

Earthjustice (Sara Gersen)

Please see attached comment letter from Sara Gersen and Victor Zertuche, Senior Attorneys, Earthjustice, regarding Comments on the 2026 Clean Fuel Standard Rulemaking for Transportation Electrification.



June 17, 2026

Lauren Sanner
Clean Fuels Program, Department of Ecology
Climate Pollution Reduction Program
P.O. Box. 47600
Olympia, WA 98504-7600

Submitted electronically

Re: Comments on the 2026 Clean Fuel Standard Rulemaking for Transportation Electrification

Dear Ms. Sanner,

Earthjustice submits these comments in support of Department of Ecology's (Ecology) rulemaking to update the Clean Fuel Standard (CFS) pursuant to the Second Substitute House Bill 1409.¹ We commend Ecology for the work that it has already undertaken to incorporate feedback received during the scoping comment period. The May 27th public workshop demonstrated Ecology's commitment to advancing transportation electrification through the CFS. That commitment is critically important at a time where federal policy support for transportation electrification has been curtailed and support for liquid and gaseous biofuels has expanded.

We are excited to partner with Ecology to ensure that this rulemaking supports an effective, equitable, and scientifically-grounded program that helps ensure Washingtonians have access to zero-emissions vehicles (ZEVs) and works to achieve the state's ambitious greenhouse gas (GHG) targets.

Our specific recommendations are:

- Update the energy economy ratio for light-duty electric vehicles;
- Credit transit providers for their full GHG reductions;
- Adopt statewide programs to address community priorities with utility credit revenue;
- Explore new ways to reward fuel suppliers for air quality and equity benefits; and
- Ensure excess credit generation by fuels with doubtful climate benefits does not undermine the incentive for transportation electrification.

Each of these recommendations are designed to better align the CFS with Washington's ambitious climate goals and enhance equity in the transportation system. We appreciate Ecology's consideration of these reforms.

¹ See Wash. Dep't 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>.

A. Update the Energy Economy Ratio for Light-Duty Electric Vehicles.

Earthjustice supports Ecology's proposal to update the light-duty electric vehicle (EV) energy economy ratio (EER) and commends the agency for grounding that update in Washington-specific data. The current rule value of 3.4 was developed by the California Air Resources Board and no longer reflects the efficiency of vehicles on the road today. Updating this value is not a new incentive or a structural change to the program; it is a data correction that allows the CFS to account accurately for the GHG reductions Washington is already achieving, consistent with the agency's parallel update to WA-GREET 4.0.

Washington is, in fact, already ahead of most other CFS programs on this point. To calculate residential base credits, Ecology computes a utility-specific, weighted average EER each quarter based on the actual mix of EVs registered in each service territory.² The statewide weighted average produced by that calculation has been remarkably stable, holding between 3.99 and 4.02 in every quarter from the first quarter of 2023 through the second quarter of 2025. Notably, that figure is itself conservative: the utility-specific calculation substitutes the outdated default of 3.4 whenever an EV cannot be matched to an internal-combustion equivalent, so the embedded 3.4 values pull the reported weighted average downward. The true fleet efficiency is therefore likely somewhat higher than 4.0, which aligns closely with the preliminary value of 4.2 that Ecology derived through its proposed registration-matched methodology,³ and with the value of 4.4 calculated for U.S. light-duty battery electric vehicles in the National Renewable Energy Laboratory's 2023 analysis—the most recent comprehensive study available.⁴

Earthjustice recommends that Ecology update the rule EER to reflect this current data. Ecology's own registration-matched result of 4.2 is well-supported because it is derived directly from Washington's fleet; the NREL value of 4.4 provides published, peer-reviewed corroboration and would be defensible.

Updating the default EER is particularly impactful as it is considered in multiple credit pathways. The 3.4 value functions as the default wherever a more specific EER is unavailable: it applies to non-residential light-duty charging, to residential base credits claimed by backstop aggregators and vehicle manufacturers rather than utilities, and even within the utility-specific calculation itself. Because the outdated value propagates through each of these channels, correcting it would improve the accuracy of credit generation across the light-duty program at once, and ensure that all base credit generation reflects the true efficiency of Washington's EV

² See generally Wash. Dep't of Ecology, Calculation for Residential EV Base Credits: Clean Fuel Standard Methodology Document, Pub. No. 24-14-053 (2024), <https://apps.ecology.wa.gov/publications/documents/2414053.pdf>.

