



March 3, 2026

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Climate Pollution Reduction Program
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Submitted electronically

Re: Scoping Comments on the 2026 Clean Fuel Standard Rulemaking

Dear Ms. Sanner,

Earthjustice submits these scoping comments in support of the Department of Ecology’s (Ecology) rulemaking to update the Clean Fuel Standard (CFS) pursuant to Second Substitute House Bill 1409.¹ We commend Ecology for undertaking this rulemaking at a pivotal moment for Washington’s climate. The CFS is one of the largest sources of potential funding for Washington’s transition to zero-emission vehicles (ZEVs), which are essential for achieving the state’s ambitious greenhouse gas (GHG) targets. The timing of this rulemaking is particularly important as federal support for vehicle electrification has been significantly curtailed. The recent loss of the federal \$7,500 EV tax credit, Congressional action that purports to rescind the state ZEV waivers, and withdrawal of other ZEV and environmental justice funding have materially altered the landscape. At the same time, federal policy has continued and expanded support for liquid and gaseous biofuels, creating asymmetry that risks skewing Washington’s transportation market toward combustion rather than electrification.

We are eager to partner with Ecology to make this rulemaking as effective, scientifically grounded, and equitable as possible. Our recommendations will help ensure Washington can continue making progress in increasing Washingtonians’ access to ZEVs—advancing the goals of Governor Ferguson’s ZEVgreen initiative.² Our comments focus on two priority areas: (1) strengthening the program’s role in advancing Washington’s ZEV goals, and (2) ensuring the CFS reflects current lifecycle science across all fuels.

¹ See Washington Department of Ecology, Preproposal Statement of Inquiry WSR 26-03-075 (Jan. 20, 2026), <https://ecology.wa.gov/getattachment/0ed1bb8e-cfe8-4898-9dfe-090db32874ae/WSR-26-03-075.pdf>.

² Washington Governor Bob Ferguson, *Governor Ferguson, Ecology launch ‘ZEVgreen’ to expand access to zero-emission vehicles* (Sept. 22, 2025), <https://governor.wa.gov/news/2025/governor-ferguson-ecology-launch-zevergreen-expand-access-zero-emission-vehicles> (“ZEVgreen announcement”).

Our specific recommendations are:

Strengthen the CFS as a Tool for ZEV and Climate Goal Achievement

- Align CFS updates with Washington’s ZEV goals, climate goals, and related plans, including by evaluating whether the credit structure adequately supports electrification in nascent markets and prioritizing zero-emissions technologies for ports and other equipment that disproportionately burdens pollution-impacted communities.
- Require transparent public reporting on how utilities and third-party aggregators are spending CFS credit revenues.
- Consider whether new mechanisms or requirements are appropriate for directing holdback credit revenue to projects that address Washington’s most pressing needs for equitable transportation electrification.
- Maintain program integrity by excluding credit pathways for combustion technologies, including book-and-claim biomethane paired with generators, that would compete with and undermine grid-connected electrification.
- Prioritize crediting for investments occurring in overburdened communities.

Apply Current Science Consistently Across All Lifecycle Accounting

- Update the light-duty energy economy ratio to reflect current vehicle efficiency data.
- Ensure electric transit crediting reflects the full lifecycle benefits, including drivetrain conversion and mode shift.
- Address overgeneration of credits by liquid biofuels by adopting appropriate safeguards, such as volumetric caps.
- Review biomethane carbon intensity accounting assumptions, including counterfactual assumptions and methane leakage.

I. Strengthen the CFS as a Tool for ZEV and Climate Goal Achievement

A widespread transition to ZEVs is necessary for achieving Washington’s long-term climate goals. To ensure Washington State does its part to address the climate crisis and protect its most vulnerable residents, the legislature committed the state to significantly reducing its GHG emissions, setting a target of reducing Washington’s overall emissions of greenhouses gases in the state to 45% below 1990 levels by 2030, to 70% below 1990 levels by 2040, and to 95% below 1990 levels by 2050.³ Dramatically reducing on-road gasoline and diesel emissions is necessary to achieve these goals, which is not feasible with biofuels, particularly at the scale required.

The transportation sector is the largest contributor of GHG emissions in Washington.⁴ On-road emissions from gasoline and diesel account for 30.8% of Washington’s total GHG emissions, with diesel vehicles contributing 8.7% of the total state-wide GHG emissions.⁵ Moreover,

³ RCW 70A.45.020(1)(a).

