



April 22, 2022

WASHINGTON DEPARTMENT OF ECOLOGY
300 DESMOND DR. SE
LACEY, WA 98503

VIA PUBLIC COMMENT FORM

Dear Rachel Assink,

The City of Seattle, its municipally owned utility Seattle City Light (SCL), and the Office of Sustainability and Environment (OSE) appreciate the opportunity to provide additional feedback on the Clean Fuels Program (CFP) rulemaking process.¹ Seattle previously filed initial comments on December 9, 2021, and these additional comments both reiterate points made in the December filing as well as provide new questions or comments based on supplemental material and updated rules that Ecology has provided in the past few months.

With a service territory of over 900,000, SCL is one of the nation's largest publicly owned utilities and with our strong hydroelectric power supply, one of the cleanest. That clean power enables SCL to support the City of Seattle's climate goals, which include the following:

- City-wide carbon neutrality by 2050²
- Reduce total core greenhouse gas (GHG) emissions by 58 percent by 2030³
- 100 percent of shared mobility is zero emissions by 2030⁴
- 90 percent of all personal trips are zero emissions by 2030⁵
- 30 percent of goods delivery is zero emissions by 2030⁶

Transportation activities contribute to 60 percent of Seattle's GHG emissions, underscoring both the aforementioned transportation emission reduction goals and why transportation electrification (TE) is such an essential means of achieving those goals and related beneficial outcomes when transportation systems are decarbonized. A well-designed, implemented and administered CFP program will greatly support Seattle's transportation decarbonization efforts, particularly with TE programs that enhance mobility, environmental, and economic justice.

¹ Chapters 173-424 WAC and 173-455 WAC

² City Council Resolution 31312, October 2011.

³ Id.

⁴ Seattle Transportation Electrification Blueprint, March 2021.

⁵ Id.

⁶ Id.

Before transitioning to the substance of these comments, the City of Seattle would like to acknowledge the effort by Department of Ecology's CFP rulemaking staff and its consultants in advancing this rulemaking. SCL appreciates the collaborative process, transparent and iterative documentation, and willingness to receive and evaluate feedback from stakeholders. We acknowledge the immense work involved in standing up a program of this caliber in a relative short amount of time and look forward to engaging in continued program development as well as supporting Ecology where feasible.

Four main sections comprise these comments:

- I. Recommended CFP principles
- II. Comments and questions on the April 13, 2022 Draft Rules
- III. Comments and questions on supplemental materials
- IV. Miscellaneous

These comments are complementary and in addition to the joint utility comments that will be filed prior to the April 25th informal comment deadline. Where confusion or perceived conflict arises on issues raised in both sets of comments, the joint utility document should be considered the primary position until further clarification can be provided.

I. Recommended CFP principles

a. Principles

1. Credits must be awarded and used in manners and ways that result in the highest and best outcomes for the public interest
2. Credit revenue expenditures must result in equitable and just beneficial outcomes that are designed by and for overburdened communities
3. Credit revenue must be spent in Washington state
4. Publicly accountable entities overseeing CFP credit proceed spending that is open and transparent is benefit to the program, state, and participants.
5. CFP revenue must be spent in accordance with both LCFS statute and broader statewide emission and e-mobility requirements, objectives, and goals.
6. CFP credit proceeds must be shaped by the public who stand to benefit the most and which is also required by RCW 70A.02
7. Active and full utility involvement in the CFS program will result in beneficial outcomes to customers, transportation systems, electric grids, state and local climate goals, and transportation electrification market development.
8. Credit expenditure must be supplemental and additive to any existing or planned effort; it may not replace or substitute existing or planned expenditures.

