



Fuel Exemptions Workgroup Report

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Executive summary

During the Summer of 2023, Ecology hosted a workgroup with the goal of developing collaborative solutions to the problem of fuel suppliers and distributors imposing surcharges on fuels that are exempt under the cap-and-invest program, especially fuels used by fishing fleets, by farmers for agricultural operations, and to transport agricultural products on public highways through 2027.

The workgroup met eight times from June to September and was composed of 37 individuals representing a broad range of stakeholder perspectives. Ecology wishes to thank all the workgroup participants and believes that their hard work, commitment, and focus helped lead to solutions, or at least substantial progress, in key areas including:

- **Maritime:** Most fishing fleet end users are no longer being assessed surcharges and it appears that the maritime exemption is, to a large extent, being applied as intended.
- **Agricultural operations:** More and more fuel suppliers and distributors are no longer imposing surcharges or increasing costs for agricultural fuels. Farmers are sharing information as to which fuel suppliers are selling surcharge-free fuel to exempt users, which has encouraged more suppliers to remove surcharges to retain their customers.
- **Refunds / reimbursement for surcharges imposed on exempt fuels:** Two fuel suppliers on the workgroup announced that they have provided refunds to their customers going back to January. A third major fuel supplier has recently confirmed that they are also providing refunds. Just as with removing surcharges on fuels used for agricultural operations, we hope that this is an example of a shift in market dynamics and that more fuel suppliers will begin to provide refunds.
- **Retail and point of sale:** At the beginning of the workgroup, multiple fuel suppliers and distributors insisted that there was no way to avoid imposing surcharges on sales at retail gas stations and cardlocks which represent sales that lack a direct “line of sight” between the fuel supplier and the customer. However, other suppliers have worked with Ecology to develop ways to either avoid surcharges on exempt fuels or to quickly provide refunds at these venues. These solutions are still under development but should be tested soon.

Ecology will continue to work with covered entities, fuel suppliers, and fuel distributors, to encourage the broadest, and quickest, possible adoption of these solutions. Ecology will also continue to provide end users with accurate information so that they can work with their fuel suppliers and distributors to avoid the imposition of improper surcharges or additional costs on exempt fuels, and to obtain refunds.

I. The cap-and-invest program and exempt fuels

In 2021, in response to the accelerating climate crisis, Washington State adopted the Climate Commitment Act (CCA). The CCA established an economy-wide cap-and-invest program to decarbonize Washington’s economy and help ensure that our state will be able to reduce greenhouse gas (GHG) emissions state-wide, compared to 1990 levels, 45% by 2030, 70% by 2040, and 95% by 2050 (RCW 70A.45.020).

The cap-and-invest program, which went into effect in January 2023, establishes a cap on approximately 75% of the state’s greenhouse gas emissions, and gradually reduces that cap over time to help meet the reduction requirements set forth in RCW 70A.45.020. Entities with more than 25,000 metric tons of greenhouse gas emissions each year are “covered entities” under the program. This includes entities that sell fossil fuels that, if combusted within Washington, would emit 25,000 metric tons or more. These covered entities must report their emissions to Ecology, obtain compliance instruments (allowances or offset credits) equivalent to their emissions, and remit those instruments to Ecology to meet their compliance obligations. Ecology conducts four quarterly allowance auctions each year, at which allowances can be purchased. The proceeds of the allowance auctions will be invested in initiatives to decarbonize transportation and other sectors of the economy, promote clean energy, implement climate resilience strategies, and advance equity and environmental justice.

The cap-and-invest program does not cover all types of fuels. The law clearly and explicitly states that emissions from certain types of fuel – including emissions from watercraft fuels combusted outside of Washington’s waters, fuels used for agricultural purposes by a farm fuel user, and fuels used to transport agricultural products on public highways through 2027 – are exempt from the cap-and-invest program (RCW 70A.55.080(7)). Because these fuels are exempt, fuel suppliers that sell them have no compliance obligation for those emissions, which means they do not have to purchase allowances (or offset credits) to cover the emissions from these fuels.

When the cap-and-invest program began on January 1, 2023, Ecology began to receive numerous complaints from agricultural producers and fishing fleet operators that fuel suppliers were imposing surcharges and increasing prices on exempt fuels. These fuels are exempt, fuel suppliers will not incur compliance costs for those sales if they document them properly as required by law.

Over the following two months, Ecology met repeatedly with large groups of fuel suppliers and other stakeholders to help clarify how fuel suppliers can comply with the law and properly document and report exempt fuels. As a result of those meetings, Ecology published two interim guidance documents that adopted suggestions and requests from stakeholders, as well as an optional certification form specifically designed to help fuel suppliers document agricultural and maritime exemptions. However, recognizing that each supplier would have its own best practices and documentation needs, Ecology made clear that the certification form was an optional tool and that suppliers could use whatever documentation was most suitable.