⁴ Wash. Dep’t Ecology, Washington State Greenhouse Gas Emissions Inventory: 1990–2018, at 15–17 (2021), <https://apps.ecology.wa.gov/publications/documents/2002020.pdf>.

⁵ *Id.* at 13, 16.

transportation-sector emissions have driven a recent increase in total statewide GHG emissions,⁶ demonstrating the danger that increases in vehicle-miles traveled (VMT) could overwhelm incremental reductions from using biofuels. As the federal government has recognized, a transition to zero-emission electric vehicles (EVs) is the key to achieving deep decarbonization in the light-duty vehicle (LDV) sector: “Achieving 2050 net-zero-emissions goals will require transitioning new LDV sales to zero-emission EVs by the mid-2030s, and then rapidly replacing the legacy stock of higher-polluting fossil-based vehicles with zero-emission EVs.”⁷ In this rulemaking, Ecology should strive to ensure that the CFS effectively serves Washington’s long-term climate goals by providing critical incentives to deploy ZEVs.

Increased support for light-duty EVs will also align with Washington’s affordability goals. As noted in the announcement for the ZEVgreen initiative, transportation is the second-largest expense for American households and EVs can help reduce spending on fuel and maintenance.⁸ Washington households are especially well-positioned to save money by driving EVs because the state has some of the cheapest electricity rates in the nation.⁹ Overall, EVs can help Washington households save up to \$8,000 over the typical length of ownership for a new car.¹⁰ We offer recommendations that will advance Governor Ferguson’s efforts to help more households enjoy the economic benefits of switching from conventional vehicles to EVs.

Washington’s Interagency Electric Vehicle Coordinating Council’s 2025-2027 Work Plan indicates that the state has fallen behind Transportation Electrification Strategy modeling targets for EV adoption, with EV market share growth plateauing below projections.¹¹ Coupled with reduced federal support for ZEVs and increased support for liquid and gaseous fuels, we urge Ecology to align the CFS with its ZEV regulatory efforts wherever possible. We offer the following areas to consider during this rulemaking process.

A. Align CFS Updates with Washington’s ZEV Goals, Climate Goals, and Other Plans

The CFS rulemaking presents an important opportunity to evaluate whether the program’s current structure is optimally positioned to support Washington’s transportation electrification goals, particularly given the changing federal landscape. At the same time, continued and expanded federal support for liquid and gaseous biofuels creates an asymmetry that this rulemaking should thoughtfully consider.

The legislature mandated that Ecology operate the CFS and the ZEV program in tandem. Through the CFS, Ecology is required to reduce GHG emissions from regulated fuels by 45% by 2038.¹² However, if either (i) the zero emission vehicle program is not enforced, or (ii) the GHG from transportation are not on track to meet the statewide 45% reduction target, then Ecology can ratchet up the CFS target to require a 55% reduction in GHG emissions from the regulated

⁶ *Id.* at 13, 16–17.

⁷ Matteo Muratori et al., *The U.S. National Roadmap for Transportation Decarbonization: A Joint Strategy to Transform Transportation*, U.S. Dep’t of Energy et al., at 58 (2023), <https://rosap.nsl.bts.gov/view/dot/66718>.

⁸ ZEVgreen announcement, *supra*, note 2.

⁹ *Id.*

¹⁰ *Id.*

¹¹ Washington Interagency Electric Vehicle Coordinating Council, *2025–2027 Biennial EV Council Work Plan*, at slide 9 (2025), <https://deptofcommerce.app.box.com/s/koh5a0bacq2oiyelh6wk1go6ciwkt332>.

¹² RCW 70A.535.025(5)(a).

fuels by 2038.¹³ These programs are complementary and mutually reinforcing policy levers for transforming the transportation sector. We encourage Ecology to use this rulemaking to advance Washington’s deep decarbonization and clean air goals by evaluating whether the current credit structure adequately supports ZEV adoption across vehicle categories, including those where electrification is nascent and where additional program support could be most consequential. HB 1409 implementation should include policy reforms that stimulate investment in ZEVs, port electrification, and associated infrastructure needs.

In particular, we encourage Ecology to consider whether there are vehicle categories where the current CFS framework could better incentivize electrification in ways that advance ZEV goals, improve in-state air quality, and support Washington’s broader climate commitments. The rulemaking should examine whether the CFS fully recognizes the decarbonization benefits of all categories of ZEVs, including ZEVs in nascent markets that provide market-transformation benefits.

