

**THE NORTHWEST SEAPORT ALLIANCE**  
**MEMORANDUM**

**MANAGING MEMBERS**  
**STAFF BRIEFING**

**DATE:** October 24, 2018  
**TO:** NWSA Managing Members  
**CC:** John Wolfe, Kurt Beckett, Nick Demerice, Judi Doremus, Mike Merritt, NWSA  
**FROM:** Jason Jordan, Director of Environmental Programs  
Sean Eagan, Director of Government Affairs  
**SUBJECT:** Puget Sound Clean Air Agency consideration of a low carbon fuel standard

**A. ACTION REQUESTED**

This memo is intended to brief the Managing Members on a proposal by the Puget Sound Clean Air Agency to adopt a low carbon fuel standard and seek direction on whether the Managing Members would like the alliance to engage on this issue.

**B. BACKGROUND**

**1. Greenhouse gas reporting requirement**

The United States Environmental Protection Agency (EPA) and the Department of Ecology (ECY) identify carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride as greenhouse gases (GHGs) because of their capacity to trap heat in the Earth's atmosphere. According to the EPA, the global warming potential (GWP) of each GHG is a function of how much of the gas is concentrated in the atmosphere, how long the gas stays in the atmosphere, and how strongly the gas affects global atmospheric temperatures. Under state law, the GWP of a gas is measured in terms of the equivalence, over a 100-year timeframe, to the emission of an identical volume of carbon dioxide (carbon dioxide equivalent).

Under the federal Clean Air Act, GHGs are regulated as an air pollutant and are subject to several air regulations administered by the EPA. These federal Clean Air Act regulations include a requirement that facilities and fuel suppliers whose associated annual emissions exceed 25,000 metric tons of carbon dioxide equivalent report their emissions to the EPA. At the state level, GHG reporting is regulated by the ECY under the state Clean Air Act. This state law requires facilities, sources, and sites whose emissions exceed 10,000 metric tons of carbon dioxide equivalent each year to report their annual emissions to the ECY or to local air pollution control authorities that implement the state Clean Air Act. Distributors of gasoline, diesel, and aircraft fuel whose GHG emissions exceed 10,000 metric tons and who pay fuel taxes to the Department of Licensing (DOL) must use the fuel sale information submitted for the DOL fuel tax purposes to report to the state the GHG emissions associated with the fuel.

The ECY and Department of Commerce (COM) must report to the Governor and Legislature by December 31 of even-numbered years regarding total GHG emissions and GHG emissions by source sector in Washington. According to the most recent report submitted to the Legislature in December 2016, as of 2013 the total annual greenhouse gas emissions in Washington were estimated at 94.4 million metric tons (MMT) of carbon dioxide equivalent (CO<sub>2</sub>e). Of these emissions, a total of 40.4 MMT

CO<sub>2</sub>e were attributable to transportation sources, of which on-road gasoline accounted for 21.71 MMT CO<sub>2</sub>e and on-road diesel accounted for 7.01 MMT CO<sub>2</sub>e.

On October 3, 2017 the Northwest Seaport Alliance adopted Greenhouse Gas Reduction Targets resolution #2017-02 that states the following:  
The Alliance adopts greenhouse gas reduction targets in keeping with the Paris Agreement and in alignment with the global reductions necessary for keeping warming to within 2-degrees Celsius by 2050. The Alliance will reduce greenhouse gas emissions within the Puget Sound airshed as follows:

By 2030:

- 50% below 2005 levels (scope 1, 2 & 3 emissions)

By 2050:

- Carbon Neutral (scope 1 & 2 emissions)
- 80% below 2005 levels (scope 3 emissions)

## **2. Clean Air Rule**

In September 2016, the ECY adopted a rule under state Clean Air Act authority (the Clean Air Rule) to limit emissions of GHGs from certain stationary emission sources, as well as from fuel supplied by petroleum product producers and importers and natural gas distributors.

Transportation fuels are subject to the Clean Air Rule. For purposes of meeting compliance obligations under the Clean Air Rule, parties that are required to reduce GHG emissions may use emission reduction units, which represent the emission of one metric ton of CO<sub>2</sub>e. In December 2017, a Thurston County Superior Court judge adjudicating a legal challenge to the Clean Air Rule ruled from the bench that the ECY's rule exceeded statutory authority; however, a written order or decision has not yet been issued as of January 2, 2018.

