

5 November 2021

Department of Ecology  
State of Washington  
P.O. Box 47600  
Olympia, WA 98504-7600

**Re: Carbon intensity trajectory and investments in overburdened communities in Chapter 173-424 WAC, the Clean Fuel Standard**

Dear Debebe Dererie,

Thank you for the opportunity to submit joint comments on rules pertaining to the Clean Fuel Standard (Chapter 173-424 WAC) on behalf of our 22 organizations. These comments are in response to the stakeholder meeting on October 6, 2021, and address two topics that as a group we believe are of utmost importance: the carbon intensity reduction trajectory required by the rule, and requirements for meaningful, direct investments in overburdened communities.

**Carbon intensity trajectory**

*We strongly recommend that the rule require a 20% reduction in carbon intensity of fuels be achieved by the earliest date allowed in the law—2034.* The law outlines maximum greenhouse gas emission reductions attributable to each unit of fuel for the years 2023 through 2033. Beyond that, however, it is up to Ecology’s discretion on how to reduce emissions intensity “to 20 percent below 2017 levels *by* 2038” (emphasis ours). This language allows Ecology to set a trajectory that would achieve a 20% reduction in 2034. Had the Legislature desired to restrict Ecology’s discretion in this regard, it could have done so, much as it did in the pre-2033 timeframe or by writing “to 20 percent below 2017 levels *in* 2038”.

In 2020, the Washington State legislature passed a bill to update the state’s greenhouse gas limits to align with the most recent climate science. Governor Inslee signed this bill into law, committing the state to a 45% reduction below 1990 levels by 2030, a 70% reduction by 2040, and a 95% reduction and net zero emissions by 2050. In order to achieve these limits, and to do so in a way that is both equitable and efficient, the state’s climate policy must be scaled appropriately. Prior to the 2021 legislative session, Governor Inslee’s office estimated that the combination of three policies--the Clean Fuel Standard, the Climate Commitment Act, and the Healthy Homes and Clean Buildings package, the latter of which was not passed--would bring the state to just short of its 2030 limits.<sup>1</sup> This analysis, however, was based on the original iteration of the Clean Fuel Standard bill, which required a faster emissions intensity reduction trajectory, including a 10% reduction by 2028 and 20% by 2035. The Department of Ecology estimates that the Clean Fuel Standard will avert just over 4 million metric tons (MMT) of

---

<sup>1</sup> Washington Governor Jay Inslee. “Policy Brief”. December 2020. [https://www.governor.wa.gov/sites/default/files/ClimateBrief-Dec2020.pdf?utm\\_medium=email&utm\\_source=govdelivery](https://www.governor.wa.gov/sites/default/files/ClimateBrief-Dec2020.pdf?utm_medium=email&utm_source=govdelivery)

emissions once the carbon intensity trajectory reaches 20%.<sup>2</sup> By 2040, according to state law, we must reduce our emissions by more than 70 MMT from our most recent inventory year, necessitating a strong policy response.

A sharper reduction trajectory, as detailed above, is not only more aligned with our statutory emissions reductions limits but is also closer to Clean Fuels programs in other states. California's current program requires a 20% reduction in carbon intensity by 2030; this standard was updated in 2018<sup>3</sup> to better meet their state's climate mandates as passed by the California Legislature (40% below 1990 levels by 2030).<sup>4</sup> Oregon's Clean Fuels Program requires a 10% reduction in carbon intensity by 2025 and in 2020, Governor Brown issued an Executive Order that will expand the program to include a 20% reduction by 2030 and a 25% reduction by 2035.<sup>5</sup> British Columbia's standard also requires a 20% reduction by 2030.<sup>6</sup> To summarize, all three West Coast states and provinces that have adopted a Clean Fuel Standard, apart from Washington, require a 20% reduction in carbon intensity by 2030.

Washington's law states, "the department shall seek to adopt rules that are harmonized with the regulatory standards...of other states that...[h]ave adopted low carbon fuel standards or similar greenhouse gas emissions requirements applicable specifically to transportation fuels." The language of Washington's law precludes the state from matching the more ambitious carbon intensity reduction of other states that began their programs earlier; however, given the flexibility inherent in the law's language and the direction to harmonize with other states' programs, *the Department should set a carbon intensity reduction trajectory that achieves a 20% reduction by 2034.*

The Clean Fuel Standard will work alongside other climate policies to help achieve the statutory reduction in emissions the legislature and executive committed to, but the hard numbers make it clear that rules must be as ambitious as legally possible in order for the state to possibly achieve its emissions limits. Furthermore, reducing emissions sooner matters for Washingtonians today, as criteria pollution reductions that will occur alongside greenhouse gas emission reductions will benefit the health of Washingtonians, particularly those who live near sources of transportation pollution, which disproportionately burden BIPOC communities and low-income communities.

