

April 25, 2022

Rachel Assink  
Rulemaking Lead  
Washington Department of Ecology  
300 Desmond Dr SE, Lacey, WA 98503

Re: Informal comment on Chapter 173-424 WAC, Clean Fuels Program Rule

Dear Rachel Assink:

Thank you for the opportunity to provide initial comments on the development of the Clean Fuels Program through Chapter 173-424 WAC. As a statewide advocacy organization, the Washington Environmental Council works to develop, advocate, and defend policies that ensure environmental progress and justice by centering and amplifying the voices of the most impacted communities. We have worked on establishing a state-level clean fuel standard for many years and are committed to realizing a just and equitable implementation of this law.

We appreciate Ecology's due diligence to develop this complicated and dynamic program. This letter provides our initial comment on the proposed Clean Fuels Program Rule and adds to our previous comment regarding the WA-GREET model. As part of this work, we are invested in ensuring that our state's climate policies are implemented in ways that maximize benefits and minimize harm to communities experiencing the greatest environmental health disparities. Our feedback is guided by our commitment to seeing the Clean Fuels Program achieve the reductions in the carbon intensity of transportation fuels mandated by RCW 70A.535 and reflect the best available science.

#### Assess and consider health and environmental impacts

The Clean Fuels Program has the potential to deliver air quality co-benefits through the use of lower carbon intensity fuels. At the same time, there are unique air quality impacts and risks associated with different fuel types that require more thorough analysis and evaluation — e.g., increases in ground-level ozone pollution due to ethanol use and increases in NO<sub>x</sub> emissions due to biodiesel use. It is critical that the Clean Fuel Standard does not inadvertently incentivize emissions of pollutants harmful to human health and the environment.

To that end, we appreciate Ecology's work to conduct an analysis of the health consequences of the program. As part of this work, we urge Ecology to further prioritize consideration of air quality and public health impacts in the development of this rule, including impacts to communities experiencing the greatest environmental health disparities. We also urge Ecology to ensure that the development of the Clean Fuels Program is fully aligned with the environmental justice requirements of the HEAL Act and to integrate these requirements - including tribal consultation and environmental justice assessments - into the language of the rule.

Ensure iLUC values for crop-derived biofuels are informed by the best available science

We appreciate the peer-review analysis completed by International Council on Clean Transportation (ICCT) and shared during Ecology's April 13, 2022, stakeholders' meeting. Overall, we believe that ICCT's recommendations for changes to LCA's iLUC approach are steps in the right direction. In particular, we agree with the need to:

- be more specific when defining and assigning iLUC values to cover crops;
- conduct an ongoing evaluation of iLUC impacts with feedback from stakeholders, experts, and regulators from CARB and EPA; and
- consider alternative models.

We incorporate by reference our comment submitted on March 25, 2022, regarding the proposed iLUC values for corn and sorghum ethanol. We also appreciate and agree with ICCT's acknowledgment that many of the concerns regarding ethanol are also applicable to other biofuels, including biodiesel and renewable diesel using soy, canola, and palm feedstocks, among others.

For these reasons, we remain concerned that CARB's iLUC values for crop-derived fuels more broadly may need significant correction to accurately assess their overall carbon intensity. Some of these corrections may fundamentally call into question whether specific crop-derived fuels have any utility in a program designed to reduce the carbon intensity of transportation fuels. Thus, we do not think that ICCT's recommendation to adopt CARB's full set of iLUC values for crop-derived fuels goes far enough. Basing the program on the latest and best available science is a key guiding principle as Ecology develops the Clean Fuels Program, and in this case the science warrants deviation from California's and Oregon's programs.

Therefore, we urge Ecology to: 1) adjust the rule to account for a more rigorous and accurate accounting of iLUC values for crop-based fuels; 2) explicitly require continued analysis of their carbon intensities; and 3) build-in specific mechanisms for correcting values as the science advances, alternative models are considered, and feedback is gathered.

Ensure accuracy and integrity of book-and-claim accounting for biomethane and hydrogen

Tracking the environmental attributes of biomethane and hydrogen is an area of emerging importance across multiple clean energy policies in Washington and beyond. The tracking systems established under the Clean Fuel Standard should therefore be coordinated and consistent with other state policies governing how environmental attributes for these fuels are calculated and verified. Given these considerations, we urge Ecology to establish a rigorous and independent verification system for all environmental attributes associated with biomethane and hydrogen. This will help ensure that any claimed environmental attributes used are accurate, real, and are not being double-counted.

