assets the highest blend of biodiesel up to 20% (B20) at which the following conditions are met:
    - i. The blend level is not below 5% (B5);
    - ii. The blend level conflicts with no active asset warranties; and
    - iii. The price for the biodiesel blend, including the cost of any additives necessary to ensure reliable storage and performance, is equal to or less than #2 ultra-low-sulfur diesel.
  - b. Local governments must, when purchasing diesel fuel at retail facilities, make good-faith efforts to identify sources of and purchase a minimum of B5.
- (3) Ethanol
  - a. Local governments with capacity for on-site E85-fueling infrastructure must purchase E85 for use in all flex-fuel-powered assets and use E85 to the exclusion of unleaded gasoline when the price for E85 is 20% less than the cost of unleaded gasoline or lower.
  - b. Local governments must, when purchasing fuel at retail facilities for flex-fuel-powered assets, make good-faith efforts to identify sources of and purchase E85 when the price of E85 is judged by the local government to be stable at 20% less than the cost of unleaded gasoline or lower.
- (4) Natural gas
  - a. Local governments must use natural gas to the exclusion of petroleum/fossil fuels in natural-gas-powered assets to the extent allowed by each asset’s duty cycle.

- b. Local governments with on-site natural-gas-fueling infrastructure must purchase renewable natural gas (RNG) for use in all natural-gas-powered assets when the price for RNG is equal to or less than fossil natural gas on a per-BTU basis.
  - c. Local governments must, when purchasing natural gas at retail facilities, make good-faith efforts to identify sources of and purchase RNG.
- (5) Liquefied petroleum gas (propane)
- a. Local governments must use propane to the exclusion of petroleum/fossil fuels in natural-gas-powered assets to the extent allowed by each asset's duty cycle.
- (6) Local governments may choose to utilize any fuel in any blend or percentage regardless of practicability provided the elected fuel provides a reduction in petroleum-/fossil-fuel usage equal to or greater than that of the practicable fuel option with the greatest calculated reduction in petroleum-/fossil-fuel usage.
- (7) This section is effective June 1, 2018.

## **Comment #2**

The requirement of 194-29-070 (1) (b) that HEVs be procured does not fit the intent of the law. Hybridization is a fuel-efficiency measure like anti-idling technology and has benefits, but it does not change the energy source of the fuel and therefore does not meet the requirements of RCW 43.325. HEVs should not be prioritized over the biofuels that are explicitly required by RCW 43.325. Further, HEVs should not be prioritized over other alternative fuels that meet RCW 43.325's apparent intent of replacing petroleum fuels. Instead, the purchase of HEVs should be granted the lowest priority of the options available to local governments, only preceded by the base option of purchasing assets with standard, non-alternative powertrains. This issue is addressed in the draft language proposed in Comment #1.

## **Comment #3**

The proposed requirement of 194-29-070 (1) (d) regarding the procurement of assets intended for use with RNG is both confusing and without assigned priority within the decision tree of 194-29-070 (1). This paragraph could be read as requiring the procurement of such assets in all cases "regardless of lifecycle cost." It makes no exception for areas where RNG is not available; though this is addressed by 194-29-070 (2) (c), that concerns only the purchase of fuel and does not address the purchase of assets.

Further, because this paragraph lacks a priority, it could instead be read as allowing the purchase of assets intended for use with RNG only after the options in paragraphs (a) through (c) above are met, meaning that RNG, which could be a biofuel that explicitly meets the requirements of RCW 43.325 and certainly meets its intent of replacing fossil with renewable fuels, could be used only if the local government can discard the option of procuring a standard hybrid, which does not meet the stated requirements of RCW 43.325.

A suggested replacement method of addressing RNG is included in the draft language proposed in Comment #1.

## **Comment #4**

194-29-070 (1) (c) addresses only the purchase of CNG/LPG assets, not the use of the fuel, providing neither a mandate that the fuel be used nor exceptions (incremental cost, availability) when the fuel is not required to be used. 194-29-070 (2) (c) partially addresses the issue for RNG only. A suggested structure for fuel-use requirements is included in the draft language proposed in Comment #1.

#### **Comment #5**

The requirement of RCW 43.325 is to change the fuel source entirely effective 6/1/18, yet the proposed rule requires only that procurement of replacement assets that will allow future compliance with the law begin on that date. Further, the rule does not address procurement processes that are in progress as of that date or multi-year contracts that local governments use to ensure fleet consistency, parts supply and technician training. Language addressing these issues is included in the draft language proposed in Comment #1.

#### **Comment #6**

The proposed rule does not allow local governments to choose a powertrain or fuel that is judged not to be practicable. This freedom should be explicitly allowed by the rule, subject to a requirement that the non-practicable selection is at least as effective at meeting the requirements of the rule as the most effective of the choices that were judged practicable. Such allowance for both asset procurement and fuel choice is included in the draft language proposed in Comment #1.

#### **Comment #7**

The proposed rule does not provide any explicit freedom for the local government to ensure adequate infrastructure and fleet consistency. Such considerations should be given space in the determination of what is practicable and are included in the draft language proposed in Comment #1.

#### **Comment #8**

Paragraph 194-29-070 (2) (b) should include flexibility to make the decision on whether or not to purchase ethanol for period of time. Fleets cannot require their internal customers to change their practices daily, such as if the retail price of E85 is wavering just above and just below 20 percent lower than that of gasoline. Instead, local governments should be allowed to switch to buying E85 when its price has dropped below the cutoff for consecutive days and is assumed to remain there.

Further, this paragraph makes unstated assumptions regarding the presence of public or private infrastructure. Fleets who purchase fuel at retail outlets and fleets who fuel at their own facilities should be addressed separately. Both concerns are addressed in the draft language proposed in Comment #1.

#### **Comment #9**

The presence of a reporting threshold and the requirement only to invite to quarterly meetings those local governments who meet the reporting threshold are disconcerting and should be removed from the rule.

Small local governments, which would be exempt from reporting and not invited to technical coordination meetings under the proposed rule, have smaller groups of like fleet assets, making it hard to test new technology and more expensive on a per-unit basis to construct new fuel and maintenance infrastructure. Smaller fleets tend to be further from major petroleum suppliers, making it more expensive to procure biofuels and harder to find them at retail. Smaller fleets tend to have less experienced administrative staff and fewer technicians and are further from vehicle/equipment dealers, making conversions to new technologies harder to support.

Information about how small local governments meet the requirements of RCW 43.325 and this rule would be helpful to similar peers, but such information cannot be disseminated for the benefit of like-sized others if it is not collected. The draft rules dissuade small fleets from annually assessing their progress and meeting quarterly with others making the same efforts. The threshold for reporting and coordination meetings does small fleets an incredible disservice.