- II. Comments and questions on the April 13, 2022 Draft Rules
 - a. WAC 173-424-130 Applicability
 - i. Subsection (3), part (b) – Ecology states “section 95483.1” when referring to op-in fuel reporting entity election processes. City of Seattle notes that this may be an erroneous reference and instead means to refer to WAC 173-424-300.
 - b. WAC 173-424-140 Exemptions
 - i. Subsection (2), part (a) – City of Seattle seeks clarity regarding the exemption of transportation fuels used in marine vessels. The broad language of this part may conflict with eligible alternative fuels used in marine vessels as described in later sections in the rules. Maritime vessel electrification is a major project for City of Seattle due to the localized air, noise, and water pollution; economic benefits, and environmental justice outcomes. City of Seattle recommends that Ecology provide clarifying language to this part that ensures credit-generating transportation fuels used in maritime applications (and for that matter, rail end-uses as well) are eligible under the CFP.
 - c. WAC 173-424-150 General Requirements
 - i. Subsection (3) – City of Seattle appreciates the broad flexibility permitted under this subsection and encourages Ecology to maintain this language in the final rules. In particular, part (c), subpart (iii) will enable SCL to serve as a potential aggregator for a number of eligible, smaller credit generators that otherwise may not choose to generate credits if CFP participation is not accessible or desirable. This permissive language will ensure credits generated with City of Seattle will be reinvested on behalf of the credit generator for additional electrification efforts or through programs that support local and related transportation activities.
 - ii. Subsection (3) – City of Seattle is encouraged by this language as it relates to principles 1 and 2 described in part I of these comments. City of Seattle strongly encourages Ecology to utilize this administrative authority to ensure every dollar generated from CFP credit generation is reinvested in Washington state to produce additive and accelerative transportation decarbonization. Later in these comments, City of Seattle notes where Ecology can add specific language regarding in-state investment requirements for CFP credit revenues.
 - d. WAC 173-424-210 Fuel Reporting Entities for Gaseous Fuels
 - i. Subsection (2), part (e) – City of Seattle notes that in this part and other parts under subsection (2), the term “motor vehicles” is used. However, in some cases, particularly with gaseous hydrogen dispensation, end-uses other than motor vehicles are possible and almost certain, including marine vessels, rail locomotives, and aircraft. City of Seattle encourages Ecology to use more expansive terminology in in this subsection, or to make sure that the definition of “motor vehicle” is as permissive as possible in the forthcoming definitions section of the draft rules.
 - e. WAC 173-424-220 Designation of Fuel Reporting Entity for Electricity

- i. Subsection (4) part (b) – Unlike any other specified electricity reporting entity, transit agencies must receive approval from Ecology if the transit agency designates its associated electric utility as the credit generator. City of Seattle would like to understand Ecology’s intention behind this approval process, what it would like to see in a transit agency’s written statement, and under what grounds is a written statement rejected.
 - ii. Subsection (7) part (a) – City of Seattle acknowledges and appreciates the order of assignment for entities who are eligible to receive residential electric vehicle charging base credits. As stated in the December comments, the joint utility comments, and the principles stated earlier in these comments, listing electric utilities as the first eligible base credit claimants will result in both the highest achievement of CFP outcomes and the ensure to the greatest extent possible Washington state and City of Seattle achieve their respective climate and decarbonized mobility goals.
 - iii. Subsection (7) part (b) – City of Seattle seeks additional definition and clarity for the term “Low-CI electricity,” which is eligible for incremental credit generation. Documentation explaining California’s low-CI electricity pathway indicates that the only tier 1 option is actually “zero-CI” electricity, while for Tier 2, it’s “all other low-CI electricity resources.”⁷ Ecology’s April 13 draft CFP rules do not indicate how “low-CI” electricity will be defined, what fuel pathways may comprise “low-CI” electricity compared to “zero-CI”, and how the potential use of renewable energy credits in the CFP to verify “low-CI” electricity will comport with requirements under WAC 173-444 and WAC 480-109.
- f. WAC 173-424-SRR Specific Reporting Requirements
- i. Subsection (3) part (b) subpart (i) – City of Seattle notes that “WAC 173-424-CCDFP” is used twice in the April 13 draft rules but the actual section is not found in the draft rules. City of Seattle inquires whether Ecology means instead “WAC 173-424-CCD Calculating Credits and Deficits.” If not, any additional information on this section would be appreciated given its role in generation and use of credits.
 - ii. Subsection (3) part (b) subpart (ii) – City of Seattle would like to further understand Ecology’s intention by requiring the electric utility to “provide rate options that encourage off-peaking charging and minimize adverse impacts to the electrical grid.” If the ultimate goal is to minimize adverse impacts to the electrical grid, rates are only one option in a portfolio of solutions that result in a well-operated and robust grid that ensures optimal benefits to all customers. This is especially true for many electric utilities in Washington state, including SCL, that have distribution grids that are engineered to avoid constraints from near- and mid-term new load from EVs and generation portfolios composed mostly from hydroelectric resources that are not currently characterized by differences in

