August 31, 2022

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

RE: Chapter 173-424 WAC – Clean Fuels Program Rule

Dear Ms. Assink,

The Washington Public Ports Association (WPPA) represents a diverse membership of 75 port districts from all corners of Washington. Port Districts are focused on sustaining and growing the regional economies they serve. Our ports create jobs and economic growth in many diverse ways. They own and operate shipping terminals, marinas and docks, airports, industrial sites, railroads, commercial properties, environmental mitigation banks, parks and recreational facilities. Some ports operate in all of these sectors, others in only one or two, but almost every Washington port pursues an aggressive program of economic development.

Reliable, affordable, and clean power is one of the most important elements of a successful economic development strategy and it is a competitive advantage ports in Washington have benefited from. Port Districts around the state are interested in the implementation of the Clean Fuels Program (CFP) not only to support decarbonization efforts but also the funding of infrastructure is critical to support economy-wide decarbonization it the transportation sector.

WPPA appreciates the opportunity to provide the following comments.

***<u>Electrification of All Port Operations</u>***

Over time, the decarbonization of ports will not only include marine, air, truck, and rail transportation but also the electrification of forklifts, cargo handling equipment, refrigeration units, tugboats and shore power. We appreciate the Department of Ecology's draft rule in that it largely captures the scope of port operations.

As it pertains to ocean-going vessels, many cruise and container ships are 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. The transition to shore power can be incredibly costly and cost-prohibitive. By aligning credit generation opportunities with primary barriers to electrification, the CFS will have the maximum impact of uptick and deployment. 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. Accordingly, we support WAC 173-424-220(8).

Similarly for equipment like 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. We believe WAC 173-424-220 (5)-(7) accurately captures this nuance by allowing the fleet or equipment owners to generate credits.

***Clarify the definition of Cargo Handling Equipment***

WPPA believes there was an oversight in the definition of cargo handling equipment, and it may exclude important elements of marine cargo handling operations such as *yard trucks* also known as terminal tractors, hostlers or yard dogs. There are hundreds of yard trucks in operation in ports around the state and electric yard tractor technology is the most broadly commercially available type of zero emission cargo handling equipment. One option for Ecology's consideration is to follow California's approach by explicitly defining a yard truck as a "heavy duty vehicle" for the purposes of CFS crediting. 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.

***Program Fees***

WPPA believes that program fees should be borne by the credit buyers and not by the sellers. For comparison, California and Oregon do not impose fees on credit sellers. If Washington did, this would further disincentivize renewable fuel producers from selling into our markets at competitive prices.

***Clarify that Ocean-Going Vessel Fuels May Opt-In***

WPPA believes there was an oversight in the language pertaining to Ocean-going vessels (OGVs). The Legislature explicitly included marine fuels as those eligible to opt-in to the program. 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. 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. 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).

Similarly, WPPA encourages Ecology to consider accepting applications for Tier-2 fuel pathways sooner than July 2025 as waiting to deploy these fuels misses an opportunity to generate early carbon reductions and air quality improvements. 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.

***Support for Advanced Crediting***

WPPA 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. For example, many drayage operators are small business owners with limited capital. The high upfront cost of cleaner trucks continues to be a barrier for Port Districts to be able to support decarbonization efforts.

***Freight System Modal Shift***

The CFS rule makes great strides in decarbonizing parts of the supply chain, particularly around cargo handling equipment, but overlooks the benefit of incentivizing intraregional freight system modal shift. The Pacific Northwest provides ample waterways with marine highway designations, that bypass some of the most congested roadways. Containerized cargo moved between marine terminals by barge would reduce carbon emissions by greater than ninety percent, potentially eliminating all fossil fuels with the development of electric tugboats. While cost savings would be achieved in both reduced consumption and fuel costs, costs to transfer cargo between vessels would increase. WPPA encourages Ecology to evaluate ways to provide credit generation with sufficient flexibility to reduce cargo handling costs when freight system modal shift achieves such significant reductions in greenhouse gas emissions.

In closing, WPPA appreciates the opportunity to provide comment on behalf of port districts around the state.

Sincerely,

Patsy Martin
Interim Executive Director
Washington Public Ports Association