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Washington State Department of Ecology
Climate Pollution Reduction Program
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Submitted electronically via https://ecology.commentinput.com/?id=bS4tQR6WV

Re: Joint Utility Comments Regarding the Washington Department of Ecology's Clean Fuels Program Rulemaking

Avista Corporation, Cascade Natural Gas Corporation, Northwest Natural Gas Company, and Puget Sound Energy, Inc. (collectively, the "Utilities") appreciate the opportunity to submit these comments in support of the Washington Department of Ecology's ("Ecology") Clean Fuels Program proposed rule ("Proposed Rule"). The Utilities support the State's goal of reducing greenhouse gas emissions through market-based mechanisms and in a cost-effective manner.

Several aspects of the Proposed Rule may have the unintended consequence of increasing compliance costs, introducing regulatory inconsistencies, and disincentivizing long-term investment in critically needed emissions reduction technologies. To avoid these consequences, the Utilities respectfully request Ecology to (1) allow renewable natural gas ("RNG") reported via book-and-claim accounting to be generated anywhere in North America, (2) allow a three-year rolling banking period for RNG renewable thermal certificates ("RTCs"), (3) allow avoided methane credits to be generated for the entire useful life of the RNG facility, (4) replace renewable hydrogen content targets with a carbon intensity standard, (5) include methane pyrolysis in the definition of "renewable hydrogen," (6) amend the overly stringent requirements on feedstock transfer documents, (7) expand the timeline for change of ownership reporting requirements, (8) retain the triannual carbon intensity review cycle, and (9) expand the scope of eligible source feedstocks for forestry products.

Implementing the revisions above to the Proposed Rule will preserve program integrity and advance climate objectives in a cost-effective manner while helping to ensure affordable energy for all Washingtonians.

I. Ecology should adopt a book-and-claim framework that maximizes emissions reductions in an affordable manner.

Ecology's proposed geographic restrictions on book-and-claim accounting for RNG would constrain the availability of emissions-reducing fuels,[1] contradicting a key goal of the program to

[1] Proposed Rule, WAC 173-424-600(7)(b)(ii).

"[r]educe greenhouse gas emissions associated with transportation fuels."[2] Beginning January 1, 2030, the Proposed Rule would restrict utilities' ability to effectively use book-and-claim accounting by requiring the RNG to be (1) "injected into any pipeline located in Washington;" (2) "injected directly into an interstate pipeline that flows into Washington;" or (3) "injected directly into an international pipeline that flows into Washington or interconnects with a Washington pipeline via a border crossing."[3] To maximize emissions reductions under the Clean Fuels Program, the Utilities strongly urge Ecology to always allow RNG injected into a common carrier pipeline in North America to be reported without regard to physical traceability, as Ecology has already proposed to allow through December 31, 2029.

RNG is chemically identical to conventional natural gas once injected into the pipeline system. Since gas molecules are indistinguishable, Washingtonians do not benefit from the proximity of RNG molecules per se, but rather from avoided greenhouse gas emissions at the production source. Greenhouse gas reductions are fungible in the atmosphere, and thus, a reduction anywhere is a benefit everywhere.

While RNG is a valuable resource for reducing Washington's greenhouse gas emissions, it is unlikely that Washington-produced RNG alone will fully replace the State's natural gas energy needs. According to the U.S. Energy Information Administration, Washington consumed an estimated 381.3 trillion British thermal units ("tBtu") in 2023.[4] A recent report found that, under an "ambitious" scenario, the State could produce 83.4 tBtu/yr of RNG via anaerobic digestion and thermal gasification by 2050; the report also set forth "low" and "high" scenario estimates of 24.7 and 48.9 tBtu/yr, respectively.[5] These numbers demonstrate in-state RNG production alone is insufficient to achieve this transition—therefore, out-of-state RNG production will be necessary to meet the State's policy objectives.[6]

Geographic limits on credit eligibility fail to reflect the reality of gas markets and unnecessarily reduces the RNG supply pool. Book-and-claim accounting is a common, essential aspect of lowering gas sector emissions, given the decentralized nature of RNG development and pipeline infrastructure. Allowing utilities to "book" emissions savings and "claim" the emissions benefits on behalf of their customers is exactly what makes book-and-claim accounting such a useful tool for reducing greenhouse emissions. Notably, the U.S. Environmental Protection Agency's ("EPA") Renewable Fuel Standard ("RFS") program has successfully used book-and-claim accounting for over a decade.

