



THE NORTHWEST
SEAPORT ALLIANCE

SEATTLE + TACOMA
nwseaportalliance.com

August 31, 2022

Rachel Assink
Washington Department of Ecology
300 Desmond Drive SE
Lacey, WA 98503

Comments on Chapter 173-424 WAC – Draft Clean Fuel Standard Rule

Dear Ms. Assink,

The Northwest Seaport Alliance (NWSA) appreciates the chance to provide comment on the proposed Clean Fuel Standard (CFS) rule. We believe the CFS will be essential to decarbonizing Washington's transportation sector, including our marine ports. We are confident the CFS will support Washington's ports and their partners in continuing to deliver jobs, services, and goods in a lower-carbon manner.

The NWSA is a port development authority created under RCW 53.57 and a partnership between the ports of Tacoma and Seattle for the joint management of their marine cargo operations. As the fourth largest gateway for containerized cargo in the United States, marine cargo flowing through the NWSA's facilities supports an estimated 58,400 jobs, produces more than \$4 billion in labor income per year, and generates over \$270 million in state taxes per biennium.

The NWSA and the ports of Seattle and Tacoma have also adopted aggressive goals to phase out seaport-related emissions in the Puget Sound airshed by 2050 through our 2020 Northwest Ports Clean Air Strategy. This strategy includes implementation plans, with actions to be achieved in the next five to ten years. These plans will be updated on a regular five year cycle based on results to date, technological improvements and market conditions. For the NWSA, these near-term actions include installing shore power at major container terminals, demonstrating zero-emission drayage trucks, and deploying zero-emission cargo-handling equipment.

However, this is not an easy transition. The effective implementation of the CFS and the Climate Commitment Act will be essential to the Ports' transition to zero-emissions technologies while continuing to deliver the jobs, services, and goods the region is accustomed to. Accordingly, in

our April 25, 2022, comment, we suggested that CFS credit generation be prioritized according to the following principles:

- Drives meaningful and significant carbon reduction;
- Helps reduce up-front costs where there are significant barriers to entry; and
- Promotes equity and public health benefits.

These principles inform the following comments on the proposed CFS rule.

I. Support the Electrification of all Port Operations.

To achieve our goal of phasing out seaport-related emissions, it will be critical to support the decarbonization of every element of port operations. This includes, but is not limited to, marine and air transportation, cargo handling and refrigeration, and the trucking of cargo to and from the ports.

We commend Ecology for proposing a rule that largely reflects the scope of port operations. The CFS rule would authorize credit generation from the electrification of forklifts, cargo handling equipment, refrigeration units, and critically — shore power. We believe that the owner of the shore power equipment must have the flexibility to receive the credits *or* assign that right to another party by contract. Ownership should be defined in a way that ensures the entity that makes the direct investment in the shore power infrastructure has first right to generate credits. Accordingly, we support WAC 173-424-220(8).

While additional breakthroughs and innovations are still required for the full decarbonization of ocean-going vessels, most cruise and many container ships are already equipped with shore power for auxiliary functions. Yet, the lack of shore power at port terminals leads to vessels powering auxiliary systems with fossil fuels. By aligning the credit generation opportunity with the primary barrier to electrification, in this case, the lack of shore power, the CFS will have the maximum impact.

Similarly, for forklifts, refrigeration units, and cargo handling equipment, we believe the credit generator should be the fleet owner. While the installation of charging equipment for this equipment is also critical, it is the fleet owners that will bear the most significant upfront costs to electrify. Again, we believe WAC 173-424-220 (5)-(7) accurately reflects this nuance by allowing the fleet or equipment owners to generate credits.

We believe the sections highlighted above will appreciably reduce barriers to entry, reduce carbon emissions, and improve air quality in near-port communities. We encourage Ecology to include these provisions in the final CFS rule.

II. Clarify the Definition of Cargo Handling Equipment and the Role of Yard Trucks

While we support the provisions in the CFS related to cargo handling equipment, we are concerned the definition may exclude important elements of marine cargo handling operations. For example, while the definition of cargo handling equipment includes “rubber-tired gantry cranes” it leaves out other types of mobile material handling cranes that currently operate in the state on diesel and could be electrified in the future to reduce emissions. *See* WAC 173-424-110(30).

We are also concerned that the definition of “cargo handling equipment” excludes “yard trucks” (also known as terminal tractors, hostlers, yard dogs, yard goats, etc.) without clarifying how yard trucks will otherwise be included in the program. *See* WAC 173-424-110(30). There are hundreds of yard trucks in operation at the ports and electric yard tractor technology is the most broadly commercially available type of zero emission cargo handling equipment. Therefore, the deployment of cleaner yard trucks would result in significant carbon reductions and air quality benefits. To ensure the CFS drives carbon reductions to the maximum extent possible, we suggest the rule be revised to clarify how yard trucks may participate in the program.

One option is to follow California’s approach by explicitly defining a yard truck as a “heavy duty vehicle” for the purposes of CFS crediting. *See* Cal. Code of Reg. Title 17 § 95481 (27). Another option is to revise the definition of cargo handling equipment to *include*, instead of exclude, yard trucks, given that yard trucks that operate at ports function in a nonroad capacity. While it may have been Ecology’s intent that yard trucks would fall under the more general “heavy duty” or “medium duty” vehicle classifications in the CFS, we are concerned that uncertainty regarding the classification of cleaner yard trucks may delay their deployment, or inadvertently exclude them from the rule. *See e.g.*, WAC 173-424-110 (78), (90). Because yard trucks present one of the best opportunities to reduce the carbon footprint of marine shipping operations, clarity regarding how yard trucks will participate in the program would accelerate efforts to transition from diesel to electricity and other cleaner fuels.