- [Interim Guidance on Reporting and Documenting Emissions from Exempt Fuels under the Cap-and-Invest Program: Watercraft, Agricultural, Aviation, and Exported Fuels](#)
- [Interim Guidance on Reporting and Documenting Emissions from Exempt Fuels under the Cap-and-Invest Program: Transporting Agricultural Products on Public Highways](#)
- [Washington Dept. of Ecology Exemption Certificate \(Optional\)](#)

In addition to these large meetings, Ecology made clear that it has an “open door” policy and is willing to talk to and meet with fuel suppliers and distributors, as well as end users, to answer questions and work through proposed processes to accurately track and report exempt fuels. Over the following months, Ecology provided detailed technical assistance and met with dozens of entities to help them understand how to report emissions, and document exempt emissions and fuels.

II. Ecology creates an exempt fuels workgroup

In May, Ecology announced that it would be creating a workgroup to continue to search for solutions to ensure that the exemptions were properly applied under the law and, critically, to ensure end users did not continue to pay unfair surcharges on exempt fuels. Ecology reached out to a broad range of interested parties and stakeholders, including fuel suppliers and distributors, farming associations, maritime interests, truckers, environmental organizations, and other groups. In the end, 37 individuals joined the workgroup. Of these, 15 represented fuel suppliers and distributors, 14 represented agricultural interests, 3 represented the maritime industry, one represented the trucking industry, and two represented environmental organizations. As a result, about 75% of the workgroup members represented fuel and agricultural interests. A full list of all workgroup members, with their affiliation, is included on our [public webpage](#) and as Appendix A.

Director Laura Watson kicked off the first meeting, held on June 22, and emphasized that the workgroup was intended to be a collaborative and solutions-focused way for parties to share ideas and have the detailed and honest conversations necessary to end the imposition of surcharges on exempt fuels. Ecology retained an experienced third-party facilitator to assist in fostering an open and robust discussion in which everyone could be heard.

Over the following three months, the workgroup met a total of eight times. All of the meetings could be attended virtually, and many of them also had an in-person option. For the first two meetings, the workgroup developed a list of issues and challenges, which was refined to the six most important issues. Over the following four meetings, the workgroup systematically focused on each of those issues. For the last two meetings, the workgroup summarized solutions developed (or proposed) and next steps. Before each meeting, workgroup members were provided a discussion guide summarizing what issues would be tackled during the upcoming meeting, so that they could prepare. After the conclusion of each meeting, workgroup participants were sent a summary of the discussion. A list of each meeting and the topics discussed, as well as the meeting summaries, are posted on the [workgroup web page](#).

The discussion was often robust. With the range of perspectives represented, including those of fuel suppliers, maritime and agricultural interests, and environmental organizations, perhaps it is not surprising that there were profound disagreements as to some issues. But the process of having multiple stakeholders around a table, willing to engage in sometimes difficult discussions, and the ensuing side conversations, led to important results, as summarized in the next session.

Based on workgroup discussion, it became clear that some participants misunderstood key aspects of the program. Important information conveyed to workgroup members included:

- Compliance obligations for 2023 are not final. Covered entities can reduce their compliance obligations by accurately reporting exempt fuels prior to reporting.
- The point of regulation cannot move, and compliance obligations are non-transferable.
- A covered entity may only report exempt fuels for which they have a compliance obligation.
- This is not a molecule tracking program. Covered entities have the ability to balance fuel volumes over a mutually agreed upon time period between the supplier, distributor(s), end user.

III. Workgroup results

The workgroup process led to progress on six important issues, including:

1. Information sharing;
2. Maritime fuel tracking and surcharges;
3. The imposition of surcharges on fuels used in agricultural operations;
4. Refunds/reimbursements for surcharges imposed on exempt fuels;
5. Transport of agricultural products; and
6. Non-bulk fuel sales.

1. Information sharing to create a common knowledge foundation.

It quickly became clear that some workgroup participants misunderstood key aspects of the program. For example, some workgroup participants indicated that they thought that the cap-and-invest program required fuel suppliers to track and document the end use of each and every specific gallon of fuel (sometimes referred to as “molecule tracking”). This is not the case – fuel suppliers are able to provide documentation for their exempt fuel sales in aggregate each year – and Ecology was able to explain this and ensure that workgroup members understood the reporting requirements accurately.

To take another example, during the discussion of exemptions (see below) it became clear that some participants believed that the profits from exempt fuel surcharges and fees were received by Ecology or the state. This was not accurate: the profits from surcharges and fees flow to the fuel suppliers imposing them, not to Ecology or the state. Being able to ensure that all workgroup members had these clarifications was essential in providing a common understanding of the program.