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[2] RCW 70A.535.005(3)(b).

[3] Proposed Rule, WAC 173-424-600(7)(b)(ii)(A)-(C).

[4] U.S. Energy Information Administration, *Washington State Energy Profile* (last updated May 15, 2025), https://www.eia.gov/state/print.php?sid=WA.

[5] American Gas Foundation and ICF, *Renewable Natural Gas Supply Assessment*, 92, 94, 96 (July 2025), https://gasfoundation.org/2025/07/10/renewable-natural-gas-supply-assessment_agf-report-july2025/.

[6] *See* RCW 70A.535.025.

Finalizing the proposed limitations on book-and-claim accounting would unnecessarily drive up RNG acquisition and infrastructure development costs, to the detriment of Washington energy consumers. In contrast, providing utilities the opportunity to harness RNG from existing infrastructure, wherever it may be, incentivizes support for RNG projects that decrease greenhouse gas emissions while maintaining energy affordability for consumers.

Furthermore, verifying physical delivery across complex, interconnected pipeline systems creates substantial administrative burdens for both Ecology and regulated entities, including the Utilities. Pipelines are fungible systems, so tracing RNG molecules to specific delivery points is both scientifically and logistically infeasible, especially over long distances and through multiple custody transfers.

Therefore, the Utilities recommend that Ecology expand, rather than restrict, the proposed book-and-claim framework, allowing RNG injected anywhere in North America to generate credits. To ensure the validity and reliability of RNG accounting, the Utilities suggest Ecology could require RNG injected outside of the State to provide chain-of-custody documents similar to established federal mechanisms, such as EPA's RFS program.[7]

If the State wants to attract in-state RNG producers, the State could provide premiums on credits developed in-state, with a larger premium offered at regular intervals over time. The Utilities believe this approach would ensure demand for local RNG while maintaining energy affordability for Washington residents and businesses.

II. Ecology should not establish inconsistent temporal restrictions on the use of RNG RTCs.

To drive meaningful decarbonization in a cost-effective and scalable manner, the Clean Fuels Program must offer utilities and other regulated entities the regulatory flexibility necessary for effective compliance planning and long-term investment. The Utilities are concerned that the proposed restrictions on RNG RTC vintages are unnecessarily narrow and inconsistent with established state regulatory frameworks.

Under the current proposal, RNG RTCs would only be valid for use within a three-quarter window following RNG injection into a pipeline.[8] This compressed timeframe stands in stark contrast to the regulatory approach adopted by the Washington Utilities and Transportation Commission ("WUTC"). Specifically, the WUTC has held, "consistent with banking criteria for [RNG RTCs] in RCW 19.285.040 and WAC 480-109-200, utilities may bank RTCs in the year immediately prior to the year in which the RNG acquisition is intended to serve retail customers,

[7] *See* 40 CFR § 80.1400 *et seq.*

[8] Proposed Rule, WAC 173-424-600(7)(a).

the year the RNG is acquired, or the year immediately after the RNG is acquired."[9] This rolling three-year window recognizes the operational and contractual realities of RNG RTC procurement.

Limiting RTC usability to just three quarters creates unnecessary friction in the renewable fuels market, complicates procurement planning, and disincentivizes RNG RTC supply contracts. In practice, RNG RTC acquisitions often require multi-quarter contracting, verification, and delivery timelines, particularly for out-of-state or aggregated projects. Compressing credit usability into a narrow vintage window will not improve environmental outcomes but likely will discourage RTC investments and delay emissions reductions.

