



# **Participant Guidance on Documenting Exempt Fuels**

## **Clean Fuel Standard Program Guidance**

Issued by the Climate Policy Section, Air Quality Program  
Washington State Department of Ecology  
Olympia, Washington

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## Publication Information

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### Related Information

Additional Clean Fuel Standard Program Guidance Documents will be published on our website.

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<sup>1</sup> <https://unsplash.com/photos/dyLebz2v3dc>

<sup>2</sup> [www.ecology.wa.gov/cfs](http://www.ecology.wa.gov/cfs)

<sup>3</sup> [www.ecology.wa.gov/contact](http://www.ecology.wa.gov/contact)

## Introduction

The Washington Clean Fuel Standard (CFS) requires fuel producers and suppliers to decrease the carbon intensity of Washington's transportation fuels. It will provide an increasing range of low-carbon and renewable alternatives, which will reduce dependency on petroleum and improve air quality. The CFS is projected to cut statewide greenhouse gas emissions by 4.3 million metric tons of carbon dioxide equivalent a year by 2034.

This guidance is being issued to assist fuel suppliers that participate in the program ("covered entities") with information on how to report and document emissions that are exempt under the CFS. Exempt fuels include those used for watercraft or maritime fuels, aviation fuels, fuels used in agricultural operations, and fuels that are exported with a documented final point of delivery outside of Washington.

This guidance is largely based on the provisions of the CFS statute (Chapter 70A.535 RCW), as well as Chapter 173-424 WAC, and it reflects Ecology's interpretation of these statutory and rule provisions as of the date of issuance. Ecology will issue updates and revisions to this interim guidance as circumstances warrant.

## Covered Entities under the Clean Fuels Program Rule

The Clean Fuels Program rule covers any transportation fuel that is sold, supplied, or offered for sale in Washington (WAC 173-424-120(1)) with a carbon intensity above the standard for that year. The rule does not apply to transportation fuel supplied in Washington if an aggregated quantity of less than 360,000 gasoline gallon equivalent (42.6 million MJ) per year as measured by all providers of such fuel. For a full list of regulated and opt-in fuels, see WAC 173-424-120(2), (3).

RCW 70A.535.040(1) defines the following exempt end uses of fuels:

Permanently Exempt Uses	Exempt Uses through 2027
Aircraft	Dyed special fuels for offroad construction, logging, and mining.
Watercraft or maritime vessels	Dyed special fuel for agricultural use
Railroad locomotives	
Military tactical vehicles	

This exemption will functionally cover any fuel used in watercraft. For the purposes of this guidance, “watercraft” is defined as a vessel designated exclusively for operation in water and not restricted to use in salt water.

The CFS program allows a fuel supplier to transfer the compliance obligation with the fuel when it is sold. In that case, the party buying the fuel becomes responsible for reporting its downstream uses to Ecology, and for documenting any exempt end uses. Fuel producers or suppliers may choose to do this to avoid the need to obtain documentation from downstream distributors to verify that the fuel was sold to an exempt end use. If a fuel is sold without obligation and is not reported as going to an exempt end use, it will incur deficits.

Producers or suppliers may choose to sell without obligation and work with their downstream customers to obtain the documentation discussed below to report to Ecology that a fuel was sold to an exempt end use.

## Documenting and Reporting Exempt Fuels

Fuel suppliers that are covered entities under the program are required to report their fuel transactions completely and accurately to Ecology using the [Washington Fuels Reporting System](https://secureaccess.wa.gov/ecy/aqportal/UI/home)<sup>4</sup> (WFRS). This includes ensuring that all fuel transactions are accurately reported, and that out of

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<sup>4</sup><https://secureaccess.wa.gov/ecy/aqportal/UI/home>

those total transactions, covered fuels and non-covered (exempt) fuels are clearly differentiated and accounted for.

Fuel producers and suppliers must report both covered and exempt fuel transactions to Ecology. Reporting for the first quarter of calendar year 2023 opens on April 1, 2023.

As directed by WAC 173-424-130, the method of documentation must include:

- **Product Transfer Documents** or other individual invoices for each fuel sale claimed as exempt that list the specific customer and exempt vehicle type. This may include **bills of lading (BOL)** or other delivery receipts that identify the specific location or customer and indicate the fuel's exempt use.
- **Tax Records** or other **electronic or paper records** that document that the customer's vehicle(s) being fueled are in an exempt category under 173-424-130(2), and that the tank is not used to fuel any other vehicles, if the fuel is sold through a dedicated tank for a single customer.
  - Department of Revenue (DoR) [form 27 0032<sup>5</sup>](https://dor.wa.gov/sites/default/files/2022-02/27-0032.pdf), the Buyer's Retail Sales Tax Exemption Certificate, may be used for this purpose.
  - In addition to any DoR forms provided to document exemptions, Ecology requires covered entities to document in the WFRS the specific volumes of exempt fuel sold or delivered.

Covered entities may provide other comparable documentation, so long as it is approved in writing by Ecology prior to exemptions being claimed. That documentation must, at a minimum:

- Establish that the fuel was sold through a dedicated source or single supplier for use in one of the specified motor vehicles listed in 173-424-130(2); or
- For each fuel transaction if the fuel is not sold through a dedicated source.
  - The person asserting the exemption of fuel under 173-424-130(2) must maintain the records specified under 173-424-130(2)(a) for seven years and submit records demonstrating adherence to these conditions upon Ecology's request.

It may be helpful if fuel distributors share tax forms and other paperwork with the fuel supplier or covered entity, but Ecology does not require this. Ultimately the fuel reporting and compliance obligations rest with the fuel supplier as a covered entity and it is the responsibility of the covered entity to assemble and retain all necessary documentation.

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<sup>5</sup> <https://dor.wa.gov/sites/default/files/2022-02/27-0032.pdf>

# Guidance on exemption of dyed special fuel used for agricultural purposes

RCW 70A.535.040 exempts producers of certain transportation fuels from compliance obligations under the Clean Fuel Standard. Until the end of 2027, the list of exempt fuels includes dyed special fuel used for agricultural purposes in alignment with the Fuel Tax Act ([Chapter 82.38 RCW](#)<sup>6</sup>).

According to the Washington Department of Licensing, dyed diesel is “fuel with red dye added to show there are no federal or state fuel taxes paid.”<sup>7</sup> The Clean Fuel Standard statute pertains to this dyed fuel as it is used for agricultural purposes. Other industry names for dyed diesel include marked fuel, farm fuel, and red dyed diesel.

Although 82.38 RCW does not directly define the term “agricultural purposes,” the statute includes a list of fuels covered by the Fuel Tax Act, and dyed fuels used for agricultural purposes are not included. If a fuel producer or supplier provides fuel that is used for agricultural purposes and is *not* subject to the Fuel Tax Act (82.38 RCW), that fuel is not covered by the Clean Fuel Standard and therefore exempt from any associated compliance obligation.

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<sup>6</sup> <https://app.leg.wa.gov/RCW/default.aspx?cite=82.38&full=true>

<sup>7</sup> <https://www.dol.wa.gov/vehicleregistration/dyediesel.html>