2. Maritime: Surcharges are no longer being imposed on most fishing fleet and commercial end users.

Emissions from “watercraft fuels supplied in Washington that are combusted outside of Washington” are exempt from the cap-and-invest program (RCW 70A.65.080(7)(b)). WAC 173-446-040(2)(b)(ii) clarifies that this exemption extends to watercraft fuels that are supplied in Washington but are “not combusted inside Washington or in waters under the jurisdiction of Washington.” Pursuant to RCW 43.143.005(4) “Washington has primary jurisdiction over the management of coastal and ocean natural resources within three miles of its coastline,” and Ecology is therefore interpreting the jurisdictional limit of Washington’s waters as three nautical miles from the shore. To clarify this point, Ecology is updating interim guidance 23-02-008 to include a map of Washington waters.

Representatives from the maritime industry clarified that most fleet operators are now able to purchase exempt fuels free of surcharges. They further explained, most commercial fishing boats use navigational tools that clearly track the boat’s location and therefore know whether it is inside, or outside of, Washington jurisdictional waters. This locational information is used to establish whether the boat operator is entitled to the sales tax exemption for commercial fishing conducted outside Washington waters (RCW 82.08.0298).

This same information can be applied to determine if fuel is also exempt under the cap-and-invest program. Therefore, it appears that the law is being correctly applied as to most fishing fleet customers and the majority of operators are no longer being assessed surcharges on fuel that is eligible for the exemption. However, the maritime representatives were also adamant that their members have not yet received refunds for surcharges incurred earlier in 2023 which they are due.

3. Fuels used for agricultural purposes: More fuel suppliers are lifting surcharges and fees.

Under the CCA, emissions from “[m]otor vehicle fuel or special fuel that is used exclusively for agricultural purposes by a farm fuel user” are exempt from the cap-and-invest program (RCW 70A.65.080(7)(e)(i)). However, as noted above, when the cap-and-invest program began in January, Ecology received numerous reports of fuel suppliers and distributors adding surcharges or added costs on to fuel that would be used for agricultural purposes and was therefore exempt.

By the time the workgroup began in June, a few fuel suppliers and distributors had stopped imposing these surcharges. Over the following three months, that number increased substantially. An independent website (<https://washingtonfarmfueltax.com>) created by the Washington State Dairy Federation listed 23 suppliers or distributors who had stopped imposing surcharges as of October 3rd.

4. Refunds / reimbursement for surcharges imposed on exempt fuels.

Providing refunds or reimbursement for surcharges imposed on exempt fuels was one of the more contentious issues discussed by the workgroup. Some workgroup members insisted that Ecology or the state should provide refunds to customers for surcharges imposed on exempt fuels, despite the fact that fuel suppliers imposed these surcharges without having any compliance obligation for emissions from these fuels. Other workgroup participants were equally adamant that the fuel companies that had chosen to impose the surcharges should provide these refunds.

However, the discussion changed when two fuel suppliers announced that they had provided refunds to their customers. This was the first time that any fuel supplier had indicated that they had implemented this solution. Ecology is now aware of another large fuel supplier who is providing rebates, and we hope that additional fuel suppliers will do the same.

Although the issue of rebates continues to be a controversial topic, and some stakeholders continue to argue that Ecology, or the state, should be responsible for providing refunds to exempt users, it is now clear that some fuel suppliers have managed to implement a functional solution, and that doing so is possible.

5. Transportation of agricultural products on public highways.

Ecology is required to “determine a method” for exempting fuels used to transport “agricultural products on public highways” for five years “in order to provide the agricultural sector with a feasible transition period” (RCW 70A.65.080(7)(e)(ii)). This five-year exemption was recognized by Ecology and many workgroup participants as the most difficult exemption to apply. In particular, there are three important issues:

1. The definition of what is an “agricultural product.”
2. How to account for mixed loads that contain exempt and non-exempt products.
3. How a farmer or hauler can avoid paying a surcharge on fuels they purchase to transport agricultural products.

On June 23, Ecology shared draft interim guidance that defines agricultural products with all workgroup participants. Ecology requested comments by July 13 and received six responses. Instead of developing a new definition of this key term, Ecology decided to base its interpretation of what constitutes “agricultural products” on the existing legal definitions of agricultural products.¹ Once Ecology issues that guidance, farmers, and transporters of agricultural products should have greater clarity as to what products fall within the exemption.

Workgroup members requested that the interim guidance incorporate methods to document mixed loads for hauling. The solutions developed in the workgroup include allocating fuel use by the proportion of the load that might be exempt by mass or volume. The exempt fuel volumes may be tracked in a similar manner to other exempt fuels.

¹ Ecology used existing Department of Revenue definitions to develop the agricultural products definitions incorporated into the interim guidance.

Ecology plans to incorporate feedback received on documenting mixed loads of exempt and non-exempt products and will soon finalize and publish the interim guidance.

The third key issue concerns how a farmer or trucker transporting agricultural products would be able to avoid paying any surcharges on their fuel when they fill up at a retail location or unstaffed station. Solutions proposed by some fuel suppliers and distributors for these non-bulk sales that are eligible for the exemption are included below.