To address these concerns and enhance regulatory alignment, efficiency, and investment certainty, the Utilities recommend that Ecology retain a rolling three-year RTC banking period consistent with WUTC's guidance on RTC banking. A harmonized approach would reduce regulatory inconsistency across state programs, enhance operational flexibility for regulated entities, and ensure that RNG-based thermal energy can reduce emissions as much as possible.

III. Ecology should not limit the avoided methane crediting period for RNG production facilities.

Ecology's proposed cap on avoided methane crediting for dairy or swine manure pathways—limited to 15 years or less under the Proposed Rule, depending upon when the RNG project broke ground—undermines investment certainty for methane capture projects and thus disincentivizes investment in their development.[10] Ecology should remove the temporal limitations to encourage new and protect existing capital investments in such projects.

Facilities developed to avoid methane from dairy or swine manure are capital-intensive, require complex negotiations, require time-intensive permitting, and can involve lengthy engineering and regulatory reviews. Typically, these facilities are designed to operate for a useful life of at least 20 years.[11] The Proposed Rule would penalize early adopters of this important technology, and shortening crediting windows reduces the economic feasibility of planned methane avoidance projects.

Utilities look for long-term contracts to limit bill variability for customers and typically receive much lower pricing on these lower-carbon gas contracts. Utilities have seen opportunities with contract terms as long as 21 years which allow for very favorable pricing. Under the Proposed Rule, the tail end of these contracts would become ineligible, with no benefit to customers. These long-term and low-cost contracts should be rewarded, not discouraged.

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[9] WUTC, *Report and Policy Statement on Investigation of Renewable Natural Gas Programmatic Design and Pipeline Safety Standards*, 12, Docket U-190818 (Dec. 16, 2020).

[10] Proposed Rule, WAC 173-424-610(16).

[11] American Gas Foundation and ICF, *Renewable Natural Gas Supply Assessment*, at 18, 67.

To promote robust, long-term investment in RNG emissions reductions, the Utilities recommend extending the crediting period to match the facility's operational life.

IV. Revised renewable hydrogen standards will increase investment in emissions reductions and help maintain energy affordability.

Hydrogen has the potential to play a pivotal role in Washington's energy transition. However, the proposed requirement that 80% of hydrogen be green electrolytic or "renewable" by 2030 and 100% by 2035 introduces significant feasibility and cost challenges that may unintentionally deter investment, slow emissions reductions, and increase energy costs for Washingtonians.[12]

Today, green electrolytic or "renewable" hydrogen remains cost-prohibitive compared to fossil-derived hydrogen and faces additional infrastructure, permitting, and technological hurdles.[13] Mandating these renewable hydrogen standards on such an aggressive timeline could discourage near-term investment in transitional hydrogen technologies, strand existing infrastructure and capital, and lead to higher fuel costs for consumers.

To balance the State's ambition with market readiness, the Utilities recommend replacing the fixed renewable content targets with a declining carbon intensity standard that rewards continuous emissions improvements and fosters technological innovations. As Congress did in the Infrastructure Investment and Jobs Act ("IIJA"), Ecology should define "renewable hydrogen" without reference to fuel source. In the IIJA, Congress defined "clean hydrogen" as "hydrogen produced with a carbon intensity equal to or less than 2 kilograms of carbon dioxide-equivalent produced at the site of production per kilogram of hydrogen produced."[14] By enacting a fuel-neutral hydrogen standard, Ecology can encourage innovation and competition among various hydrogen production methods that achieve lower carbon intensities.

This performance-based approach would provide long-term regulatory certainty for investors, support incremental greenhouse gas reductions, and allow for diverse production pathways to compete based on environmental outcomes rather than prescriptive feedstock mandates.

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[12] Proposed Rule, WAC 173-424-560(d)(ii).

[13] Lazard, *Lazard's Levelized Cost of Hydrogen Analysis – Version 2.0* (October 2021), https://www.lazard.com/media/erzb5rkv/lazards-levelized-cost-of-hydrogen-analysis-version-20-vf.pdf; International Energy Agency, *Global Hydrogen Review 2024*, 84 (October 2024), https://iea.blob.core.windows.net/assets/89c1e382-dc59-46ca-aa47-9f7d41531ab5/GlobalHydrogenReview2024.pdf.

