

## Chapter 194-29 WAC

# PRACTICABLE USE OF ELECTRICITY AND BIOFUELS TO FUEL LOCAL GOVERNMENT VEHICLES, VESSELS AND CONSTRUCTION EQUIPMENT

(Final Rules, August 23, 2016)

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## NEW SECTION

194-29-010

Authority and purpose.

These rules are adopted pursuant to the authority granted in RCW 43.325.080, which requires the department to adopt rules to define practicability and clarify how local governments will be evaluated in determining whether they have met the goals set forth in RCW 43.19.648(2). These goals require all local governments, to the extent practicable, to satisfy one hundred percent of their fuel usage for operating publicly owned vehicles, vessels and construction equipment from electricity or biofuel, effective June 1, 2018.

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## NEW SECTION

194-29-020

Definitions.

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

- (1) "Biofuel" means a liquid or gaseous fuel derived from organic matter intended for use as a transportation fuel, including, but not limited to, biodiesel, renewable diesel, ethanol, renewable natural gas, and renewable propane.
- (2) "Department" means the department of commerce.
- (3) "Electric vehicle" means a vehicle with motive energy supplied solely by an electric motor.
- (4) "Hybrid electric vehicle" means a vehicle with motive energy supplied by both an internal combustion engine and an electric motor powered primarily by externally supplied sources of energy. Vehicles that utilize externally supplied energy for electric power take-off functionality are also considered hybrid electric vehicles.
- (5) "Lifecycle cost" means the total cost of ownership over the life of an asset, including, but not limited to, purchase or lease cost, financing costs, taxes, incentives, operation, maintenance, depreciation, resale or surplus value, engine conversion, and the incremental cost of associated refueling infrastructure.
- (6) "Local government" means any unit of local government including, but not limited to, counties, cities, towns, municipal corporations, quasi-municipal corporations, special purpose districts, and school districts.
- (7) "Practicable" or "practicability" means the extent to which alternative fuels and vehicle technologies can be used to displace gasoline and diesel fuel in vehicles, as determined by multiple dynamic factors including cost and availability of fuels and vehicles, changes in fueling infrastructure, operations, maintenance, technical feasibility, implementation costs, and other factors.
- (8) "Procure" means to purchase or lease.
- (9) "Renewable diesel" means diesel fuel derived from organic matter that has been purified to meet requirements for use as a transportation fuel.

- (10) "Renewable natural gas" means a methane-rich biogas derived from landfills, wastewater treatment facilities, anaerobic digesters, and other sources of organic decomposition that has been purified to meet requirements for use as a transportation fuel.
  - (11) "Renewable propane" means propane derived from organic matter that has been purified to meet requirements for use as a transportation fuel.
  - (12) "Revenue fleet" means all vehicles used to provide transportation services where a local government is directly or indirectly compensated for the services provided to passengers.
  - (13) "Vehicle" means a motorized vehicle, vessel or construction equipment. It does not mean an aircraft, railed vehicle, or stationary electrical generating equipment.
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## NEW SECTION

194-29-030

### Applicability.

All local governments are required to transition all vehicles to electricity or biofuels to the extent practicable. The provisions of this chapter apply statewide. Pursuant to RCW 43.19.648(2):

- (1) Revenue fleets with a majority of active vehicles, not including transit vans, using compressed natural gas on June 1, 2018 are exempt from these rules. Transit vans and non-revenue fleet vehicles remain subject to these rules.
  - (2) These rules do not require engine retrofits that would void warranties, or replacement of vehicles before the end of their useful lives.
  - (3) If a local government believes it is not practicable to use electricity or biofuels to fuel police, fire or other emergency response vehicles, including utility vehicles frequently used for emergency response, it is encouraged to consider alternate fuels and vehicle technologies, such as natural gas or propane, to displace gasoline and diesel fuel use. Local governments that opt to exempt emergency response vehicles from these rules must notify the department as part of their annual reporting under WAC 194-29-080.
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## NEW SECTION

194-29-040

### Assessment data and reporting.

For purposes of assessing compliance with these rules, each local government using 200,000 or more gallons of gasoline and/or diesel to fuel vehicles on an annual basis is required to report as described in WAC 194-29-080. The department will collect data from a variety of sources to ensure local governments meeting this threshold are fulfilling the reporting requirement. To determine which transit agencies meet the reporting threshold, the department will use the most recent data from the National Transit Database, as published by the Washington State Department of Transportation.

Any local government with fuel use that initially meets the reporting threshold but subsequently drops below the threshold is encouraged to continue filing reports.

Given the findings of the underlying legislation and associated policies guiding public sector use of alternative fuels and vehicles, the department intends to continue to monitor local government compliance beyond June 1, 2018.