Because ZEVs are zero-emitting, they provide tangible co-benefits to the state that combustion fuels do not provide. Optimizing the CFS for ZEVs, therefore, can increase the cost-effectiveness of multiple policy priorities: climate, air quality, ZEV, and equity goals. We encourage the State to consider ways to optimize benefits to those paying for the CFS—Washingtonians. Ecology should prioritize mechanisms that will support a zero-emissions transition for equipment that disproportionately harms Washington’s most pollution-burdened communities.

Washington’s ports are among the most significant sources of air pollution in the state’s most overburdened communities. Diesel exhaust from port equipment, cargo ships, trucks, and locomotives exposes nearby residents to disproportionate levels of particulate matter and nitrogen oxides. Environmental justice communities near these ports have long advocated for electrification as the most effective path to cleaning up this pollution. Ecology should specifically consider the current crediting structure adequately supports electrification at the ports and whether targeted program enhancements could accelerate the transition to cleaner ports. Opportunities to increase support for shore power and other zero-emissions technologies that serve ports could include expanded credit pathways for marine shore power. For example, the current limit of 10 MW per-site nameplate cap may be sufficient for trucking and fleet operations, but it may be insufficient for ports, where a single cruise ship berth can require up to 10 MW on its own, and a container terminal serving multiple vessels simultaneously may require substantially more.¹⁴ Diesel-powered ships and other equipment cause significant climate and clean air harms through the emission of diesel particulate matter, which includes black carbon—a potent climate pollutant.¹⁵ Thus, the co-benefits of port electrification include reducing diesel pollution’s significant health burdens on neighboring communities and reducing the climate-

¹³ RCW 70A.535.025(5)(b)(i).

¹⁴ See, e.g., David Hume, *The Demand Drivers Ushering in Port Electrification*, The Liquid Grid (Feb. 22, 2022), <https://theliquidgrid.com/demand-drivers-port-electrification/> (a single ferry may need 10 MW power alone); Dr. Carlo Rautcci, Dr. Tristan Smith & Kat Deyes, *Reducing the UK Maritime Sector’s Contribution to Air Pollution and Climate Change*, frontier economics (July 2019), https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/816017/potential_demands_on_UK_energy_system_from_port_shipping_notification.pdf (estimating port power needs in the United Kingdom).

¹⁵ See Cal. OEHHA, *Atmospheric Black Carbon Concentrations* (Aug. 23, 2023), <https://oehha.ca.gov/climate-change/epic-2022/climate-change-drivers/atmospheric-black-carbon-concentrations>.

forcing impacts of black carbon. Ecology should consider whether dedicated crediting or adjusted caps for port sites is warranted.

Ecology can also meaningfully increase the CFS' support for transportation electrification by updating its assumptions and methodologies to reflect the best available and up-to-date data. For instance, updating the energy economy ratio (EER) for light-duty EVs to reflect the efficiency of modern vehicles would significantly increase credit generation for fueling these vehicles, as discussed below in section II.A. Similarly, recognizing the full decarbonization benefits of electric transit vehicles would help public transit agencies transition to ZEVs, as discussed below in section II.B.

Lastly, Ecology should structure the credits program to incentivize investments that will reduce pollution in communities overburdened by pollution, to mitigate the harms these communities experience resulting from decades of pollution in their neighborhoods. The legislature passed the Heal Act because “the state has a compelling interest in preventing and addressing [] environmental health disparities in the administration of ongoing and new environmental programs . . . and in administering these programs so as to remedy the effects of past disparate treatment of overburdened communities and vulnerable populations.”¹⁶ Accordingly, the Heal Act requires Washington agencies to “incorporate environmental justice principles into its decision processes” including when “granting or withholding environmental benefits.”¹⁷ Here, Ecology is amending a crediting program that encourages financial investment to reduce greenhouse gas emissions—an environmental harm. In updating this program, Ecology should consider how it can create “environmental benefits” for overburdened communities and vulnerable populations, including by reducing pollution in these communities. We encourage Ecology to adjust incentives to prioritize credits for investments that would reduce or eliminate pollution in overburdened communities, such as investments in shore power and electrification of drayage trucks.

B. Ensure Transparent Reporting on Utility Reinvestment of Credit Revenue

We also encourage Ecology to evaluate how the utility reinvestment provisions are functioning, including how credit revenue is being directed toward transportation electrification and underserved communities. This evaluation should include third-party aggregators that are managing revenue on behalf of utilities. The EV Council's 2025-2027 Work Plan confirms that Ecology is engaged in this coordination, and this rulemaking provides an opportunity to assess whether any changes to WAC are warranted.