## **3. Other state Clean Air Act authority**

The ECY and seven local air pollution control authorities (local air authorities) have each received approval from the EPA to administer aspects of the federal Clean Air Act in Washington. Local clean air agencies have primary responsibility for administering the state and federal Clean Air Acts in counties which have elected to activate a local air authority or to form a multicounty air authority; in other areas of the state, the ECY is responsible for administering state and federal Clean Air Act programs.

## **4. Fuel content**

The state Motor Fuel Quality Act (MFQA), enacted in 1990, adopted motor fuel standards, authorized the Washington State Department of Agriculture (WSDA) to set state fuel standards, and established a sampling, testing, and enforcement program administrated by the WSDA. Under the MFQA, it is unlawful to deceive the purchaser of fuel as to, among other aspects, its nature or quality. Violations of this prohibition are enforced by the WSDA.

Washington's Renewable Fuel Standard was enacted in 2006 as a component of the MFQA, and establishes requirements for the biodiesel content of diesel fuel, and the ethanol content of gasoline:

- At least 2 percent of diesel fuel annually sold in Washington must be biodiesel or renewable diesel fuel. This requirement will increase to at least 5 percent if the WSDA determines that both in-state feedstock and oilseed crushing capacity can satisfy a 3 percent requirement. This in-state threshold has not been met.
- At least 2 percent of the total gasoline sold in the state must be denatured ethanol. This ethanol requirement may be increased if the WSDA determines an increase would not jeopardize the state's continued attainment of federal Clean Air Act standards, and that the state can economically support the production of higher ethanol blends.

**5. 2015 Connecting Washington transportation revenue package**

The statewide transportation revenue package passed by lawmakers in 2015 contains a proviso that stipulates if a clean fuel standard policy is adopted by rule or otherwise initiated prior to July 1, 2023, a significant portion of multimodal funds that support transit are transferred to support road projects.

**6. NWSA position**

In 2017 The Northwest Seaport Alliance Managing Members amended its Catalogue of Government Affairs Positions to include language on climate change:

*Support funding for environmental projects at seaports that result in substantive and measurable greenhouse gas and black carbon emissions reductions and improved resiliency of port infrastructure and equipment in the face of climate change. Support efforts to reduce greenhouse gas and black carbon emissions provided those efforts do not result in a consequential loss of cargo volumes in the gateway; should these efforts generate additional revenue for the government (such as through a mechanism like a carbon tax), support efforts to invest this revenue into climate change adaptation, further emission reductions, energy conservation and transportation and freight mobility infrastructure.*

At the time of adoption, however, the Managing Members directed alliance staff to neither use this language to support nor oppose and legislative or regulatory proposal addressing climate change. Per that direction, staff has briefed the Managing Members in writing on various legislative proposals (low carbon fuel standard, carbon tax etc.) but has declined to engage politically on the issue.

**C. LATEST DEVELOPMENTS**

While the proviso contained in the statewide transportation package referenced above applies to state agencies, it is silent on the question of local action.

The Puget Sound Clean Air Agency has set a target of reducing greenhouse gases by 50 percent below 1990 levels by 2030, and is considering adopting a regional Clean Fuel Standard to help meet that target.

Over the next few months, the Puget Sound Clean Air Agency will complete an analysis that will characterize all transportation fuel entering, distributed, and produced within the four-county region, and identify all current and potential alternative fuel feedstocks within Washington. Based on this information, the Agency will develop scenarios with multiple fuel pathways for a potential Clean Fuel Standard within the four-county region.

NWSA staff contacted the PSCAA on October 16, 2018 to discuss PSCAA's next steps. PSCAA staff indicated there is a planned November 15, 2018 public meeting to solicit comments from the public regarding the proposed standard. PSCAA Board members are also taking into consideration what happens with the Washington State Carbon Tax initiative #1631 as its passing may impact the Boards final direction. When asked about the potential costs associated with a low carbon fuel standard, PSCAA staff indicated their preliminary analysis was in the range of \$0.06 to \$0.25 increase per gallon of gasoline would be expected.

**D. NEXT STEPS**

Based on the 2017 direction to alliance staff referenced above on climate change legislative and regulatory proposals, staff only intends to monitor the Puget Sound Clean Air Agency action for now, pending further direction from the Managing Members.