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NEW SECTION

194-29-050

Compliance threshold.

Pursuant to RCW 43.19.648(2), all local governments must comply with these rules.

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NEW SECTION

194-29-060

Technical coordination.

The department, in cooperation with external stakeholders with appropriate knowledge and expertise, will convene meetings at least quarterly of the agencies listed in WAC 194-28-050 and the local governments required to report under this rule to discuss trends in alternative fuel and vehicle development, including current and near-term market availability, performance metrics, innovative procurement opportunities, and fleet management tools. The meetings will take place in person, by phone, via the Internet, or any combination thereof, through the year 2020, and thereafter as may be warranted.

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NEW SECTION

194-29-070

Compliance evaluation.

RCW 43.325.080 requires the department to specify how local government efforts to meet the goals set forth in RCW 43.19.648(2) will be evaluated. While local governments are responsible for determining the most effective means of displacing their gasoline and diesel consumption through vehicle electrification and biofuel use, procurement decisions should be guided primarily through a comparison of alternatives on a lifecycle cost basis. The department will provide an analytical tool to assist local governments in their assessment of lifecycle costs. Local governments may use alternate means of determining lifecycle costs so long as all the variables included in the department's analytical tool are taken into consideration.

Local governments must consider the following criteria in determining whether they have, to the extent practicable, satisfied one hundred percent of fuel usage for operating vehicles, vessels and construction equipment from electricity or biofuel, effective June 1, 2018:

(1) Vehicles.

- (a) It is considered practicable to procure an electric or hybrid electric vehicle when the following criteria are met: a vehicle is available that meets operational needs, charging requirements can be met during routine use or through fleet management strategies, and the lifecycle cost is equal to or less than the lifecycle cost of the vehicle the local government would otherwise procure.
- (b) If the criteria in (a) cannot be met, it is considered practicable to procure or convert a vehicle to be fueled in whole or in part by natural gas or propane when the lifecycle cost is equal to or less than the lifecycle cost of the vehicle the local government would otherwise procure.

- (c) When making procurement decisions involving vehicles with diesel engines, it is considered practicable for local governments to select vehicles with engine warranties that provide for the highest level of biodiesel use.
- (d) When making procurement decisions involving vehicles with gasoline engines, local governments are encouraged to lease vehicles in order to take advantage of new alternative fuel and vehicle technologies in a timely manner.

(2) Biofuels.

- (a) Biodiesel and Renewable Diesel. Unless otherwise limited by law, it is considered practicable for local governments to:
    - (i) Use five percent biodiesel-blended fuel (B5) in all applications when the fuel is available at retail or for delivery to on-site storage tanks at a price no more than one percent higher than #2 ultra-low sulfur diesel.
    - (ii) Use biodiesel-blended fuels containing more than five percent biodiesel in all applications unless otherwise restricted by warranty or air quality regulation when the fuel is available for delivery to on-site storage tanks at a price no more than one percent higher than #2 ultra-low sulfur diesel, including the cost of any additives necessary to ensure reliable storage and performance.
    - (iii) Use renewable diesel, or the highest available blend of renewable diesel and #2 ultra-low sulfur diesel, when the fuel is available at retail or for delivery to on-site storage tanks at a price no more than one percent higher than #2 ultra-low sulfur diesel.
  - (b) Ethanol. It is considered practicable for local governments with vehicles capable of using high-level blends of ethanol and gasoline (flex-fuel) to make good faith efforts to identify sources and use flex-fuel when the fuel is available at retail or for delivery to on-site storage tanks at a price that is at least twenty percent less than regular gasoline.
  - (c) Renewable Natural Gas. It is considered practicable for local governments with natural gas-fueled vehicles to use renewable natural gas, or the highest available blend of renewable and conventional natural gas, when the fuel is available at retail or for delivery to on-site storage tanks at a price equal to or less than conventional natural gas.
  - (d) Renewable Propane. It is considered practicable for local governments with propane-fueled vehicles to use renewable propane, or the highest available blend of renewable and conventional propane, when the fuel is available at retail or for delivery to on-site storage tanks at a price equal to or less than conventional propane.
- (3) Local governments are encouraged to install electric vehicle charging infrastructure in all fleet parking and maintenance facilities, and to incorporate charging into all new facility construction and substantial remodeling projects.

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NEW SECTION

194-29-080

Demonstration of progress.

By July 1 of each year, each local government required to report under WAC 194-29-040 must submit to the department an annual report on a form provided by the department documenting how it is complying with the goal of satisfying one hundred percent of fuel usage for operating vehicles, vessels and construction equipment

from electricity or biofuel by June 1, 2018, based on the criteria in WAC 194-29-070, including any reasons for noncompliance and plans for future compliance.