PMSA
PACIFIC MERCHANT SHIPPING ASSOCIATION

August 30, 2022

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Washington Department of Ecology
15700 Dayton Avenue N.
Shoreline, Washington 98133

Submitted electronically to https://aq.ecology.commentinput.com/?id=KTPeV

Subject: Comments on Rulemaking - Clean Fuels Program Rule

Dear Dr. Creswell:

The Pacific Merchant Shipping Association (PMSA) appreciates the opportunity to participate in the Department of Ecology's (DOE) ongoing regulatory development of the Clean Fuels Program (CFP). PMSA is a regional trade association representing ocean carriers and marine terminal operators serving Washington's trade demands through the state's commercial ports. Our ocean carrier and marine terminal operator members own and operate considerable equipment in Washington that could be incentivized to accelerate the transition to zero emissions. PMSA offers the following comments on the CFP in order to ensure program effectiveness by targeting incentives to the companies that have the authority to make the operational decisions to deploy and operate zero-emission equipment.

Under California's Low Carbon Fuel Standard (LCFS), PMSA already works with our members in Oakland, Los Angeles, and Long Beach to successfully participate in the program. Our industry has established a single point of contact for the California Air Resources Board to handle the electrified transportation refrigeration units (eTRU), electrified Cargo Handling Equipment (eCHE), and shore-powered Ocean-Going Vessels (eOGV) from most of the maritime industry. PMSA collects and submits the data, realizes the credits on behalf of PMSA members, remits credit proceeds, and tracks credit proceed expenditures consistent with the requirements of the LCFS program. As a result, on behalf of the maritime industry, PMSA holds the largest number of Fueling Supply Equipment (FSE) registrations in the entire LCFS program. PMSA believes that its experience with LCFS can help improve the development of DOE's CFP.

Definitions

Under WAC 173-424-220 (8) Electric power for ocean-going vessel (eOGV), the section refers to "the owner of the electric power supplying equipment". Neither "owner" or "electric power supplying equipment" is defined in the rule. PMSA believes that both of these terms should be defined. In addition, this subsection uses the terms "electric power supplying equipment", "electric supplying equipment", and "electric charging equipment" interchangeably. PMSA recommends that DOE standardize on a single term.

The "electric power supplying equipment" may not be intuitively recognizable as it is for applications like passenger EV charging. The major components of the "electric fuel supplying equipment", the transformer, the switch gear and meter, and the shore power outlet, could be physically separated over great distances and not even located on the same properties. The unique nature of shore power applications could lead to disputes over what is and where is the “electric fuel supplying equipment”. PMSA recommends that “electric fuel supplying equipment” be identified as the utility meter. In turn, “owner” could be defined as "utility account holder for that utility meter".

Establishing a CFP Credit Value Chain

The proposed language for eOGV and eCHE includes important language that allows the identified credit generator to a designate a third party as the credit generator. While this is an important step, PMSA does not believe it is sufficient. The proposed regulatory language should establish a hierarchy of possible credit generators. The primary concern is that instances may exist where the identified credit generator is uninterested generating credits, but the credits are still necessary for deployment. When a lessor is unwilling to participate in CFP or sign-over credits, small equipment operators may need to rely on CFP credits to deploy initial eCHE units. For eCHE, the hierarchy could be CHE owner/lessor -> CHE lessee/operator -> fuel supplying equipment owner -> utility. Similarly, for eOGV the hierarchy could be electric power supplying equipment owner -> the electric power supplying equipment lessee -> vessel owner -> utility.

Such a hierarchy should still be subject to proper notification. For instance, an eCHE lessee or marine terminal providing electricity for eOGV should be required to provide 30-day notice to the lessor or landlord, respectively, prior to gaining the ability to participate in the program. DOE would need to also determine that, once bypassed, could a higher-ranking credit generator regain the ability to generate credits with proper notice.

Such an approach would see that DOE’s identified credit generator always has the first right of refusal to generate credits, while ensuring that credit generation opportunities are not lost. This approach has worked well in California’s Low Carbon Fuel Standard program where eOGV credits are generated at all major marine terminals by either PMSA members or the port authority, as circumstances dictate.

Typographical Issue

Page 23 of the proposed rule language appears to be missing a word. In the second line of section WAC 173-424-220 (7)(a), the word “cargo” appears to be missing between “electric” and “handling”.

Conclusion

PMSA encourages DOE to incorporate these changes into the CFP to ensure robust program with comprehensive participation. PMSA looks forward to working with DOE on the development of the Washington Clean Fuels Program and would be happy to discuss the issues further with DOE staff. Feel free to reach me by phone at (562) 432-4043 or by email at tjelenic@pmsaship.com.

Sincerely,

Thomas Jelenić
Vice President