6. Non-bulk fuel sales.

Non-bulk exempt fuels purchased at retail stations or unstaffed locations is a common fueling method for transporters of agricultural products. At the beginning of the workgroup process, multiple fuel suppliers and distributors insisted that there was no way to avoid imposing surcharges on these sales that do not have direct “line of sight” between the fuel supplier and the customer.

However, by the end of the workgroup, suppliers and distributors had worked with Ecology to develop methods for end users to purchase fuel free of surcharges or receive refunds at retail stations or unstaffed locations. The solutions proposed to the workgroup are included as Appendix B, which includes the various scenarios proposed by fuel suppliers and distributors.

These solutions, suggested by fuel suppliers, are still under development, but Ecology understands the contracts and documentation systems are being developed to pilot these approaches soon. If successful, they may provide a way for other retail stations and unstaffed locations to implement similar approaches.

Conclusion and next steps

Ecology would like to thank all of the workgroup participants. As noted above, there were disagreements about key issues, some of which remain. However, Ecology believes that by having those discussions and sharing information, progress was made. For example, we now know that most fishing fleet end users are no longer being forced to pay surcharges. We also now know that more fuel suppliers and distributors are not imposing surcharges or improperly increasing costs for fuels used for agricultural purposes, and that three fuel suppliers have provided refunds or rebates to their customers. Hopefully, these positive developments will be adopted by other fuel suppliers so that fewer and fewer end users are saddled with surcharges on exempt fuels.

However, until all exemptions are being fairly and consistently applied, and refunds are provided for improperly applied surcharges, Ecology will continue to provide technical assistance, support, and education to fuel suppliers, distributors, and end users.

Appendix A: Workgroup Members

Affiliation/organization	Workgroup member name
Agriculture Interests (cattle, grain, potatoes, onions)	Mark Streuli
Agriculture Interests (onions, potatoes, wheat, shellfish) & Washington Independent Energy Distributors	Diana Carlen
American Waterways	Peter Schrappen
Association of Washington Businesses	Peter Godlewski
BP	William Truemper
Christensen	Glenn Thomas
CHS Inc.	Ryan Hoch
Clean and Prosperous Washington	Isaac Kastama
Climate Solutions	Kelly Hall
Coleman Oil Company	Ian Coleman
Connell Oil	Brad Bell
HG Sinclair Corporation	Jeremy Price
Lynden Inc.	Robert Makin & Stephanie Sears
Marathon Petroleum Corporation	Brian McDonald
Northwest Agricultural Cooperative Council	Ben Buchholz
Office of Attorney General Consumer Protection Division	Lisa Gafken & Tad O'Neill
Pacific Northwest Direct Seed Association/Ag Association Management	Kim Brunson
Petrocard	Jason Vassar
Philips 66	Sourabh Pansare
PTL Marine	Britta Abramson
Tidewater Transportation and Terminals	Aaron Degodny
U.S. Oil & Refining Co. and Par Pacific	Dallas Scholes
Washington Association of Wheat Growers	Andy Juris
Washington Cattle Feeders Association	Jack Field
Washington Conservation Action	Darcy Nonemacher
Washington Department of Agriculture	Julia Terlinchamp
Washington Farm Bureau	Bre Elsey
Washington Independent Energy Distributor	Lea McCullough
Washington Maritime Federation/Freezer Longline Coalition	Chad See
Washington State Dairy Federation	Jay Gordon
Washington State Potato Commission	Tony Wisdom
Washington State Tree Fruit Association	Jon Devaney
Washington Trucking Associations	Sheri Call
Western States Petroleum Association	Jessica Spiegel
Western Washington Agriculture Association	Kara Rowe

Appendix B: Solutions and next steps for key issues

In the last two meetings, Ecology reviewed each of the key issues identified and discussed by the workgroup. Ecology shared what they heard, solutions moving forward, ideas shared by the workgroup, open questions that still need to be resolved, and the next steps beyond the workgroup. Solutions moving forward and ideas shared by the workgroup are differentiated to show topics being pursued by Ecology while the column “Other ideas shared” either do not align with current statute and rule or are not being considered at this time.

The six key issues in the summary vary slightly from the titles and order of the key issues shared in the last two workgroup meetings. However, all of the topics and solutions discussed in the final meetings are outlined and included below. Ecology has added additional updates since the final meeting to reflect additional ideas shared by workgroup members.

1. Information sharing

Workgroup members identified cross-sectional issues and solutions. These solutions are embedded in every issue that the workgroup discussed and have been grouped together as a part of the information sharing that occurred throughout the workgroup.