[14] 42 U.S.C. § 16166(b)(1)(B).

V. Ecology should include methane pyrolysis-derived hydrogen in the definition of "renewable hydrogen."

Excluding methane pyrolysis from the definition of "renewable hydrogen" deters investment in a hydrogen production process that offers lower carbon intensities without requiring fossil fuel combustion.

Utilities are increasingly exploring methane pyrolysis as a means to produce hydrogen with significantly reduced carbon emissions, as the process separates methane into hydrogen and solid carbon, thereby avoiding the release of carbon dioxide. This technology enables utilities to leverage existing natural gas infrastructure while transitioning to cleaner hydrogen production pathways, supporting grid reliability and the State's climate goals.[15]

As Congress did in enacting the IIJA, Ecology should incentivize all zero- or low-emitting hydrogen fuel technologies for achieving emissions reductions, regardless of the fuel's source.

VI. Ecology should take practical realities into account when establishing feedstock transfer document requirements.

The proposed feedstock documentation requirements would impose significant and potentially prohibitive burdens on multi-source RNG producers and aggregators. Specifically, the Proposed Rule would require documentation from the point of origin for each individual feedstock used in RNG production, regardless of whether the RNG is produced at a centralized aggregation hub or through distributed feedstock streams.[16]

While the intent to maintain traceability and program integrity is appropriate and encouraged, the practical implementation of this requirement as currently proposed is unworkable for many existing and prospective RNG projects. Multi-feedstock projects, such as those sourcing manure, food waste, wastewater biosolids, and other organics from geographically dispersed locations, often rely on aggregate injection hubs and contractual supply arrangements that do not allow for continuous, granular tracking at the level the Proposed Rule contemplates. Requiring such detailed point-of-origin documentation for each feedstock stream could dramatically increase compliance costs, create unnecessary administrative barriers, and disqualify otherwise valid emissions reduction projects, thereby undermining the State's broader climate and renewable fuel objectives.

To address this concern, the Utilities recommend Ecology accept aggregated documentation systems that are verifiable through contracts, attestation, or similar mechanisms—

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[15] Jack Lewnard, *Overview of ARPA-E Methane Pyrolysis Program and Possible Future Directions*, 2023 U.S. Department of Energy Hydrogen Annual Merit Review (June 7, 2023), https://www.hydrogen.energy.gov/docs/hydrogenprogramlibraries/pdfs/review23/arpae006_lewnard_2023_o-pdf.pdf?sfvrsn=16d5b657_0.

[16] Proposed Rule, WAC 173-424-110(72), WAC 173-424-600(6)(e).

consistent with the EPA RFS and California Low Carbon Fuel Standard.[17] Producers should be permitted to demonstrate feedstock eligibility through contractual records, attestation and declarations, third-party verification, or audits.

VII. Ecology should not require a detailed transition plan to be submitted less than 90 days following ownership changes.

The proposed requirement for regulated entities to submit a detailed transition plan within 30 days of the ownership or operational control change presents significant practical challenges given the realities of these transactions.[18] Asset transfers, particularly those involving critical energy infrastructure or renewable fuel assets, are often highly complex transactions that require extended due diligence, contractual renegotiations, and careful alignment of credit and permitting obligations under multiple regulatory regimes.

Oftentimes, the parties involved in a transaction may not have full visibility into a company's operational, financial, or compliance details until well after the closing date. Tasks such as reconciling credit balancing, reassigning obligations, and ensuring the integrity of fuel pathway records are time-intensive. A rigid 30-day reporting window increases the risk of errors, misreporting, or unintentional noncompliance—particularly in large or multi-jurisdictional transactions.

The Utilities recommend a minimum 90-day window following ownership changes to ensure an orderly transition process and to safeguard the program's administrative integrity. An extended period would align more realistically with standard business practices for these transactions, allow sufficient time for legal, financial, and regulatory teams to evaluate obligations, ensure accurate disposition of credits and obligations, and overall, enhance program workability.

