



5 November 2021

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

**Re: Climate Solutions comments on the questions raised in the first stakeholder meeting regarding Chapter 173-424 WAC, the Clean Fuel Standard**

Dear Debebe Dererie,

Climate Solutions thanks you for the opportunity to submit comments and address questions raised in the first stakeholder meeting regarding Chapter 173-424 WAC, the Clean Fuel Standard. Climate Solutions is a clean energy nonprofit organization working to accelerate clean energy solutions to the climate crisis. The Northwest has emerged as a hub of climate action, and Climate Solutions is at the center of the movement as a catalyst, advocate, and campaign hub.

In addition to our responses to questions posed by the Department of Ecology (“Department” or “Ecology”), and some other thoughts, we have also signed onto a joint comment letter, submitted under separate cover, that highlights two items we believe are of utmost importance: the carbon intensity reduction trajectory required by the rule, and requirements for meaningful, direct investments in overburdened communities.

To summarize the joint comment letter, *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*. For Climate Solutions, this is a critical issue that shapes our below responses to specific questions posed by Ecology during the first stakeholder meeting. We also want 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 70A.02 RCW (the Healthy Environment for All Act). We look forward to engaging on rule details surrounding potential investments parameters for a credit aggregator and credits generated by utilities. For more details on these two topics, please see the joint comment letter.

## **Responses to questions posed during the first stakeholder session**

### ***Reporting-only year***

Climate Solutions supports a reporting-only year. By reporting-only year, we mean a year in which the carbon intensity of fuels (“CI”) trajectory is not reduced from the baseline; however, covered entities must still meet the baseline (year one) CI. In other words, covered entities may still have an obligation to reduce their CI through the purchase of credits if their CI is higher than the program baseline. In particular, we think it is essential that the baseline CI be established inclusive of existing deployed clean fuels—including the electric vehicles on the road,

[ClimateSolutions.org](https://www.ClimateSolutions.org)

**Seattle**  
1402 Third Avenue, Suite 1200  
Seattle, WA 98101  
tel 206.443.9570

**Olympia**  
P.O. Box 2003  
Olympia, WA 98507-2003  
tel 360.352.1763

**Portland**  
4207 SE Woodstock Blvd #149  
Portland, OR 97206  
tel 503.206.4837

existing uses of biodiesel and ethanol, and other such technologies. Incorporating these already deployed fuels is important to ensure that the reductions claimed by the policy are in fact additional to status quo, and are necessary to achieve a “reduc[tion of] greenhouse gas emissions attributable to each unit of the fuels to 20 percent below 2017 levels”, as directed by RCW 70A.535.020(5)(a). Because the policy directs achievement of this unit reduction by incorporating fuel deployment outside of an individual gallon of gasoline or diesel, instead considering aggregate fuels supplied in the state, setting the baseline must follow this same methodology. For this reason, we consider the term “reporting-only year” to be a misnomer, but we do support a year in which reductions below the baseline are not required.

For Climate Solutions, the priority is for the Clean Fuel Standard to achieve a 20% CI reduction from the baseline in 2034. This is inclusive of a reporting-only year, as defined above. However, if this trajectory is not selected by the Department, we would recommend Option 3 as outlined in the presentation provided at the first stakeholder meeting (2023 as a reporting-only year with the additional CI reduction achieved by 2034).

### ***Exemptions***

Per law, the Department must establish the threshold under which lower-volume fuels are exempt. We believe it is reasonable to match Oregon’s program threshold of 360,000 gallons per year as a maximum; a lower threshold would also be acceptable.

We do not believe additional exemptions should be granted beyond those specifically required by law.

### ***Credit generating activities***

We do not believe that the initial rule needs to include additional credit generating activities as described in RCW 70A.535.050. Some of the activities listed in the statute, such as carbon capture and sequestration, have less potential in the near-term and should therefore be lower priority for initial rules.

Research shows that electricity stands to be the fuel driving the bulk of compliance with the standard.<sup>1</sup> Therefore, we suggest deprioritizing gaseous and liquid fuel production investments. However, we have seen evidence that smart vehicle charging at times when CI is lower would have very little impact given that hourly carbon intensity from Washington’s major investor-owned utility varies only slightly,<sup>2</sup> and is likely to vary even less for the public utilities serving the state. Thus, out of the examples listed by the Department, we suggest prioritizing battery fueling by non-electric utilities in this initial rule or future rules, though we do not feel strongly that this must be immediately addressed.

---

<sup>1</sup> Dr Chris Malins. “Washington’s Clean Fuel Future.” January 2019. <https://www.ucsusa.org/sites/default/files/attach/2019/WA-clean-fuel-2019.pdf>.

<sup>2</sup> Puget Sound Energy. “09221988 PSE Carbon Emissions Profile.” Obtained as direct communication with Puget Sound Energy, 24 September 2021.

### ***Base and incremental credits***

Climate Solutions is open to incremental credits, though we would be interested in seeing how much value they would likely generate. Based on current utility resource mixes and where electric vehicles are located in the state, Puget Sound Energy would likely see the greatest opportunity in pursuing incremental credits. However, as mentioned earlier, the opportunity for incremental credits from smart charging seems low. This leaves Renewable Energy Credits (“RECs”) as the likely method for securing a lower carbon intensity. It appears to be too early to tell from Oregon’s example as to whether the option to purchase RECs for incremental credits is driving additional renewable energy capacity and we would want to better understand how such a requirement combines with utilities’ obligations under the Clean Energy Transformation Act.

