WASHINGTON CONSERVATION ACTION

August 1, 2025

Adam Saul
Environmental Planner
Department of Ecology
State of Washington
P.O. Box 47600
Olympia, WA 98504-7600

Re: Comments on updates to Chapter 173-424 WAC — Clean Fuels Program

Dear Adam Saul:

Washington Conservation Action appreciates the opportunity to provide comments on the proposed rule changes to Chapter 173-424 WAC. Washington Conservation Action, formerly known as Washington Environmental Council, has been a leading policy voice for the environment in our state for nearly 60 years. We develop, advocate, and defend policies that advance environmental progress and justice, and we supported passage of Washington's Clean Fuels Program law in 2021.

We participated throughout the first rulemaking process in 2022 and supported passage of HB 1409, updating the Clean Fuels Program (CFP), during this year's legislative session. We also provided informal comments on an earlier draft of the rule updates in January. We are committed to supporting the effective and equitable implementation of the CFP. We appreciate the agency's work to develop this complicated and dynamic program with the input of diverse stakeholders and offer the following comments and recommendations on the proposed rule changes.

WAC 173-424-600(7) Book-and-claim accounting for pipeline-injected biomethane

Temporal Matching and Sourcing Requirements
We support the rule's temporal matching requirements that allow for biomethane to be reported within a 9-month time span for the production of electricity using a fuel cell for electric vehicle charging, or the production of alternative jet fuel, alternative marine fuel, renewable diesel, and hydrogen for fuel cell vehicles. These requirements strike a good balance between allowing flexibility and maintaining a strong link between credit generation and fuel delivery.

We also appreciate that, for most biomethane credited in the program, the rule has refined and strengthened sourcing and deliverability requirements first put forward during the informal comment period. Requiring that biomethane reported using book-and-claim accounting be injected into a pipeline flowing into Washington is a common-sense approach to ensuring that the CFP is crediting transportation fuels used in Washington. These requirements are also in alignment with the proposed geographic requirements for electricity reported through book-and-claim in the CFP. Moving up the timeline and increasing requirements to 100% compliance with sourcing rules by 2030 will provide for greater alignment of the CFP with our broader state climate goals, and we strongly support these provisions.

Delay and Exemption from Sourcing Requirements
We have significant concerns regarding the delay and exemption from these sourcing requirements for biomethane used as a feedstock for alternative jet fuel. While it is clear that the legislature has intended for the CFP to encourage the siting and expansion of clean fuels production in Washington, we are concerned that this proposed element of the rule is not technology neutral and will threaten sustainable credit prices.

We strongly encourage Ecology to remove this loophole from the rule. Biomethane used as a feedstock for alternative jet fuel production should be subject to the same rules as biomethane used for all other fuels under the program. In 2023, the legislature mandated that Ecology *"must allow biomethane to be claimed as the feedstock for renewable diesel and alternative jet fuel consistent with that allowable for compressed natural gas, liquified natural gas, liquified compressed natural gas, or hydrogen production."*[1] However, the proposed rule language does not allow biomethane to be claimed as the feedstock for alternative jet fuel *consistent* with that allowable for other fuels. The agency must refrain from adopting any new rules that provide special treatment for alternative jet fuel production. If necessary, Ecology could take this issue up for further review in the next CFP rulemaking.

Alternative jet fuel is an opt-in fuel that carries no compliance obligation under the CFP. An imbalanced approach that further privileges its ability to generate credits will lead to fewer greenhouse gas reductions and investments in on-road transportation: the core sector the CFP is meant to address. In practice, this provision may also force users of on-road fuels to provide an undue subsidy to a single proposed alternative jet fuel facility.

In order to successfully incentivize alternative jet fuel without undermining the larger goals of our CFP and Washington's statutory greenhouse gas emission limits, we need to use the right tools in the right policies. Changes in other sections of the proposed rule will help the CFP to provide some of those tools, but as written, this element will tip the scales too far in one direction.