VIII. Ecology should maintain a predictable, triannual, carbon intensity review cycle to support long-term investment planning and regulatory transparency.

To support long-term investments and regulatory confidence, Ecology should retain a stable and transparent triannual carbon intensity review cycle that provides predictability for regulated entities and investors while ensuring the program remains responsive to scientific and market developments. The Utilities believe this predictability is essential to attracting and maintaining the sustained private investment required to meet the State's climate goals.

As currently proposed, the program allows for frequent and unscheduled adjustments to carbon intensity values, which introduces regulatory uncertainty and has the potential to complicate compliance planning for regulated entities and investors alike.[19] If carbon intensity

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[17] 40 C.F.R. § 80.1452; Cal. Code Regs. tit. 17, § 95491.

[18] Proposed Rule, WAC 173-424-300(1).

[19] Proposed Rule, WAC 173-424-600(1).

values can change with little notice, this increases the financial and operational risk utilities and project developers face, thereby disincentivizing investment in emissions-reducing projects.

To mitigate these risks, the Utilities recommend that Ecology retain the once every three years carbon intensity review cycle. Further, this cycle should include advanced public notice of proposed carbon intensity changes, stakeholder engagement through notice-and-comment rulemaking, and clear criteria and methodologies for carbon intensity recalibration decisions.

A transparent and predictable review process will not only support informed business planning and capital deployment, but also ensure the program adapts to evolving science and market conditions. Critically, it will promote regulatory confidence without compromising environmental rigor.

IX. Expanding eligible forestry residues and usable source feedstocks supports lower-carbon fuel development and forest health.

Forestry residues represent a promising and abundant source of renewable feedstock that can play a key role in reducing the carbon intensity of transportation fuels while supporting broader ecological and economic objectives, such as wildfire prevention and sustainable forest management. However, the Proposed Rule would narrowly limit eligible feedstocks to "[s]mall-diameter, nonmerchantable forestry residues removed for the purpose of forest fire fuel reduction, or forest stand improvement, and from a treatment where nonclear cutting occurred."[20]

While this definition reflects a commendable intent to safeguard forest resources, it excludes a wide range of sustainable woody biomass sources that can be responsibly harvested and verified as lower-carbon when compared to other energy sources. By limiting eligibility in this way, the Proposed Rule may inadvertently constrain RNG production, discourage beneficial forest treatments,[21] and hinder the use of emissions-reducing biomass that is already being generated in forest operations across the region. According to the non-partisan Environmental and Energy Study Institute, to extract the largest benefits of bioenergy development while promoting conservation, "it will be important to include all forms of bioenergy that can help meet overall climate and energy objectives."[22]

To better align with both the State's climate targets and forest health strategies, the Utilities recommend Ecology expand the scope of eligible forestry residues to include merchantable

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[20] Proposed Rule, WAC 173-424-600(6)(ii).

[21] U.S. Department of Energy, *Biomass Resources* (last accessed July 23, 2025), https://www.energy.gov/eere/bioenergy/biomass-resources (finding "harvesting excessive woody biomass can reduce the risk of fire and pests, as well as aid in forest restoration, productivity, vitality, and resilience. This biomass could be harvested for bioenergy without negatively impacting the health and stability of forest ecological structure and function").

[22] Environmental and Energy Study Institute, *Sustainable Forest Biomass: Promoting Renewable Energy and Forest Stewardship*, at 14 (July 2009), https://www.eesi.org/files/eesi_sustforbio_final_070609.pdf.

residues, feedstocks certified as sustainable,[23] and other materials not associated with land-use conservation or habitat degradation.

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The Utilities appreciate the opportunity to engage with Ecology on this rulemaking. If you would like to further discuss this comment or have any questions, please reach out to Janna Loeppky at janna.loeppky@avistacorp.com, Abbie Krebsbach at abbie.krebsbach@mdu.com, Jessica Zahnow at Jessica.zahnow@pse.com, and Mary Moerlins at mary.moerlins@nwnatural.com.

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[23] *See e.g.,* Sustainable Biomass Program, https://sbp-cert.org/ (last visited July 23, 2025).