At a minimum, Ecology should require utilities and third-party aggregators to publicly report on how CFS credit revenues are being spent, by project type and community served. Without such transparency, it is impossible to evaluate whether the program is achieving its equity and electrification goals. We note that the statute includes a penalty provision for improper utility spending, but meaningful enforcement requires visibility into how the revenue is spent.¹⁸ In addition, Ecology should consider additional opportunities for stakeholder participation in developing spending plans, so that the communities most in need of transportation electrification investment have a voice in how these funds are directed. Ecology should also consider whether

¹⁶ RCW 70A.02.005(3).

¹⁷ RCW 70A.02.080(1).

¹⁸ RCW 70A.535.280(7), (10).

new mechanisms or requirements are appropriate for directing revenue to projects that address Washington’s most pressing needs for equitable transportation electrification.

C. Maintain Rigorous Evaluation of Fuels

We support the CFS as a tool for decarbonizing transportation across all fuels types, and we recognize that opt-in pathways play a role in the program. Opt-in fuel pathways that have no corresponding deficit-generating counterpart should not come at the expense of on-road electrification. Significant credit generation from a few SAF or marine alternative fuel projects could influence the market without a deficit-generating counterpart. Such a dynamic can lower the economics of electrification for utilities, transit operators, and in-state fleets that are electrifying and rely on CFS revenue. We encourage Ecology to assess the role of these fuels and consider if any guardrails are needed. At a minimum, the CFS update should not consider changes that threaten to dilute the program’s support for ZEVs by expanding credit generation for combustion fuels in the aviation and marine sectors.

The scope of the rulemaking should exclude amendments that would artificially tilt the playing field in favor of combustion electricity generation, to the disadvantage of vehicles that charge on Washington’s increasingly zero-emissions electric grid. For instance, California is now proposing to allow book-and-claim biomethane paired with generators to generate credits in the LCFS. Ecology has already decided that changes related to book-and-claim accounting are outside the scope of this rulemaking, making such revisions beyond the scope of this process.¹⁹ Nonetheless, CARB’s proposal provides an illustrative example of why revisions that favor linear generators and other polluting technologies should not be considered in this or future rulemakings. CARB’s proposal has drawn opposition from technical and environmental organizations, noting that book-and-claim biomethane can outcompete grid-connected zero-emission charging. Under relatively modest credit prices, this could create a strong market preference for natural gas infrastructure over the grid-connected electric charging that Washington’s decarbonization goals require. This pathway would also funnel program revenue toward out-of-state livestock operations that make no contribution to Washington’s climate goals. Washington’s decarbonization goals are best served by directing program resources toward grid-connected electrification, not fossil gas infrastructure dressed up with out-of-state accounting credits.

II. Apply Current Science Consistently Across All Lifecycle Accounting.

Ecology has committed to updating the WA-GREET model to version 4.0 in this rulemaking to “ensure the use of the most up-to-date scientific methodology.”²⁰ We strongly support this commitment. We urge Ecology to apply the same principle consistently across all lifecycle accounting elements of the CFS, which is administratively efficient and allows the most accurate GHG accounting available.

¹⁹ Wash. Dep’t Ecology, Preproposal Statement of Inquiry, at 1 (Jan. 20, 2026), <https://ecology.wa.gov/getattachment/0ed1bb8e-cfe8-4898-9dfe-090db32874ae/WSR-26-03-075.pdf>.

²⁰ *Id.*

A. Update the Light-Duty EER

The CFS currently uses an energy economy ratio (EER) for electricity used in light-duty passenger vehicles, developed by the California Air Resources Board (CARB) in 2011.²¹ Better data are available. For example, a 2023 National Renewable Energy Laboratory (NREL) study calculated an EER of 4.4 for US light-duty vehicles, the most recent and comprehensive analysis available.²² Updating this EER to 4.4 would increase base credit generation, thereby increasing the revenue available for transportation electrification investments.²³

This is not a new incentive or structural change. By using updated data, Washington is more accurately accounting for the GHG emission reductions it is achieving, consistent with the update that WA-GREET 4.0 represents. Electric vehicle technology has achieved significant advancements since 2011, and continued reliance on 15-year-old EERs would prevent the CFS from recognizing efficiency gains from the maturation of this technology.

B. Ensure Electric Transit Crediting Reflects the Full Lifecycle Benefits

The CFS currently uses two different approaches to credit electric transit, and together they reveal that the program does not fully account for the total GHG benefits of electric transit. Electric buses are credited for powertrain conversion but not occupancy. Fixed guideways alone are credited for occupancy efficiency. And critically, neither approach includes the GHG benefits associated with mode shift, which credits the emissions benefit of moving passengers by transit rather than by private vehicle.

