Pacific Merchant Shipping Association

Comment Letter Attached.

PMSA
PACIFIC MERCHANT SHIPPING ASSOCIATION

March 4, 2022

Joel Creswell, Ph.D.
Washington Department of Ecology
15700 Dayton Avenue N.
Shoreline, Washington 98133

Submitted electronically to joel.creswell@ecy.wa.gov

Subject: Development of Washington Clean Fuels Program

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 FSE registrations in the entire LCFS program.

Identifying the Proper Credit Generator

Marine terminal operators and ocean carriers serving Washington ports are competing against multiple gateways across North America, including British Columbia, California, and Gulf and East Coast ports. As a result, competitive pricing can have significant impacts on the flow of goods. As costs increase, international goods will flow to other ports, which will, in turn, increase costs for local goods trying to reach overseas markets. One of the challenges of electrifying the maritime sector is that for companies deploying equipment, there is no ability to pass on incremental cost increases since competitive forces exist beyond the local market. As a result, achieving accelerated electrification in this heavy-duty industrial sector requires incentives represented by programs like the CFP *must be targeted* at the companies actually deploying and operating the equipment.

Other stakeholders involved in maritime electrification have the ability to pass on costs. Landlords can and will charge tenants (marine terminal operators) for the cost of site improvements. Utilities can and will charge for service improvements necessary to support transportation electrification in the maritime sector. Only marine terminal operators and ocean carriers that deploy the fleets of eTRU, eCHE, and eOGV do not have the ability to recoup the capital and operating costs of transitioning to electrified equipment.

The language proposed by DOE appears intended to target the entities that make deployment and operational decisions for the three categories of eTRU, eCHE, and eOGV. However, ambiguities could leave the language subject to interpretation. Throughout most of the logistics industry, equipment-deploying companies do not own their land, but instead hold leases that can range from the very short-term to multi-decade leases. The proposed language identifies the electric equipment charging owner as the fuel reporting entity and credit generator. However, the definition of "charging equipment" is unclear for many eCHE, eTRU, and eOGV installations and could refer to various electrical infrastructure improvements and hardware. When premises are leased there will be argument over who is the owner of fixed facility improvements, even when made by a tenant. In addition, the status of onsite improvements could change over the course of a lease or upon renegotiation. PMSA does not believe that DOE intends to identify the property owner as the credit generator when the property owner is not making equipment deployment or operational decisions.

As a result, PMSA recommends that DOE modify the language and take the same approach identified for electric forklifts and suggests the following modifications to the proposed language:

(6) Electric Transport Refrigeration Units (eTRU), Electric Cargo Handling Equipment (eCHE), Electric Power for Ocean-Going Vessel (eOGV).
- (a) For electricity supplied to eTRU, eCHE, or eOGV, the ~~owner of the electric charging equipment~~ fleet owner is the fuel reporting entity and the credit generator.
- (b) The fleet owner ~~of the electric charging equipment~~ may elect to designate another entity to be the credit generator, if the two entities agree by a written contract that:
  - (i) The fleet owner ~~of the electric charging equipment~~ will not generate credits and will instead provide the electricity data to the designated entity.
  - (ii) The designated entity accepts all the CFP responsibilities as the fuel reporting entity and credit generator.

With these changes, the credit generation portion of the CFP program will ensure the principle that entities that own fleets and make operational decisions about the use of equipment should be provided the first opportunity to generate credits. As a principle, such an approach makes sense so that the program properly incentivizes entities that make deployment decisions for eligible equipment. If necessary and consistent with concepts already contained elsewhere in the proposal, language can be incorporated into the proposed regulation that would allow stakeholders further up the value chain (e.g., landlords, utilities) to claim credits if the fleet owner does not claim credits.

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