Cross-sectional issues and solutions

Issue	Actions Taken & Deliverables	Next Steps
Documenting exempt fuel use	<ul style="list-style-type: none"> For maritime, many end users have methods to track exempt volumes. Ecology translated the exemption certificate into Spanish. Certificado de Exención para Propósitos Agrícolas y Usuarios de Combustible Marítimo is available online. Enhanced understanding of in-place systems that end users have that could be used to document exempt fuels. 	<p><u>Fuel suppliers</u>: work with customers to ensure that documentation meets verification requirements.</p> <p><u>End users</u>: provide the requested documentation to track exempt fuel use to your fuel supplier.</p>
Accountability, risk, and liability	<p>Ecology clarified that:</p> <ol style="list-style-type: none"> A covered entity may only report exempt fuels that they have a compliance obligation for, and it must be the same fuel product. Responsibility for complying with CCA ultimately lies with the regulated entity. 	<p><u>Fuel suppliers</u>: create systems to honor and track exempt fuels to ensure accurate reporting, and to cease applying surcharges to exempt fuel.</p>
Line of sight	<p>Ecology clarified that the point of regulation is not transferable.</p>	<p><u>Fuel suppliers</u>: communicate with the other fuel suppliers and distributors to ensure accurate reporting.</p>
Third-party verification	<p>Training</p>	<p><u>Ecology</u>: hold third-party verification training for GHG reporters. Share recordings after they occur so suppliers understand verification requirements by a third party.</p>
Confusion about fuel tracking requirements	<p>Ecology shared molecule tracking is not required. True-up systems can be used to resolve volumes of exempt and non-exempt fuel purchases between fuel suppliers, distributors, and end users.</p>	<p>Contact Ecology at ghgreporting@ecy.wa.gov for further clarification.</p>

2. Maritime fuel tracking and surcharges

WAC 173-446 outlines that "Watercraft fuels supplied in Washington that are not combusted inside Washington or in waters under the jurisdiction of Washington" are not covered emissions, and are exempt from the program. Discussion on this topic focused on how to document and track exempt fuel use, and what specifically counts as inside of Washington, and waters under the jurisdiction of Washington.

Issue: Challenges with combustion of fuel within Washington waters

What Ecology heard from workgroup members

- Many vessels are required to have onboard navigation systems that track location.
- Maritime users know how much fuel they use to get outside of Washington waters.
- Conflicting specifications in Ecology messaging in what is included in Washington waters – requests for a map for standardization across fuel suppliers and maritime operators.
- The Department of Revenue has a system in place for tracking inside and outside Washington fuel usage – suggestions to look to them for guidance.
- Maritime operators said that surcharges are no longer being applied, but they are still waiting on reimbursements from their fuel suppliers for past misapplied surcharges paid.

Solution moving forward	Other ideas shared
<ul style="list-style-type: none"> • Ecology to update interim guidance 23-02-008 to incorporate a map of Washington jurisdictional waters. • Ecology to evaluate what additional clarity can be added to the interim guidance to incorporate Department of Revenue regulations for maritime end use. • Maritime end users are able to plan their trips to enter and leave Washington waters and provide such documentation at fuel purchase. 	<ul style="list-style-type: none"> • Use the Department of Revenue's map of Washington waters. • Use Ecology's shoreline group's published map of Washington waters.

Meeting discussed	Actions taken and deliverables	Open questions	Next steps
Meetings #2, #5	Ecology will update the interim guidance with a map of Washington waters.	How can maritime end users be refunded from their fuel suppliers for past purchases with misapplied surcharges?	<p><u>Fuel Suppliers</u>: work to ensure that misapplied surcharges to past purchases are credited to maritime customers, and that these exempt volumes are recorded to ensure accurate reporting.</p> <p><u>End users</u>: work with your fuel suppliers to provide them with documentation on exempt fuel use for past purchases for misapplied surcharges.</p>

While the workgroup made progress on a wide range of issues, there are still some open questions that need to be addressed. One of those questions, listed in the table above, is how can maritime end users be refunded from their fuel suppliers for past purchases with misapplied surcharges. Ecology is continuing to work with workgroup members and broader stakeholders to find solutions to this question.

Workgroup members reminded Ecology that there were discussions that highlighted the Columbia River as a public highway and is thus available for the transportation of agricultural products exemption. Due to the complexity of documenting exempt fuels along the Columbia River, Ecology is working directly with fuel suppliers to develop their exemption tracking program along the waterway. Please contact Ecology to develop procedures for this alternative approach to ensure accurate reporting when claiming this exemption.

3. The imposition of surcharges on fuels used in agricultural operations

Exemptions in WAC 173-441 and WAC 173-446 that relate to agriculture and agricultural operations include: (1) motor vehicle fuel or special fuel used exclusively for agricultural purposes by a farm fuel user, and (2) fuels used for transporting agricultural products on public highways for emissions years 2023-2027.

Workgroup members shared frustrations with the complexity of the published guidance in regard to agricultural products. As a result, Ecology created draft interim guidance to help define "agricultural products." Workgroup members had the opportunity to review and provide feedback on this guidance. Additionally, there was time dedicated to discussing the two published guidance that relate to agricultural operations, which are linked below.