Both methodologies assume that transit riders would otherwise shift between transit modes (e.g., from bus to rail, or from diesel to electric buses). This framing overlooks the reality that many riders would otherwise drive private vehicles if transit options were unavailable or less convenient. Excluding mode shift crediting omits a key component of transit's lifecycle GHG benefits.

A complete and consistent crediting framework for electric transit would incorporate all components of GHG reduction for transit vehicles. Methodologies for quantifying these benefits exist and are used in other GHG accounting contexts.²⁴ The American Public Transportation Association (APTA) provides methods for quantifying the GHG benefits of transit through VMT displacement, congestion relief, and land-use effects.²⁵ Ecology's Concise Explanatory

²¹ CARB's 2011 Rulemaking site: <https://ww3.arb.ca.gov/regact/2011/lcfs2011/lcfs2011.htm>. On that page is the ISOR, <https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2011/lcfs2011/lcfsisor.pdf>. The ISOR page 47 (pdf page 67) describes the methodology.

²² NREL, Energy Economy Ratio for Light-Duty Battery Electric Vehicles, NREL/TP-5400-84631 (2023), <https://docs.nrel.gov/docs/fy23osti/84631.pdf>.

²³ WAC 173-424-220 and 173-424-420.

²⁴ California's SEPA equivalent, CEQA, allows quantified GHG mitigation benefits from transit through reduced VMT. See the statewide land use emissions model, California Emissions Estimator Model (CalEEMod): <https://www.aqmd.gov/calceemod/home>, and the underlying technical document: https://www.airquality.org/ClimateChange/Documents/2024%20Handbook%20Update_AB434.pdf.

²⁵ APTA, *Quantifying and Reporting Transit Sustainability Metrics* (2012), <https://www.apta.com/research-technical-resources/standards/sustainability/>; APTA, *Recommended Practice for Quantifying Greenhouse Gas Emissions from Transit* (2009), <https://www.apta.com/wp-content/uploads/Resources/resources/hottopics/sustainability/Documents/Quantifying-Greenhouse-Gas-Emissions-APTA-Recommended-Practices.pdf>.

Statement (CES) from its 2025 rulemaking acknowledged insufficient time to evaluate such updates.²⁶ This rulemaking provides that opportunity. More completely crediting electric transit's GHG benefits would also generate additional revenue for transit agencies, which disproportionately serve low-income communities and are essential partners in Washington's electrification and decarbonization strategy.

C. Address Overgeneration of Credits by Liquid Biofuels

The CFS relies on indirect land use change (ILUC) values set over a decade ago by California. The science on ILUC has advanced substantially, and the evidence now strongly suggests that the climate benefits of crop-based biofuels are significantly lower than the current values reflect. This is not a theoretical concern—it is a program integrity issue with direct implications for whether CFS credits represent actual emissions reductions. Moreover, a glut of credits from over-subsidized biofuels would threaten Washington's ability to meet its long-term climate goals by reducing the incentive to transition to ZEVs.

Key findings support a comprehensive review of the role of biofuels in the CFS:

- **Lark et al. (2022)** found that domestic land use change emissions alone make corn ethanol at least 24% more carbon-intensive than gasoline, and the authors explicitly describe this as a lower bound, since international land use effects would be additional.²⁷
- **EPA's 2023 model comparison exercise** demonstrated that ILUC estimates vary widely across modeling frameworks, but that more biofuel demand leads to more land use change—potentially an order of magnitude greater than currently assigned in the CFS.²⁸
- **California Air Resources Board 2024 Low Carbon Fuel Standard** update acknowledged these risks and adopted additional requirements for certain crop-based feedstocks, including volume limits and feedstock sustainability requirements.²⁹
- **A 2025 study by Chen et al.** found that global biomass-based diesel demand has significantly driven vegetable oil price increases and large-scale tropical deforestation. The authors estimated ILUC emissions at 83 gCO₂e/MJ as a “lower bound on the land use change effects of BBD use”, far exceeding the current regulatory values.³⁰
- **In February 2026, the European Union** proposed to phase out high-ILUC-risk biofuels entirely by 2030, including those derived from palm and soy oils.³¹

Ecology should also consider that expanded use and production of crop-based biofuels could undermine Washington's climate goals. That is because of the significant climate costs of using

²⁶ Wash. Dep't Ecology, Concise Explanatory Statement Chapter 173-424 WAC Clean Fuels Program Rule, Publication 25-14-090 (Oct. 2025), <https://apps.ecology.wa.gov/publications/documents/2514090.pdf>.

