Chapter 194-28 WAC
PRACTICABLE USE OF ELECTRICITY AND BIOFUELS TO FUEL STATE VEHICLES, VESSELS, AND CONSTRUCTION EQUIPMENT

Last Update: 7/31/24

WAC

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WAC 194-28-010 Authority and purpose. This chapter is pursuant to the authority granted in RCW 43.325.080, which requires the department to adopt rules to define practicability and clarify how state agencies will be evaluated in determining whether they have met the goals set forth in RCW 43.19.648. The goals call for all state agencies, to the extent practicable, to:

(1) Achieve forty percent fuel usage for operating publicly owned vessels, vehicles, and construction equipment from electricity or biofuel by June 1, 2013, and

(2) Satisfy one hundred percent of their fuel usage for operating publicly owned vessels, vehicles, and construction equipment from electricity or biofuel, effective June 1, 2015.

[Statutory Authority: RCW 43.325.080. WSR 13-10-016, § 194-28-010, filed 4/22/13, effective 5/23/13.]

WAC 194-28-020 Definitions and abbreviations. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agency" or "agencies" - Means any state agency or all state agencies, including institutions of higher education.

(2) "Biofuels" - As defined by RCW 43.325.010(4) includes but is not limited to biodiesel, ethanol, ethanol blend fuels, and renewable liquid natural gas or liquid compressed natural gas made from biogas.

(3) "Department" - Means the department of commerce.

(4) "Ecology" - Means the department of ecology.

(5) "Electric vehicle supply equipment (EVSE)" - Means equipment that delivers electrical energy from an electricity source to charge plug-in electric vehicle batteries.

(6) "Enterprise Services" - Means the department of enterprise services.

(7) "Greenhouse gas," "greenhouse gases," "GHG" and "GHGs" - Include carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. Beginning January 1, 2012, "greenhouse gas" also includes any other gas or gases designated by ecology by rule in Table A-1 under WAC 173-441-040.

(8) "Hybrid electric vehicle (HEV)" - Means a vehicle that combines an internal combustion engine or other propulsion source with batteries, regenerative braking, and an electric motor. HEVs rely on petroleum-based or alternative fuel for power and are not plugged in to charge batteries.

(9) "Lifecycle cost" - Means the total cost of ownership over the life of an asset. This includes purchase or lease cost, operations and maintenance, depreciation, and resale or surplus value.

(10) "Light-duty vehicle" - Means a vehicle with a gross vehicle weight of up to 8,500 pounds.

(11) "Medium-duty vehicle" - Means a vehicle with a gross vehicle weight of between 8,500 and 10,000 pounds.

(12) "Plug-in electric vehicle (PEV)" - Means a vehicle that derives all or part of its power from electricity supplied by an external source.

(13) "Plug-in hybrid electric vehicle (PHEV)" - Means a vehicle that uses batteries to power an electric motor, plugs into an external source to charge batteries, and also uses petroleum-based or alternative fuel to power an internal combustion engine to charge batteries. PHEVs are also known as extended range electric vehicles.

(14) "Practicable or practicability" - Means the extent to which electricity and biofuel can be used as a fuel source for state vehicles, vessels, and construction equipment as determined by such factors as cost differentials between fuels, availability, refueling infrastructure, functional differences, technical feasibility, implementation costs, and other factors.

(15) "Reasonably available" - Means a determination dependent upon multiple dynamic factors affecting reliable volumes and delivery systems, including ability to purchase through the state procurement system, location of refueling infrastructure, and other issues. RCW 43.19.648(1) provides the department the ability to allow state agencies to substitute compressed natural gas (CNG), liquid natural gas (LNG), and propane from fossil fuel sources if the department determines that electricity and biofuel are not reasonably available.

(16) "Renewable natural gas" - Means biogas derived from landfills, wastewater treatment facilities, anaerobic digesters, and other sources of organic decomposition that has been purified to meet standards for natural gas derived from fossil fuel sources.

(17) "Vehicles, vessels, and construction equipment" - Means publicly owned vessels, vehicles, and construction equipment operated by a state agency. It does not mean aircraft and stationary electrical generating equipment.

[Statutory Authority: RCW 43.325.080. WSR 13-10-016, § 194-28-020, filed 4/22/13, effective 5/23/13.]

WAC 194-28-030 Applicability. All state agencies are required to transition all vehicles, vessels, and construction equipment to electricity and biofuels to the extent practicable. The provisions of this chapter apply statewide.

[Statutory Authority: RCW 43.325.080. WSR 13-10-016, § 194-28-030, filed 4/22/13, effective 5/23/13.]

WAC 194-28-040 Assessment data. For purposes of assessing and reporting use of electricity and biofuels, the department will use data collected and compiled annually by ecology on agency GHG emissions as directed by RCW 70.235.050. In the event that mandatory reporting of agency GHG emissions is repealed, the department will work with

stakeholders to identify an efficient and effective alternate means of obtaining and reporting information needed to monitor compliance.

Given the findings of the underlying legislation and associated policies guiding agency use of alternative fuels and vehicles, the department intends to continue to monitor agency compliance beyond June 1, 2015.