⁷ See [CARB Document: https://www.arb.ca.gov/fuels/lcfs/guidance/lcfsguidance_19-01.pdf](https://www.arb.ca.gov/fuels/lcfs/guidance/lcfsguidance_19-01.pdf)

price or carbon-intensity during different times of the day. We believe that the language “rate options” is undefined and limiting of mechanisms that can achieve mutually shared electric system objectives. For example, an electric utility could utilize a behavioral demand-side management program that does not rely on rates at all, but rather coordinated education, outreach and communication technologies, similar to what is offered by Opower. Alternatively, an electric utility could implement a demand response program that could respond to acute grid constraints; a DR program is usually not considered a “rate option.” City of Seattle encourages Ecology to adopt broader language such as “the electric utility must provide demand-side programs, including rate options, that encourage off-peak charging.” We believe we share similar goals to Ecology in including the initial language and wish to work collaboratively to arrive at mutually agreeable intent, objectives, and acceptable mechanism to achieve those objectives.

- iii. Subsection (3) part (b) subpart (iv) – City of Seattle appreciates Ecology including this language based on the stated principles and understanding of the level of investment and coordination amongst transportation electrification enterprises necessary to achieve stated greenhouse gas reduction targets. City of Seattle however encourages Ecology to add additional language to this subpart that requires non-utility credit generators to invest proceeds within Washington state and document locations within the state associated with those expenditures as part of the respective Annual Compliance Report. If possible, Ecology is encouraged to include as many requirements in subsection (7) Annual reporting of electric utility credit revenue for non-utility expenditures due to overlapping outcomes, credit sources, and program structures.
- iv. Subsection (3) part (d) – The requirement that multi-family dwelling EV charging must report kilowatt hours dispensed to vehicles for each FSE is likely to prohibit a number of MFH from complying with Ecology’s reporting requirements due to the reality that many MFH will not have separately metered charging, or multiple chargers will feed into a single meter. City of Seattle encourages Ecology to either exclude MFH from this reporting requirement or build in separate reporting requirements for MFH.
- g. WAC 173-424-ASRM Authority to Suspend, Revoke, or Modify
 - i. Subsection (2) – City of Seattle requests that Ecology add a new part (i) to reflect a non-utility credit generators failure to submit the necessary data associated with credit proceed expenditures as required in Subsection (3) part (b) subpart (iv) in WAC 174-424-SRR. Absent this addition, City of Seattle does not see a viable enforcement action to compel non-utility credit generators to comply with these requirements.
- h. WAC 173-424-DCIE Determining the Carbon Intensity of Electricity
 - i. Subsection (1) part (a) – City of Seattle reiterates it support and appreciates Ecology’s inclusion of calculating a utility’s carbon intensity based on their unique

mix of generation resources.⁸ We recognize that using the Department of Commerce's published fuel mix reporting data and resulting CI will be off one year and recommend Ecology provide clarity and transparency around this lag time to avoid any potential confusion with other stakeholders using this data in the CFS program, potentially in the form of a disclaimer on the reports.

- ii. Subsection (3) – City of Seattle requests that Ecology adopt the recommendations made by ICCT in the “WA Carbon Intensity Model Peer Review Report” regarding use of more granular and relevant data to Washington utilities for unspecified power. We elaborate further in Part III of these comments.
- iii. Subsection (5) - City of Seattle recommends Ecology consult with Green-e to ensure rules within this subsection and other sections throughout the program rules will meet the standards of Green-e. Doing so could prevent the possibility of creating a situation in which there is a potential for double counting and to ensure these REC investments are viable for Green-e certification and ultimate use under the CFP. Absence this coordination with Green-e and any compliance requested by the certifier, the CFP may not be able to allow for incremental credits in the form of “low-CI” pathways or use of renewable generation at the EV charger site.
- iv. Subsection (5) part (a) - City of Seattle seeks clarity around the definition being used to define bundled and unbundled renewable energy credit (REC) products that are certified under the Green-e Program. We understand that some RECs under the Green-e Program may meet certification requirements and considered a bundled product, even if the underlying energy has been sold off. Additionally, we seek to define the term “Utility Renewable Electricity Product.”
- v. Subsection (5) part (b) - City of Seattle recognizes that the language requiring generators placed into service after 2023 may incentivize new builds. However, we also recognize that this language would prohibit most RECs and greatly restrict the number of eligible RECs within the market. We would like to understand why this year was selected in the draft rule language. We would also like Ecology to consider requiring that RECs eligible for use are generated in the year, or within a certain timeframe, in which they are being applied within the program as a way to mitigate concerns around the use of outdated RECs.
- vi. Subsection (7) part (c) - City of Seattle would like to understand the type of proof of completion of final verification documentation sought by Ecology in this section. We encourage Ecology to verify that the proper documentation that being sought is routinely provided by Green-e.
- i. WAC 173-424-CCD Calculating Credits and Deficits
 - i. Subsection (3) part (d) – City of Seattle would like to know if the use of the term “credit generator” here means that a specific credit generator may propose an alternative method for its own credit generation and only its own generation. In