In Oregon, incremental credits are collected by an incremental aggregator and, in our view, their value lies in the fact that these credits are reinvested to benefit underserved communities as directed by an equity advisory council. We are fully supportive of reinvestments that are targeted toward overburdened communities, which is why we strongly backed the provision in the statute that directs a portion of the utility spending in this way. Given the underlying statute’s direction, if credit generation is divided into base and incremental credits, creating an additional aggregator rather than subjecting incremental credits to the same requirements of other utility spending seems like a potential over-complication.

Overall, we are not opposed to incremental credits, but given the Washington context, it remains unclear as to whether they would spur emissions reductions. We would like more information on the potential of smart charging to do so for Washington utilities.

### ***First right to credits***

We believe it is important to provide the first right to credits to the entity that is the closest to fuel use and delivery because this will reduce costs for those customers the law is seeking to incentivize to convert, spurring a positive cycle that increases clean fuel consumption and reduces greenhouse gas emissions. Therefore, the option to claim credits should be provided in this order: fuel user (where such a user is sophisticated enough to participate in a market), immediate provider (principally for electricity and hydrogen), utility or fuel supplier, backstop aggregator (if created).

We want to emphasize that auto manufacturers should *not* be able to claim credits stemming from electric vehicle fuel use. Affordability plays a significant role in driving electric vehicle sales, as well as ensuring there is adequate refueling infrastructure. Therefore, providing user benefit under the program by allowing fleet operators to claim credits for electric vehicle use will drive additional sales, as will utility investments and rebates supporting electric vehicle purchases and infrastructure. Furthermore, auto manufacturers are already obligated to sell electric vehicles in Washington State under the Zero Emission Vehicle Mandate and the Advanced Clean Truck Rule. It does not further our state’s climate goals to reward companies for compliance with overlapping regulations when credit claims could instead address remaining adoption hurdles faced by consumers, including further clean fuels infrastructure and investments.

[ClimateSolutions.org](https://ClimateSolutions.org)

**Seattle**  
1402 Third Avenue, Suite 1200  
Seattle, WA 98101  
tel 206.443.9570

**Olympia**  
P.O. Box 2003  
Olympia, WA 98507-2003  
tel 360.352.1763

**Portland**  
4207 SE Woodstock Blvd #149  
Portland, OR 97206  
tel 503.206.4837

Climate Solutions supports the approval of a backstop aggregator for unclaimed credits, but such an aggregator should be not-for-profit and Washington-based and revenue should be invested to support overburdened communities.

### ***Capacity-based credit generation***

Climate Solutions is supportive of thoughtfully structured capacity-based credit generation. However, at this time it is difficult for us to suggest specific parameters, such as credit limits, since we lack sufficient data. We would like the Department, as a part of this rulemaking, to analyze the benefits of offering capacity credits and see if it would lead to material emissions reductions and not dilute the program. We want to avoid a scenario in which a mass of credits is issued for fueling infrastructure that is rarely used given the current extremely low level of hydrogen vehicles, as an example.

A program-wide limit for capacity-based credits is an essential component of any capacity-based crediting opportunity. Because these credits are issued without consideration to actual fuel displaced, the additionality of these credits is attenuated. Again, it is difficult for us to suggest specific parameters at this moment, but it does not seem unreasonable to align with California's limits—2.5% each for fast charging and hydrogen refueling. California's rule also sets a five year time limit for credit generation for fast chargers, and fifteen years for hydrogen refueling.

Along with a program-wide cap, we recommend the Department evaluate capping capacity credits in a way that allows for geographical spread but also aligns with charging demand. Because a key consideration in opting for an alternative fuel vehicle is range anxiety and access to fueling, it would not be advantageous for all capacity credit generators under the program cap to be located within one city, for example. Therefore, we believe it makes sense to explore both entity-based and site-based limits to capacity credits. We also suggest evaluating setting a threshold for applicable vehicle prevalence for refueling infrastructure use, after which capacity credits are granted.

### **Additional comments**

#### ***Advance credits***

We believe that advance credits targeted toward transit agencies, public or non-profit fleets, and Tribal Nations would help these entities more rapidly transition to electric vehicles, thereby furthering Washington's progress in reaching its greenhouse gas limits. Oregon's Clean Fuels Program could serve as a model for Washington's program in this regard.

#### ***Opt-in fuels***

It is important that the Department have a clear process by which non-covered entities can opt-in to the Clean Fuel Standard. Specifically, we would like the Department to explore Sustainable Aviation Fuels (SAF) as an opt-in fuel given the strong interest from relevant entities in participating, and the potential for more rapid technological innovation, scaled adoption, and the associated climate pollution reductions.

[ClimateSolutions.org](https://ClimateSolutions.org)

### ***Equitable investment***

As stated in our joint comment letter, we view investments in overburdened communities as a critical element of the Clean Fuel Standard. Rules for the 50% of utility credit revenue that is spent based on a program/project list jointly determined by the Departments of Ecology and Transportation must follow the Healthy Environment for All Act (Chapter 70A.02 RCW) and its associated rules. Further, rules guiding the other 50% of utility spending on transportation electrification projects should be guided by community members. The utility equity workgroups formed under the Clean Energy Transportation Act should serve as a mechanism for this guidance.

### **Conclusion**

We strongly supported the passage of the Clean Fuel Standard and are excited to continue engagement in this rulemaking to ensure that the program is effective and equitable. It is important that the Clean Fuel Standard reduce climate pollution to the extent possible under law.

We are happy to discuss any of our thoughts further and answer questions. Thank you for your important work on this rulemaking.

Sincerely,



Leah Missik  
Washington Transportation Policy Manager  
Climate Solutions



Vlad Gutman-Britten  
Washington Director  
Climate Solutions