- [Interim Guidance on Reporting and Documenting Emissions from Exempt Fuels under the Cap-and-Invest Program: Watercraft, Agricultural, Aviation, and Exported Fuels](#)
- [Interim Guidance on Reporting and Documenting Emissions from Exempt Fuels under the Cap-and-Invest Program: Transporting Agricultural Products on Public Highways](#)

In the final workgroup meeting, the issue discussing the guidance was titled "lack of clarity on definitions with interim guidance".

Issue discussed: lack of clarity on definitions with interim guidance

What Ecology heard from workgroup members

- Published guidance is complex and not accessible to some end users.
- Requests for:
 - relevant text from linked statutes and rules to be added
 - updated language to make the documents more accessible/understandable
 - "agricultural products" to be defined
 - consistency with other state agency definitions
- End users shared that the Department of Revenue's definition of agricultural products is more narrow than their definition.
- Published guidance doesn't focus on the end users.

Solution moving forward	Other ideas shared
<ul style="list-style-type: none"> Ecology will evaluate updates to the guidance documents to incorporate workgroup input. End users and trade organizations can distribute relevant talking points on the guidance published by Ecology through individual listservs, and across business operations. Agricultural and trucking associations to schedule time for Ecology webinars for an overview of how to receive exemptions and answer any open questions. Fuel suppliers, distributors, and end user associations can schedule meetings with Ecology and contact ghgreporting@ecy.wa.gov to address further questions. 	<ul style="list-style-type: none"> Have a chat platform to answer end user questions. Issue certificates to haulers stating they are exempt based on information provided to Ecology. A permit similar to a Department of Revenue fuel reseller permit could be issued to farmers for exemptions, and to hauling companies for transport exemptions. Comprehensive list of use examples of what counts as an agricultural product.

Meeting discussed	Actions taken and deliverables	Open questions	Next steps
Meetings #2, #3, #6	Ecology aligned interim guidance with the Department of Revenue regulations. Ecology drafted the interim guidance on Agricultural Products and updated the draft based on workgroup feedback.	<p>Are there circumstances where other Washington agencies consider processed food products (like sliced potatoes, cut chicken) as agricultural products?</p> <p>Are there circumstances where other Washington agencies separate food/ agricultural products where "manufacturing" is an intrinsic part of its marketability vs products where manufacturing is a "value-add"?</p>	<p>Ecology may reach out to workgroup members requesting further information on the open questions identified by the workgroup.</p> <p>Once finalized, Ecology will publish and share out the interim guidance.</p>

Workgroup members shared that the definition of agricultural products in the draft interim guidance was narrower than their working definition. Ecology asked the open questions in the table above in a workgroup meeting but did not receive answers that would allow the draft interim guidance to be updated to expand the definition of agricultural products while still aligning with existing Washington legal definitions and statutes. Answers to these open questions can be sent to Ecology at ghgreporting@ecy.wa.gov.

4. Refunds/reimbursements for surcharges imposed on exempt fuels

Refunds/reimbursements refer to payments/billing statement credits to exempt end users who paid surcharges on fuels volumes that are exempt. Throughout the workgroup the terminology used to describe this has included refunds, rebates, reimbursements, and more. These terms have been used interchangeably by many members throughout the workgroup, though they may refer to slightly different things.

Workgroup members expressed frustration for surcharges applied on exempt fuel purchases. Two related but separate issues on the topics of reimbursements emerged: (1) reimbursements needed for surcharges applied on past exempt fuels going back to January 1, 2023; and (2) a need for a mechanism for eligible end users to purchase fuel without surcharges for their current and future purchases. The solutions were separated into the two categories.

Issue: Lack of clarity on systems to reimburse end users when assessed a surcharge for exempt fuels

What Ecology heard from workgroup members

- Reimbursement needed for surcharges applied since January 1, 2023.
- Mechanism needed to purchase fuel without surcharge for current and future purchases.
- Discussion of questions like:
 - Who is responsible for creating a reimbursement system?
 - Who has the obligation to reimburse? Where would the money come from?
 - What is the amount of the surcharge? What is it based on?
 - How do you get reimbursements as an end user without a relationship with your fuel supplier?
- Confusion around who was collecting the surcharge money and whether compliance obligations for 2023 have already been finalized.
- Many fuel suppliers noted that they would like reimbursements to come from the state, while many environmental groups want reimbursements to come from the fuel suppliers who are charging and retaining the misapplied surcharge fees.
- Suggestions that each party of the fuel supply chain is reimbursed by their supplier until the reimbursement goes back to the party with the compliance obligation for the fuels.
- Some members want a state-run reimbursement system where there is not a direct line of sight.
- Some members wanted state-run reimbursement programs created through legislation, others wanted these systems to be between the private parties to increase the speed of the reimbursements.
- End users have been able to purchase exempt fuels without surcharges by finding suppliers with systems in place to honor exemptions.
- Maritime users are largely able to purchase exempt fuels without surcharges but have yet to be reimbursed for the misapplied surcharges on their past purchases from their fuel suppliers.
- Many agricultural and maritime end users said they are now able to purchase exempt fuels without surcharges.
- Two fuel suppliers said that they had begun giving refunds for previous fuel purchases.