The risks of an imbalanced approach to alternative jet fuel crediting are compounded by the risks of avoided methane crediting in the CFP. Avoided methane credits are unique in the program, since they can be assigned negative carbon intensity values and essentially serve as

[1] RCW 70A.535.150(2)

offsets. Livestock projects seeking offset credits for anaerobic digestion activities are already able to do so through compliance offset protocols, including the Livestock Offset Protocol adopted by both Washington's Climate Commitment Act program and California's cap-and-trade regulation. Notably, compliance offset programs include much more stringent requirements for additionality, quantifying baseline emissions, ongoing monitoring, and verification of claims than what is feasible in a clean fuels program.

Avoided methane crediting is not technology neutral because it gives biomethane a lopsided advantage over other fuels in the CFP, which are not allowed to use offset accounting. Although biomethane has accounted for a relatively minor share of CFP crediting in Washington so far, increased production of alternative jet fuel and renewable diesel using biomethane as a feedstock could drive major impacts on credit supply and prices in coming years. As we've seen during the first years of the CFP, a market imbalance and low credit values jeopardize the ability of the program to drive meaningful investment in clean fuel infrastructure across the state.

We can learn valuable lessons from other states with well-established clean fuels programs. For example, under California's Low Carbon Fuel Standard during 2024, biomethane captured at dairy and swine farms across the country (and mostly outside California) generated about 20% of all program credits, while making up only about 3% of alternative fuel used in California.[2] This oversupply has contributed to a growing credit bank and declining LCFS credit values. In its most recent rulemaking, the California Air Resources Board took steps to correct this issue, but many argued they should have gone further.

In summary, WAC 173-424-600(7)(c) deals with two areas of credit generation — alternative jet fuel crediting and avoided methane crediting — that each have the potential to throw our Clean Fuels program off-track. Together, the impact could be significant. As proposed, this section of the rule threatens the success of the CFP. It undermines work toward sustainable credit prices and the ability of the program to drive investment in emissions reductions from on-road transportation. It also raises serious questions about equity and the maintenance of technology-neutral standards in the program.

For this reason, we ask Ecology to remove WAC 173-424-600(7)(c) from the final rule. If necessary, the agency could take this issue up in its next CFP rulemaking, in order to allow for adequate consideration of alternate approaches that will strike a better balance for the long-term success of the program.

WAC 173-424-610(16) Avoided methane crediting

Because of the issues discussed above, and additional issues outlined in comments submitted by

[2] https://theicct.org/proposed-safeguards-in-washington-states-clean-fuel-standard-are-crucial-feb25/

Earthjustice, Climate Solutions, and others, avoided methane crediting should ultimately be phased out of Washington's CFP. Biomethane can be credited in the program through fuel pathways that account for lifecycle emissions without using calculations that allow negative carbon intensity values.

Additionality Requirements and Crediting Periods

In advance of phasing out avoided methane crediting, we support the proposed rule's establishment of more specific criteria for the generation of credits from biomethane production. We appreciate the additionality requirements for biomethane produced at dairy cattle and swine farms and organic material diverted from landfills. These provisions will not solve the underlying problems inherent in avoided methane crediting, but they will help to ensure that the Clean Fuels Program is not simply subsidizing emission reductions that are required by independent legal requirements.

We also appreciate the proposed requirements that a dairy or swine farm has not introduced liquid or slurry manure management in the five years preceding a fuel pathway application and that an organic material diversion project must prevent the fugitive release of methane.

Limiting crediting to two seven and a half year periods for new projects, and a prorated time period for existing projects, could help support the primary goal of the Clean Fuels Program: to meaningfully reduce greenhouse gas emissions associated with on-road transportation. Longer crediting periods could reduce investment in transportation electrification, disincentivize more sustainable manure management practices that avoid the production of methane altogether, and adversely affect the development of the range of cleaner fuels necessary to decarbonize on-road transportation.

For example, the production of green electrolytic hydrogen with clean electricity is an emerging technology with the potential to reduce emissions in the transportation sector. However, prolonged or indefinite crediting for captured methane could help sustain conventional steam methane reformation as the primary method of hydrogen production, rather than encouraging the transition to cleaner production methods using electricity, because of the advantages conferred by biomethane with deeply negative carbon intensity values.

Ultimately, we urge Ecology to take up the issue of responsibly phasing out avoided methane crediting, including the practice of assigning negative carbon intensity values, during its next rulemaking.