[Statutory Authority: RCW 43.325.080. WSR 13-10-016, § 194-28-040, filed 4/22/13, effective 5/23/13.]

WAC 194-28-050 Compliance threshold. In order to maximize administrative efficiency while still addressing the preponderance of agency fuel consumption, compliance will be assessed for each agency that reported use of more than 50,000 gallons of gasoline and diesel, combined, during the 2011 calendar year for vehicles, vessels, and construction equipment. Progress towards compliance by agencies below this threshold will be assessed in aggregate. Agencies meeting the threshold for individual compliance assessment are:

- Washington state department of agriculture.
- Washington state department of corrections.
- Washington state department of ecology.
- Washington state department of enterprise services.
- Washington state department of fish and wildlife.
- Washington state department of labor and industries.
- Washington state department of natural resources.
- Washington state department of social and health services.
- Washington state department of transportation.
- Washington state liquor control board.
- Washington state parks and recreation commission.
- Washington state patrol.
- Eastern Washington University.
- University of Washington.
- Washington State University.
- Western Washington University.

[Statutory Authority: RCW 43.325.080. WSR 13-10-016, § 194-28-050, filed 4/22/13, effective 5/23/13.]

WAC 194-28-060 Technical coordination. The department, in cooperation with the Washington State University energy program and external stakeholders with appropriate knowledge and expertise, will convene quarterly meetings with the agencies listed in WAC 194-28-050 to discuss trends in alternative fuel and vehicle development, including current and near-term market availability, procurement costs and pricing differentials, 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 second quarter of 2015, and thereafter as may be warranted.

[Statutory Authority: RCW 43.325.080. WSR 13-10-016, § 194-28-060, filed 4/22/13, effective 5/23/13.]

WAC 194-28-070 Compliance evaluation. RCW 43.325.080 requires the department to specify how agency efforts to meet the goals set forth in RCW 43.19.648(1) will be evaluated. In so doing, the department will consider the following criteria in determining whether state agencies have, to the extent practicable, satisfied 100 percent of fuel usage for operating vessels, vehicles, and construction equipment from electricity or biofuel, effective June 1, 2015:

(1) Vehicle electrification.

(a) It is considered practicable to procure a PHEV and PEV light-duty vehicle, light-duty truck, or medium-duty passenger vehicle when the following criteria are met:

(i) The vehicle is due for replacement;

(ii) Charging requirements can be met during routine use or through fleet management strategies; and

(iii) The lifecycle cost is within five percent of an equivalent HEV based on anticipated length of service.

(b) Agencies are encouraged to pursue electrification in additional vehicle classes as opportunities emerge.

(c) Per RCW 43.19.648(5), agencies are to install EVSE capable of charging PEVs and PHEVs in each of the state's fleet parking and maintenance facilities, to the extent practicable, by December 31, 2015. The department is not charged with monitoring or reporting on compliance with this law, but agencies need to show progress in this area for electricity to be a feasible fuel source at these locations.

(d) Under the federal Energy Independence and Security Act of 2007, the U.S. Department of Energy (USDOE) is responsible for rule making to determine the extent to which alternative fuel credits recognize electricity used by HEVs and PHEVs in state vehicle fleets subject to the federal Energy Policy Act of 1992. The department will utilize the USDOE rule when crediting compliance for these vehicles.

(2) Biofuels.

(a) Biodiesel: Unless otherwise limited by law, it is considered practicable for agencies to:

(i) Use a minimum of 20 percent biodiesel-blend fuel (B20) on an annualized basis when purchasing fuel through the state procurement system.

(ii) Make good faith efforts to identify sources and procure a minimum of B20 when purchasing fuel on a retail basis.

(b) Ethanol: It is considered practicable for agencies with "flex-fuel" vehicles capable of using either high-blend ethanol fuel (E85) or regular gasoline to make good faith efforts to identify sources and procure E85 when purchasing fuel on a retail basis if the price of E85 is at least 20 percent less than regular gasoline.

(c) Renewable Natural Gas: It is considered practicable for agencies considering acquisition of natural gas-fueled vehicles to actively assess opportunities to procure renewable natural gas as the primary fuel.

(3) Alternate fuels.

Compressed natural gas, liquefied natural gas, or propane may be substituted for electricity or biofuel if the department determines that electricity and biofuel are not reasonably available. If an agency believes electricity and biofuels are not reasonably available to fuel a specific vehicle, vessel, or construction equipment, the agency must submit a request for such a determination to the department by July 1 of the year prior to the agency's anticipated procurement on a form provided by the department. Such a request may be made as part of the agency's annual reporting under WAC 194-28-080.

[Statutory Authority: RCW 43.325.080. WSR 24-16-061, § 194-28-070, filed 7/31/24, effective 8/31/24; WSR 13-10-016, § 194-28-070, filed 4/22/13, effective 5/23/13.]

WAC 194-28-080 Demonstration of progress. By July 1 of each year, each agency listed in WAC 194-28-050 must submit to the department an annual report on a form provided by the department documenting how it is complying with the criteria in WAC 194-28-070, including reasons for noncompliance and plans for future compliance.

[Statutory Authority: RCW 43.325.080. WSR 13-10-016, § 194-28-080, filed 4/22/13, effective 5/23/13.]