Solutions for past purchases

Solution moving forward	Other ideas shared
<ul style="list-style-type: none"> Fuel suppliers, distributors set up processes to assist end users to purchase exempt fuels without surcharges, and to receive reimbursements from their fuel suppliers for previous purchases. End users, keep your fuel receipts and provide information to your fuel supplier and distributor to document exempt fuel use. Two fuel suppliers shared they have started to issue reimbursements for surcharges on past exempt fuel purchases. 	<ul style="list-style-type: none"> Reimbursements for all exempt fuel purchases from the state, with funds coming from the auctions. Reimbursement system where the state reimburses exempt users only when there is not a direct line of sight. Modify the existing fuel tax rebate program administered by the Department of Licensing, give reimbursements proportional to the latest auction price, and have the reimbursements come from the Department of Revenue.

Solutions for present/future purchases

Solution moving forward	Other ideas shared
<ul style="list-style-type: none"> End users suggested networking with fuel suppliers to identify those not surcharging exempt fuel. End users, fill out attestation forms, and then purchase fuels without surcharges. End users are refunded same day, or on a mutually agreed upon period, from their distributor with information shared up the supply chain to the reporting party that claims the exemption. Fuel suppliers, use separate loading numbers for exempt fuels so distributors/end users can purchase exempt and non-exempt volumes of the same fuel product. 	<ul style="list-style-type: none"> Exempt all dyed diesel to provide relief for end users

Meeting discussed	Actions taken and deliverables	Next steps
Meetings #2, #4	<ul style="list-style-type: none"> Information sharing helped clear up misconceptions among workgroup members. Ecology does not collect money from surcharges applied. Compliance obligations for CCA have not been finalized and fuel suppliers still have time to adjust their 2023 reports to reflect exempt fuel emissions. 	<p><u>Fuel suppliers</u>: work with your customers to ensure that exempt fuels can be purchased, reimbursements are given for misapplied past surcharges, and that you have processes to document exempt fuels in place to ensure accurate reporting.</p> <p><u>End users</u>: work with your fuel suppliers to receive reimbursements for past surcharges, and to remove surcharges on future exempt purchases.</p>

5. Transport of agricultural products

In the workgroup meetings, one of the issues relating to the transport of agricultural products was addressing "mixed loads". Mixed loads are loads with both exempt and non-exempt products. Time for discussion on this issue was held in three workgroup meetings.

Applying Exemptions for the transport of mixed loads with exempt and non-exempt products.

Meeting 2	Meeting 5	Meeting 6
<p>Explored questions like:</p> <ul style="list-style-type: none"> • What is the issue? • Who is affected? <p>Truckers, barge operators, other haulers, and farmers are all affected by this issue.</p> <p>Additional questions were generated:</p> <ul style="list-style-type: none"> • Who has the obligation to track? • How to segment loads? 	<p>Explored questions like:</p> <ul style="list-style-type: none"> • How haulers track fuel volumes and use? • How to segment mixed loads? • Workgroup members shared that bills of lading have the mass/ volumes of products being hauled, and the amounts of fuel needed to move the product. They also suggested that loads can be allocated proportionally. 	<p>Explored questions like:</p> <ul style="list-style-type: none"> • How to allocate fuel use by mass and volume? • What additional materials Ecology could provide to help document exempt fuel use? <p>No additional solutions were shared.</p>

What Ecology heard from workgroup members

- Allocate fuel use proportional to the percent of load that is used for exempt and non-exempt use by either mass or volume.
- Fuel end users and suppliers/distributors will document both the exempt and non-exempt volumes of each fuel product purchased/used.
- Fuel suppliers/distributors will have to verify customer exempt and non-exempt volumes for mixed load hauling.
- Fuel suppliers shared that for an end users to receive an exemption, the end user will have to sign the attestation form, tax forms and an acknowledgement included in the invoice explaining which exemption(s) were claimed.
- Ecology can offer workshops addressing how to handle mixed loads for a specific user type.

Meeting discussed	Actions taken and deliverables	Next steps
Meetings #2, #5, #6	Ecology will incorporate mixed loads in the interim guidance on agricultural products prior to finalizing.	<p><u>Fuel suppliers</u>: work with your customers to create true-up/fuel volume balancing to ensure that they are able to purchase exempt fuels for exempt end use.</p> <p><u>End users</u>: review the interim guidance on exempt fuels. If you are eligible, work with your supplier to ensure your eligible fuel purchases are surcharge-free.</p>

6. Non-bulk fuel sales

It was identified early on in the workgroup that "bulk" means different things to different workgroup members. To avoid confusion, the discussion around the issue was changed to focus on non-bulk purchases, which refers to purchases at cardlocks or retail stations. Haulers transporting agricultural products and agricultural end users purchase non-bulk fuel which posing a challenge to purchasing exempt fuels.