⁸ RCW 19.29A.140.

other words, an EV automaker could not propose an alternative method for electric utilities calculating non-metered residential credits.

j. WAC 173-424-AD Advance Crediting

- i. Subsection (2) – City of Seattle seeks clarity around funding provided by entities identified in part (a) of this subsection, specifically when that funding is only a portion of a total projects cost. For example, the vast majority of state grant programs for EVSE have a 1-1 match, meaning that at least 50 percent of the EVSE cost is born by the applicant, such as an electric utility or local government. In some cases that cost share is even higher because the grant criteria reward great cost sharing by the applicant. City of Seattle would like to learn more about how this should be addressed in rules, if at all, and what will be expected of entities that receive funding from a state agency that seeks advanced credits.

- III. Comments and questions on supplemental materials
- a. WA Utility Carbon Intensity Calculator
 - i. City of Seattle notes for Ecology that it appears that the “HLOOKUP” function in cells C13-C18 on the “Utility-CI” is incorrectly pulling the wrong data from the “2020 Fuel Share” page. For example, when Seattle City Light is selected, “biomass” on the “Utility-CI” tab is listed as “4.98%,” which actually refers to “Nuclear Power” on the “2020 Fuel Share” page.
 - b. WA Carbon Intensity Model Peer Review Report
 - i. Commerce fuel mix data – ICCT notes that “LC Associates does not document the rationale for selecting the 2018 electricity data rather than the most recently published (2020) or baseline year (2017) electricity mix assumptions.”⁹ City of Seattle requests that Ecology and LC Associates explain why 2018 electricity data was used. It’s not that we necessarily have an issue with the selection of 2018, but we do feel that the most prudent selection would be the latest available data from Commerce.
 - ii. Integration of Fuel Mix Data into the Greet Model – City of Seattle acknowledges and supports ICCT’s recommendation that “LC Associates update the model assumptions for two reasons...”¹⁰ We agree with the three stated recommendations, in part because of the compelling analysis ICCT conducted that shows how much natural gas increases as an unspecified resource despite no new natural gas generators being brought online in the Northwest Power Pool market.¹¹ We also recognize and agree with ICCT that natural gas can serve as a peaker resource, which can explain some of this increase, but likely not all of it, especially considering the role renewable resources can serve for meeting dispatch needs. As a result, we support ICCT’s recommendations to improve the accuracy of the WAMX emission factor.¹²

⁹ ICCT, *Washington Clean Fuels Standard – Carbon Intensity Model Peer Review*, April 6, 2022, page 13.

¹⁰ *Id.*, page 14.

¹¹ *Id.*, page 15.

¹² *Id.*, page 19.

IV. Miscellaneous

- a. RCW 70A.535.080 subsection (2) – City of Seattle asks Ecology for any updates regarding the development of the “list of types of programs and projects jointly developed by [Ecology] and the Washington state department of transportation.” Because 50 percent of electric utility credit proceeds must be spent on projects found on this list, City of Seattle is eager to review the list and provide feedback. In particular, SCL is hopeful that one eligible expenditure will be vehicle acquisition financial incentives for medium- and heavy-duty vehicles. SCL and many other electric utilities in Washington are reviewing previous TE programs, deploying pilot or full TE programs, and researching or developing future TE programming due to authorization previously granted to electric utilities. This program information as well as our active roles in the TE market and our relationships with our customers will prove valuable feedback for Ecology as this list is developed.

Sincerely,

Mendy Droke
State Government Relations
Seattle City Light