King County

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

Re: Proposed WAC 173-424 Clean Fuels Program Rule

Dear Rachel Assink,

Thank you for the opportunity to comment on the proposed Rule Language shared on July 18th for the Clean Fuels Program. As mentioned in prior comment letters, confronting climate change, and accelerating the transition to a clean energy economy are top priorities for King County.

King County's Strategic Climate Action Plan (SCAP), a five-year blueprint for County climate action, sets ambitious targets to reduce emissions by half by 2030, lead with climate justice, and prepare for the impacts of climate change. Transportation is the largest source of greenhouse gas emissions in King County, and Washington State, and we must take urgent and immediate action to lower emissions from that sector. King County is working to reduce transportation related emissions through electrification of our bus fleet by 2035, conversion to electric light-duty vehicles for our non-revenue fleet and piloting an electric heavy-duty Class 8 truck for our Solid Waste operations later this year. But this work is not enough – we need sector wide policy, and we must work together, in alignment with neighboring states, to set and reach bold targets to minimize emissions and the resulting impacts of climate change.

We thank you for strengthening the following elements of the Department of Ecology's proposed rule:

1. **Incorporating the maximum possible reduction in carbon intensity of fuels, at 20 percent by 2034.** We must move urgently to reduce emissions from the transportation sector and spur new fuels and technologies. Additionally, implementing goals as similar as possible to our neighboring jurisdictions will ensure alignment with those trading partners. A 20% reduction in carbon intensity by 2034 is still a less aggressive standard than California and British Columbia, both of which require a 20% reduction by 2030. Oregon is considering changing their standard to 20% below 2015 levels by 2030 and 37% below 2015 levels by 2035.

2. **Advancing credit option for public fleet owners and limiting advance credits to only activities that reduce greenhouse gas emissions and decarbonize the transportation sector.** Public fleets have varying capacity to meet the high upfront capital investments for charging and fleet. Advance crediting allows public fleets to generate credits and revenues upfront or have an upfront guarantee of future credit revenue.
3. **Using iLUC estimates for biofuels that align with those used by California.** While the current model draft uses the Argonne National Laboratory values for indirect land use conversion (iLUC) for corn ethanol, on March 15, Life Cycle Associates' referenced research stating these lower iLUC values were based on insignificant evidence. Further, the current iLUC value for sorghum is much lower than the listed studies and is lower than both California's and Oregon's programs. Additionally, the peer review by International Council on Clean Transportation suggests values are not reflective of the full body of research and recommends using the current values in California's program. Inaccurate scoring will inhibit the state of Washington in reaching greenhouse gas emission reduction goals.

Specifically, King County asks the Department of Ecology to incorporate the following recommendations into the proposed rule:

4. **Credit revenue investment opportunities directly benefiting "a disproportionately impacted community identified by the department of health" must be additive, impactful, and informed by overburdened communities.** Credit revenue investment opportunities should be maximized and directed to benefit overburdened communities identified on the Washington Environmental Health Disparities Map and other tools per the Healthy Environment for All Act (Chapter 70A.02 RCW). Moreover, investments stemming from clean fuels revenue should be additive, and not replace already allocated programs. The list developed by Ecology and WSDOT for programs and projects allocating utility revenue, should ensure additional investments. Project selection should also be informed by engagement with the Environmental Justice Council and overburdened communities. The statute specifies that this list must be based on what has "the highest impact on reducing greenhouse gas emissions and decarbonizing the transportation sector."
5. **We support the book and claim mechanism** that allows fleet owners to increase revenues from credits by bundling fleet electrification with renewable energy agreements generated off-site. However, we recommend that Ecology limit the applicability of RECs to those generated in Washington State rather than the "western electricity coordinating council" to ensure that renewable energy produced is additional. The "western electricity coordinating council" includes states and provinces that do not have robust Renewable Portfolio Standards (i.e. ID, UT, WY, MT, SD). We support the requirement that renewable energy credits must be retired and not claimed separately by the utility.
6. **Ensure ongoing public investments in fixed guideways systems generate equivalent credits to investments in new systems.** It is in the public interest to maximize credit

generation for public transportation that is zero-emission and shifts load from passenger vehicles to public transportation. Fixed guideways systems require significant ongoing investment in the system and vehicles. New investments in vehicles and systems result in efficiency improvements that should be reflected in credit generation. For example, in 2015, the new trolley bus fleet Metro Transit improved electricity efficiency by 20% as a result of regenerative braking functionality. Metro received a rebate from Seattle City Light for that efficiency improvement. Given these considerations, we recommend that either the:

a. **In-service date for public transportation fixed guideway systems be removed; or,**
b. **In-service requirements apply to the system or vehicle** to allow for new more efficient electric transit vehicles to generate credits commensurate with their improved efficiency and not be restricted by the system date.
c. **Fixed guideway in-service date exclude bus rapid transit lines** with dedicated right of way if the fleet used changes to electric from a fossil fuel powered vehicle. Metro transit has bus rapid transit lines that currently operate with diesel-hybrid vehicles but will in the future be operated by battery-electric vehicles. These vehicles should not be limited to the in-service date of the bus rapid transit line.

7. **Allow public transit systems flexibility in reporting electricity usage via estimation methods and not require separated metering.** Requiring separate metering would be cost prohibitive and prevent public transit from securing credit generation from using electricity for transportation. For example, the Metro Transit trolley system and Sound Transit light-rail share a sub-station in one location, separately metering these systems would be cost-prohibitive. Reporting by vehicle would need to be estimated based on vehicle milage. Electricity usage for new expansions to the trolley-system would need to be estimated by comparing to the baseline system.

8. **Ensure public fleet owners can secure ownership rights to credits generated from publicly owned electric vehicle fleets.** Rulemaking explicitly states that public fleet owners can generate credits from fleet. Clear language regarding credit generation ownership ensures that revenue generated can support the expansion of fleet electrification in our publicly owned fleets.

a. **Clarify priority for transit agencies' credit generation ownership.** We appreciate and support the clear provision that transit agencies have the priority for credit generation from fixed guideway fleet. King County's investment in transit bus fleet electrification will primarily focus on battery-electric vehicles that do not use a fixed guideway and only a portion operate on a bus rapid transit line with dedicated right of way. We want assurance that as a public transit agency we have priority for the credit generation ownership. The definitions in the proposed rule do not clarify that public transit agencies are priority 1 for credit generation for all electric public transit vehicles. “Fixed guideway” includes bus rapid transit; “fixed guideway system” specifies fixed guideway transit buses powered by electricity. However, the rule does not make explicit that for electric public transit buses, that do not operate on a fixed guideway (e.g bus rapid transit), that public transit agencies are eligible to receive these credits. We recommend the definition of “fixed guideway” be expanded to include all fixed route public transit buses, and not be limited to bus rapid transit routes. Otherwise, battery-electric public transit vehicles are considered as “Non-residential EV” where credit generators are the owner of the charging equipment (priority 1) and designated aggregator (priority 2). We want to secure credit generation whether or not we lease or own charging infrastructure.

b. **Transfer of electrical generation credit ownership.** Similar to the provision that allows for liquid fuel credit generation transfer, I recommend that fleet electricity charging credit generation transfer be explicitly permitted in the rule. We want to have the ability, through contracting and negotiations, to secure the credit generation ownership from all EVSE charging infrastructure that we lease and/or own.

Thank you for your continued partnership in furthering Washington state’s emissions reductions goals.

Sincerely,

/s/ Rachel Brombaugh

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