Proposed language for WAC 173-424-SRR(2) describes the process for a registered party to claim the environmental attributes of biomethane. The party must report an approved carbon intensity, provide an EPA production company identification number and facility identification number, and sign an attestation. There is, however, no process proposed for Ecology to verify a registered party's claims.

Although hydrogen is proposed as a Tier 2 fuel under the draft rule, and thus not eligible to apply for a pathway until 2025, section WAC 173-424-CI(4)(b) describes a similar process of relying on signed attestations to confirm the environmental attribute claims of hydrogen fuel - with even fewer and vaguer requirements for additional documentation than what is required for biomethane.

The draft rule does not appear to provide sufficient clarity for tracking these fuels. This is insufficient and sets a dangerous precedent, because there is no clear way for Ecology to verify the information provided by a registered party. To address this, we urge Ecology to further develop the rule to require independent verification for all environmental attributes associated with biomethane and hydrogen. This will help ensure accurate and comprehensive accounting of the carbon intensity of these fuels.

#### Establish accurate and updated global warming potential values

We urge Ecology to take advantage of the opportunity to lead the way on integrating the most up-to-date climate science into its calculation of global warming potential values. While we understand the need for an apples-to-apples approach to compare the carbon intensities of different transportation fuels, traditional global warming potential (GWP) values fall short in accurately accounting for both near-term and long-term climate impacts. For this reason, we urge Ecology to consider the approaches discussed in the IPCC's Sixth Assessment Report (AR6)<sup>1</sup>, such as GWP\*<sup>2,3</sup> and combined-GTP<sup>4</sup>.

These approaches have been developed to more accurately compare emissions of short-lived gases, such as methane, to longer-lived gases like carbon dioxide. AR6, released in August 2021, represents the most accurate and up-to-date international assessment of climate science and reflects a growing understanding that traditional GWP calculations misrepresent the cumulative impacts of greenhouse gases with different atmospheric lifetimes. Thus, an updated approach that deviates from California's and Oregon's programs is necessary to establish a solid scientific foundation for Washington's Clean Fuels Program.

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<sup>1</sup> "IPCC, 2021: Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change," August 9, 2021, [https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC\\_AR6\\_WGI\\_Chapter\\_07.pdf](https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC_AR6_WGI_Chapter_07.pdf).

<sup>2</sup> "Demonstrating GWP\*: a means of reporting warming-equivalent emissions that captures the contrasting impacts of short- and long-lived climate pollutants," Environmental Research Letters, April 2, 2020, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7212016>.

<sup>3</sup> "Improved calculation of warming-equivalent emissions for short-lived climate pollutants," npj Climate and Atmospheric Science, September 4, 2019, <https://www.nature.com/articles/s41612-019-0086-4>.

<sup>4</sup> "Stable climate metrics for emissions of short and long-lived species—combining steps and pulses," Environmental Research Letters, February 11, 2020, <https://iopscience.iop.org/article/10.1088/1748-9326/ab6039>.

### Support for existing rule elements

We appreciate Ecology's efforts to make the rulemaking process open, transparent, and adaptive to feedback. We would like to express our support for the following elements of the draft rule:

- *WAC 173-424-CI(2)*: Requiring the review of carbon intensities every three years or sooner, if new information becomes available.
- *WAC 173-424-CI(5)(b)*: Maintaining the current timeline in the draft rule for Ecology to begin accepting applications for Tier 2 fuel pathways in July 2025.
- Maintaining strong and thorough recordkeeping requirements throughout the rule to ensure the integrity of the program and provide the ability for information verification and public oversight.

### Trajectory of carbon intensity standards

We reiterate our strong support for a reduction requirement of 20% in carbon intensity standards by 2034, which is the earliest date allowed in the statute. A 20% reduction in carbon intensity standards by 2034 is aligned with Washington's statutory emissions reductions requirements and will lead to faster pollution reductions and the commensurate benefits to our health and well-being. It will also send a strong signal for greater clean fuels investments in the near term, for the greater benefit of Washingtonians.

Thank you for the opportunity to provide informal comment on the draft Clean Fuels Program Rule. We appreciate Ecology's efforts to build out this important climate policy on a short timeline and remain committed to supporting the law's successful implementation.

Sincerely,

**Rebecca Ponzio** • Climate and Fossil Fuel Program Director  
206.631.2604 • cell 206.240.0493 • [rebecca@wecprotects.org](mailto:rebecca@wecprotects.org)

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**Caitlin Krenn** • Climate and Clean Energy Campaign Manager  
206.631.2630 • [caitlin@wecprotects.org](mailto:caitlin@wecprotects.org)