---

<sup>2</sup> Department of Ecology. "Clean Fuel Standard. Accessed October 28, 2021. <https://ecology.wa.gov/Air-Climate/Climate-change/Reducing-greenhouse-gases/Clean-Fuel-Standard#:~:text=How%20the%20Clean%20Fuel%20Standard,in%20low%20carbon%20fuel%20producti on.>

<sup>3</sup> California Air Resources Board. "Low Carbon Fuel Standard". Accessed October 28, 2021. <https://ww2.arb.ca.gov/sites/default/files/2020-09/basics-notes.pdf>

<sup>4</sup> Berkeley Law. "California Climate Policy Fact Sheet: Emission Reduction Policy". Accessed October 28, 2021. <https://www.law.berkeley.edu/wp-content/uploads/2019/12/Fact-Sheet-Emission-Reduction-Policy.pdf>

<sup>5</sup> Office of the Governor, State of Oregon. "Executive Order No. 20-04". March 10, 2020. [https://www.oregon.gov/gov/Documents/executive\\_orders/eo\\_20-04.pdf](https://www.oregon.gov/gov/Documents/executive_orders/eo_20-04.pdf)

<sup>6</sup> Government of British Columbia. "BC-LCFS Requirements". Accessed October 28, 2021. <https://www2.gov.bc.ca/gov/content/industry/electricity-alternative-energy/transportation-energies/renewable-low-carbon-fuels/requirements>

### **Investments in overburdened communities**

We look forward to commenting with more detail on draft rule language, but our organizations wanted to take this opportunity to emphasize that *credit revenue investment opportunities should be maximized and directed to benefit overburdened communities such as those identified on the Washington Environmental Health Disparities Map and other tools per Chapter 70A.02 RCW (the Healthy Environment for All Act)*. The parameters for these investments, and the selected projects, must also be shaped by community members and organizations.

The Clean Fuel Standard offers significant opportunities for meaningful community investment and community participation in directing these investments. If the Department designates an entity as a credit aggregator, it can place parameters on how credit revenue is spent. The law also directs at least 30% of revenue generated by utilities to be spent on transportation electrification projects that directly benefit “a disproportionately impacted community identified by the department of health” or to areas federally designated as being in non-attainment or at risk of non-attainment. Happily, almost all of Washington is in attainment.<sup>7</sup> Despite this, air pollution impacts are not borne equally across the state and BIPOC communities in particular suffer disproportionately, due to racist practices such as redlining and building highways through communities of color. Tribal nations are also impacted disproportionately: sea level rise is necessitating the relocation of entire communities, and the impacts of climate change pose existential threats to Tribal lands and the continued exercise of treaty rights.<sup>8</sup> For these reasons, the Department must use this opportunity to ensure that disproportionately impacted communities benefit from investments under the Clean Fuel Standard by creating strong rules regarding these investments. These rules should be explicit in defining how communities will be engaged in decision-making and ensure that regulated credit revenue investments are directed to maximize community benefits to the degree available under the law.

We look forward to engaging in more detail on community investments to ensure that the Clean Fuel Standard directly benefits Washingtonians who have been disproportionately burdened by air pollution and the impacts from the climate crisis. To achieve our statutory emissions limits and address the climate emergency at the necessary scale, the Clean Fuel Standard must require carbon intensity reductions that are ambitious and fall within the letter of the law.

Thank you for your consideration and work on this rulemaking and we look forward to further discussions,

Audubon Washington  
Climate Reality Project Washington State Coalition

---

<sup>7</sup> Department of Ecology. “Determining if areas in Washington meet national air quality standards.” Accessed October 28, 2021.

<https://ecology.wa.gov/Regulations-Permits/Plans-policies/Areas-meeting-and-not-meeting-air-standards>

<sup>8</sup> U.S. Climate Resilience Toolkit. “Quinault Indian Nation Plans for Village Relocation.” August 9, 2021. <https://toolkit.climate.gov/case-studies/quinault-indian-nation-plans-village-relocation>

Climate Solutions  
Coltura  
FMS Global Strategies  
Fuse Washington  
NW Energy Coalition  
RAIN Incubator  
Seattle Metropolitan Urban League  
Sierra Club  
Tabor 100  
Tacoma Pierce County Black Collective  
The Breakfast Club  
The Nature Conservancy  
Union of Concerned Scientists  
WA Build-Back Black Alliance  
Washington Black Lives Matter Alliance  
Washington Environmental Council/Washington Conservation Voters  
Washington Physicians for Social Responsibility  
Wativersity  
350 Seattle  
37th LD Democrats Environment and Climate Caucus