Compliance offset credits and CFP credits

The proposed rule language in WAC 173-424-610(16)(f) addressing compliance offset credits and CFP credits has been carried over from California's LCFS regulation. In July 2025, California's new LCFS went into effect, and its language on this issue has not substantively changed since the regulation effective in July 2020. California's July 2020 LCFS regulation included language addressing compliance offset credits and LCFS credits and the treatment of Renewable Energy Certificates and Renewable Thermal Certificates across California's LCFS and cap-and-trade programs.[3] In September 2020, California Air Resources Board published a "Frequently Asked Questions" document based on the July 2020 regulation with the following question and answer:

> *Can a project receive credit under both the LCFS and Cap-and-Trade Program during the same reporting period?*
>
> *No, the existing Livestock Protocol does not include an accounting mechanism to address crediting in two programs. A project may not receive credits under the Cap-and-Trade Program and LCFS within the same reporting period, even for reductions that are not credited under the LCFS program.*[4]

Since the relevant sections are substantively unchanged in the new LCFS regulation adopted this month, it is our understanding that stacking (or double-counting) LCFS credits and cap-and-trade Livestock Projects offset credits is not allowed in California. Since the new language Ecology is proposing is based on California's regulation, it is our understanding that stacking CFP credits and Washington CCA (or California Cap-and-Trade) Livestock Projects offset credits will not be allowed in Washington. We support this prohibition.

WAC 173-424-420(6)(d) Reporting gallons transferred in and out of commingled storage tank or that are commingled in production or in transport

This section of the rule would newly allow mass balance accounting in Washington's CFP, in alignment with Oregon's CFP. However, it is our understanding that mass balancing is not allowed under California's LCFS because of the risks of double counting, credit inflation, and traceability. We support the comments provided by Earthjustice on this issue and ask Ecology to remove this section of the proposed rule.

WAC 173-424-630(5)(c) Offsite renewable electricity

We support Ecology's proposed requirement that renewable energy certificates (RECs) must be generated from facilities in Washington, Oregon, or Idaho that began operating or improved efficiency on or after January 1, 2019. We also support the proposed sideboards placed on RECs from incremental hydroelectric generation. These requirements align with the rule's new sourcing requirements for biomethane, Washington's CETA requirements, and the overarching

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[3] https://ww2.arb.ca.gov/sites/default/files/2020-07/2020_lcfs_fro_oal-approved_unofficial_06302020.pdf

[4] https://ww2.arb.ca.gov/sites/default/files/2020-09/2020_dairy-swine-manure_crediting_faq.pdf

framework of state climate policy that the Clean Fuels Program is a part of.

Changes to Transit Crediting

Fixed-guideway systems
We support the changes proposed by Climate Solutions, Earthjustice, and others to allow full credit generation for fixed-guideway systems, such as light rail and electric trolley buses. Specifically, we support the ability of transit agencies to receive equal credit generation for fixed-guideway systems installed prior to 2023, in alignment with recent updates to California's LCFS.

Updating the Energy Economy Ratio for Electric Transit Buses
Based on the details described in Earthjustice's comments, we support the recommendation to add a transit bus vehicle miles traveled (VMT)-based Energy Economy Ratio (EER) of 2.0 to the current "Electricity/Battery Electric or Plugin Hybrid Transit Bus" EER. This would adjust the EER from 5.0 to 7.0.

We agree with the need to update methodologies to more accurately credit transit's role in reducing greenhouse gas emissions from Washington's transportation system. By considering elements like VMT, congestion relief, land-use change, and other factors that are more consistent with the life cycle analysis approach applied to fuel pathways in the CFP, the program can strengthen investments in this critical sector. We look forward to continued conversations about ongoing improvements to transit crediting in the program.

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We appreciate Ecology's dedication to the complex work of updating the CFP rules and are committed to continuing to support changes that improve and strengthen the program moving forward. Thank you for your consideration of our comments.

Sincerely,

Caitlin Krenn
Climate and Clean Energy Director
caitlin@waconservationaction.org
(206) 631-2630

Keith Curl-Dove
Climate and Communities Manager
keith@waconservationaction.org
(206) 631-2600