²⁷ Tyler J. Lark et al., *Environmental Outcomes of the US Renewable Fuel Standard*, 119(9) Proc. of the Nat'l Acad. of Scis. 1–8 (2022), <https://www.jstor.org/stable/27150759>.

²⁸ EPA, Model Comparison Exercise Technical Document, EPA-420-R-23-017, Table 7.7-1 (June 2023), <https://nepis.epa.gov/Exe/ZyPURL.cgi?Dockey=P1017P9B.TXT>.

²⁹ The amendments that were approved in 2024 and began implementation July 1, 2025 are available at CARB's website. CARB, *LCFS Regulation*, <https://ww2.arb.ca.gov/our-work/programs/low-carbon-fuel-standard/lcfs-regulation> (last visited Mar. 2, 2026).

³⁰ Tzu-Hui J. Chen, Richard. J. Sexton & Aaron Smith, *Using Vegetable Oils for Biofuel Accelerates Tropical Deforestation and Increases Carbon Emissions*, at 12–13, <https://www.aaronsmithagecon.com/research>.

³¹ Draft amendment to Delegated Regulation (EU) 2019/807 (2026), https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=PI_COM%3AAres%282026%29675044&qid=1771630160531.

land to grow crops for fuel rather than using it to sequester carbon. Land is a finite resource, so any land used for biomass production—whether newly converted land or land remaining in cultivation—cannot be used to sequester carbon, or for other purposes such as growing food. The climate impact of producing crop-based biofuels includes both the emissions from the newly cleared land as well as the lost opportunity to sequester carbon in land already in production that could otherwise revert back to native grassland. And there are additional climate costs associated with precluding alternative uses of the land, including uses that more efficiently produce useable energy. For example, because solar panels produce at least 100 times more useable energy than crops and electric engines are three times more efficient than fossil fuel engines, one acre of solar panels provides as much transportation energy as 300 acres of crops for biofuels, leaving 299 acres for carbon sequestration or food.³²

Ecology’s 2025 CES noted that requests to consider this issue were outside the scope of the previous rulemaking. Given the growing evidence that these fuels may not provide the climate benefits being credited by the CFS, we urge Ecology to include rigorous safeguards for biofuels. Ecology should consider tools such as volumetric caps to ensure that the CFS does not reward industry for flooding the Washington fuels market with unsustainable volumes of biofuels.

D. Review Biomethane Carbon Intensity Accounting Assumptions

We urge Ecology to evaluate the accounting framework currently used to calculate the carbon intensity scores of biomethane projects. Given the substantial credit potential for small fuel volumes, it is essential that the assumptions are well-founded and as accurate as possible. This aligns with Ecology’s 2025 CES, which noted that WA-GREET updates would potentially include dairy emission factors. We urge Ecology to evaluate all aspects of biomethane accounting—including counterfactual assumptions, methane leakage, and lagoon cleanout—that are separate from the narrow topics the agency excluded in its Rule-101 notice. We ask that the evaluation be done through a transparent process that allows meaningful public and scientific engagement with the underlying assumptions. We recognize that Ecology recently amended its CFS provisions on book-and-claim accounting and avoided methane crediting periods—we do not seek to reopen those decisions in the current rulemaking.

We also flag a Washington-specific concern. The potential use of biomethane in sustainable aviation fuel (SAF) production at proposed in-state facilities. Because SAF is an opt-in fuel, and paired with highly-negative CI values, a single large facility relying on biomethane feedstock could have a disproportionate impact on the overall credit market. We ask that Ecology model the potential crediting and market impacts of such an outcome as part of this rulemaking.

III. Conclusion

The 2026 CFS rulemaking presents a unique opportunity to strengthen one of Washington’s most consequential climate tools. Earthjustice’s proposals are grounded in science, consistent with Ecology’s own stated priorities, and designed to ensure the CFS does its full share to advance the state’s climate and ZEV goals even as the federal policy landscape puts up barriers. We look

³² See Timothy Searchinger, Tim Beringer & Asa Strong, *Does the World Have Low-carbon Bioenergy Potential from the Dedicated Use of Land?*, 110 Energy Pol’y 434 (2017).

forward to working with Ecology throughout the rulemaking process and are happy to provide additional analysis on any issues raised.

Sincerely,

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