Issue: Difficulty determining how exemptions apply to fuels not purchased in bulk

What Ecology heard from workgroup members

- Definitions of "bulk" purchases vary across workgroup members.
- For this topic, Ecology clarified that "non-bulk" fuel purchases refers to purchases at retail or cardlocks (i.e. unstaffed locations).
- Known obstacles include purchasing fuel free of surcharge, line of site for refunding fuel, and providing documentation to the fuel supplier for reporting.
- It is easier when the retail station is owned/operated by the fuel supplier, but this is not usually the case in Washington.
- Request for Ecology-approved documentation to provide end users with exempt fuels that meet verification requirements.

Solutions moving forward

A: Retail station or cardlock owned/operated by fuel supplier at the point of regulation

1. No surcharge applied at retail station with operator present
2. Same-day refund at retail station with operator present
3. Surcharge refund from fuel supplier at retail station or cardlock with no operator present

B: Retail station or cardlock not owned/operated by fuel supplier at the point of regulation

1. No surcharge is applied at fuel station operator present
2. Same day reimbursement/billing statement credit at retail station with operator present
3. Surcharge credited from fuel supplier at retail station or cardlock with no operator present

C: Purchase at cardlock owned/operated by other fuel supplier

1. Surcharge refund from preferred fuel supplier at cardlock location

Note: These solutions can be retroactive to January 1, 2023 with proper documentation from end users, distributors, and fuel suppliers.

The three scenarios described in the solutions moving forward table above are laid out in more detail in the table below which outlines if the operator is present, what type of non-bulk fuel purchase is occurring, if the surcharge is applied, and what documentation is needed.

Scenario A: Retail station or cardlock owned/operated by fuel supplier at the point of regulation

	Operator	Type	Surcharge Applied	Documentation
1	Present	Retail station	Not applied	Supplier approved attestation based on in place contracts
2	Present	Retail station	Same day refund	Supplier approved attestation based on in place contracts
3	Not present	Retail station or cardlock	Same day refund or billing statement credit based on mutually agreed upon mechanism	Copy of receipt with approved attestation based on in place contracts

Scenario B: Retail station or cardlock not owned/operated by fuel supplier at point of regulation

	Operator	Type	Surcharge Applied	Documentation
1	Present	Retail station	Not applied	All 3 options for Scenario B require: <ul style="list-style-type: none"> • Approved attestation • Operator has contract with fuel suppliers/distributors with purchase information (date, fuel type/volumes) passed along supply chain to covered entity. • Supplier/distributors balance fuel via true-up on agreed up schedule.
2	Present	Retail station	Same day refund	
3	Not present	Retail station	Billing statement credit based on mutually agreed upon mechanism	

Scenario C: Purchase at cardlock owned/ operated by other fuel supplier

Operator	Type	Surcharge Applied	Documentation
Not Present	Retail station or cardlock	Billing statement credit based on mutually agreed upon mechanism	<ul style="list-style-type: none"> • Copy of receipt • End user has contract with preferred fuel supplier • Attestation form, including language that refunds on these volumes have not been given by any other fuel supplier/distributor • Preferred fuel supplier accepts transaction volumes from the foreign cardlock operator • If the preferred fuel supplier or distributor is not at the point of regulation for those fuel volumes, the preferred fuel supplier will reconcile the volumes with their upstream fuel supplier. • End user and supplier/distributors balance fuel via true-up on agreed up schedule. <p><i>Note: Exemptions may only be claimed by the fuel supplier at the point of regulation for those fuel volumes</i></p>

Meeting discussed	Actions taken and deliverables	Next steps
Meetings #2, #5, #7	Multiple fuel suppliers have proposed solutions to Ecology to offer surcharge-free fuels not sold in bulk. Ecology shared these solutions in meeting 7, and these solutions were discussed in detail by workgroup members.	<p><u>Fuel suppliers:</u> work to identify the solution(s) that work best for your operations. Provide surcharge-free fuels to exempt end users. Reach out to Ecology with questions.</p> <p><u>End users:</u> identify fuel suppliers that will provide you surcharge-free fuel. Work with your fuel suppliers to obtain reimbursements for past exempt-fuels purchased with surcharges applied.</p> <p><u>Ecology:</u> share updated non-bulk fuel solutions with non-workgroup members.</p>

In the final meeting discussion, some fuel suppliers shared that these solutions will not work for them. The solutions had previously been shared in-depth in meeting seven. In that meeting one large fuel supplier shared that they were building systems to provide exempt sales at retail, and another distributor shared that they are working with their supplier to develop systems to provide exempt sales at cardlocks. In the final meeting, a new solution was proposed by a workgroup member to help support other fuel suppliers in developing their non-bulk exempt fuel procedures. They recommended that Ecology create a database of agricultural haulers to ensure that fuels suppliers can quickly confirm that the documentation presented is valid to identify fraudulent claims.