III. Ensure Drayage and Short-Haul Trucking Fleets are Incentivized to Adopt Clean Trucks.

The ports have also invested significant resources in reducing emissions from drayage fleets and heavy duty trucking. For example, the NWSA's Clean Truck Program has improved air quality and reduced emissions by requiring all trucks serving the Ports to have 2007 or newer engines, and we have secured funding to replace over 450 trucks with newer, cleaner versions. However, significant work remains. Most drayage operators are small business owners with limited capital. The high upfront cost of cleaner trucks continues to slow the ports' decarbonization efforts.

Therefore, we fully support the provisions of the CFS rule related to advance crediting for projects funded by state transportation investments. In particular, we support the inclusion of the purchase of heavy duty trucks as a credit-generating opportunity. *See* WAC 173-424-550. We will continue to advocate for state investments that accelerate the transition to cleaner trucks to reduce carbon emissions and air pollution. However, we believe this would be even more effective if advance credits could also be generated by state investments used to incentivize and support the purchase of heavy-duty trucks by our private-sector partners, like drayage truck operators. While it is an important step, advance crediting from state transportation plan investments will not be enough to transition the full drayage fleet to cleaner trucks.

Thus, we believe the CFS rule should also include credit generating opportunities for the owners of drayage truck fleets. Adding charging stations suitable for heavy duty trucks will not accelerate this transition if the fleet owners cannot afford the upfront cost of an electric or hybrid truck. However, the proposed CFS rule only assigns credit generating opportunities to the owner of a non-residential electric charging station. *See* WAC 173-424-220(3). Furthermore, the charging station owner may only assign the credit generating opportunity to the utility. *Id.* At a minimum, allowing the charging station owner to assign the right to generate credits to the fleet owner would create an opportunity to encourage drayage fleet owners to make the significant capital investment required to transition to cleaner trucks.

This credit opportunity should also be available to operators of zero-emission trucks acquired on the used market. Modifying the rule to enable drayage fleet owners to generate credits would reduce upfront barriers, advance equity by improving air quality in near port communities, and reduce carbon emissions. We hope Ecology will revisit this section of the rule and include opportunities for drayage fleet owners to benefit from the purchase of cleaner trucks.

IV. Clarify that all Clean Marine Ocean-Going Vessel Fuels May Opt-In.

Ocean-going vessels (OGVs) are another focus of NWSA’s clean air strategy. OGVs require energy-dense fuels, have long lifetimes, and individual ports have limited influence on vessels that may only briefly visit the Northwest on national and international routes. In the short term, it is critical to develop and provide cleaner “drop-in” fuels that can replace bunker fuel in the existing ship fleet.

The Legislature recognized this challenge and explicitly included marine fuels as those eligible to opt-in to the program. RCW 70A.535.050(5) provides that Ecology must include:

Mechanisms for persons associated with the supply chains of transportation fuels that are used for purposes that are exempt from the clean fuels program compliance obligations including, but not limited to, fuels used by aircraft, vessels, railroad locomotives, and other exempt fuels specified in RCW 70A.535.040, to elect to participate in the clean fuels program by earning credits for the production, import, distribution, use, or retail of exempt fuels with associated life-cycle greenhouse gas emissions lower than the per-unit standard established in RCW 70A.535.025;

However, we are concerned the CFS rule is narrower than the Legislature intended. The CFS rule only allows the providers of “(i) Electricity; (ii) Bio-CNG; (iii) Bio-LNG; (iv) Bio-L-CNG; (v) Alternative jet fuel; and (vi) Renewable propane or renewable LPG” to opt-in to the program. *See* WAC 173-424-120(3)(b). By contrast, the CFS statute does not provide that only certain lower carbon alternative fuels may opt-in, but rather that *any* “exempt fuel” with emissions lower than the per-unit standard may opt-in. *See* RCW 70A.535.050(5).¹

Furthermore, the list of opt-in fuels in the CFS rule does not encompass every next-generation fuel. At this stage of alternative clean fuel development, it is too early to pick winners and losers. Next-generation drop-in OGV will likely include lower carbon fuels and feedstocks which are not included on Ecology’s list as opt-in fuels. Therefore, we suggest the list of opt-in fuels be expanded to include alternative fuels that can be demonstrated to provide lower lifecycle carbon emissions, or to include all other fuels with an approved Tier-2 pathway under WAC 173-424-600(5)(b).

¹ While the rule elsewhere acknowledges that exempt fuels “are eligible to generate credits” the rule does not clarify whether this supersedes the opt-in list or merely confirms that opt-in fuels serving the aviation and marine sectors can generate credits. *See* WAC 173-424-130(2)(c).

Relatedly, we encourage Ecology to consider accepting applications for Tier-2 fuel pathways sooner than July 2025. *See* WAC 173-424-600(5)(b). Tier 2 next-generation fuels will be critical to decarbonizing the marine and aviation sectors. Waiting until 2025 or later to deploy these fuels misses an opportunity to generate early carbon reductions and air quality improvements in near-port communities. While we understand it will take time to develop the staff and protocols necessary, we urge Ecology to accelerate this timeline to the extent possible.

V. Conclusion

The NWSA is eager to work with the Department of Ecology and other stakeholders to ensure the successful implementation of the CFS. We believe this rule will significantly reduce carbon emissions while improving air quality in near-port communities. As we take steps to implement the Northwest Ports 2020 Clean Air Strategy, we are confident that the CFS will accelerate our progress toward phasing out seaport-related emissions by 2050.

Thank you for the consideration of these comments.

Sincerely,


Jason Jordan (Aug 31, 2022 13:48 PDT)

Jason Jordan
Director of Environmental and Planning Services
Northwest Seaport Alliance (and Port of Tacoma)