³ See Ecology, Energy Economy Ratios (EER) and Transportation Electrification Workshop (May 27, 2026), slide 20.

⁴ See Singer, et al., *Electric Vehicle Efficiency Ratios for Light-Duty Vehicles Registered in the United States*, Nat'l Renew. Energy Lab'y, NREL/TP-5400-84631 (2023), <https://www.nrel.gov/docs/fy23osti/84631.pdf>.

fleet. This is precisely the kind of methodological alignment that keeps the CFS credible as a GHG accounting instrument.

B. Credit Transit Providers for Their Full GHG Reductions.

Earthjustice commends Ecology for examining how the CFS can better reflect the full climate contribution of public transit. Ecology's May 2026 workshop demonstrated exactly the kind of rigorous, forward-looking engagement this program requires. In the workshop, Ecology correctly identified that the current transit EER omits significant GHG reductions, including the benefit of riders who shift away from personal vehicles and the broader land-use and travel-behavior changes that transit investment produces. We offer this comment to help answer the questions Ecology raised and look forward to collaborating as the rulemaking proceeds.

Throughout these comments, Earthjustice notes the GHG benefits of transit and proposes solutions for recognizing those benefits, which apply to both school bus providers and transit services for the broader public. Not only do school buses provide the same suite of GHG benefits as other public transportation,⁵ they also provide unique and important public health benefits because they serve sensitive subpopulations: children with developing lungs. Therefore, school buses should be included in any policy reforms that Ecology adopts to reward transit vehicles for their full contribution to GHG reduction.

1. The current EER understates transit's climate contribution.

The electric transit EER measures a single, narrow benefit: the drivetrain efficiency advantage of an electric bus or rail vehicle over a diesel bus. It says nothing about how many car trips the service eliminates. As a result, the current approach credits a transit agency for operating a cleaner vehicle, but not for moving riders who would otherwise be driving. A system that removes hundreds of thousands of personal-vehicle trips from Washington's roads receives no CFS credit for that contribution. Both of the program's current transit approaches share this limitation: each assumes riders would otherwise shift between transit modes, overlooking the reality that many riders would otherwise drive.

⁵ Electrification of a diesel school bus eliminates emissions of diesel exhaust, which are 4-12 times more concentrated on the bus than outside. See Timothy K.M. Beatty et al., *School Buses, Diesel Emissions, and Respiratory Health*, JOURNAL OF HEALTH ECONOMICS (2011), <https://www.sciencedirect.com/science/article/abs/pii/S0167629611000701#bib0190>. These exposures are particularly dangerous for children because their developing respiratory systems make them more susceptible to pollution. Children from low-income families are more likely to take the school bus, exacerbating health disparities. See also Bureau of Trans. Stat., *The Longer Route to School*, <https://www.bts.gov/topics/passenger-travel/back-school-2019> (last updated Jan. 12, 2021).

2. Transit's full GHG benefits fall into three established, quantifiable categories.

The American Public Transportation Association's (APTA) Recommended Practice for quantifying transit GHG emissions identifies three distinct categories of reduction attributable to transit service.⁶ These are well established and widely used:

- **Mode shift.** Riders who would otherwise have driven do not. Sabouri et al. (2024) derive a direct mode shift factor of 0.329 from National Household Travel Survey data, meaning that each transit passenger mile directly avoids roughly one-third of a vehicle mile of car travel.⁷
- **Indirect land-use and travel-behavior effects.** Transit investment shapes where people live, work, and travel. Communities built around transit are more compact, produce shorter trips and are less car-dependent even among people who never ride transit, and lower vehicle ownership. These effects aggregate into substantial vehicle miles traveled (VMT) reductions beyond the riders themselves, captured through a regional land-use multiplier.
- **Congestion relief.** As transit removes vehicles from the roadway, remaining drivers experience less stop-and-go travel and burn less fuel per mile. We note that congestion relief is a recognized APTA category but have not quantified it in the approach below; we would welcome reviewing a methodology that does.

These benefits are quantifiable and established in regulatory practice. The mode-shift and land-use benefits we recommend crediting are not unique or novel. They are embedded in quantification frameworks used across the country, including APTA's national transit GHG methodology.⁸ Moreover, they are embedded in Washington's Department of Transportation, which already requires transit agencies to calculate and report VMT reductions as a condition of Regional Mobility Grant funding.⁹ The GHG benefits of transit's mode-shift and land-use effects are, in other words, already quantified for legal and compliance purposes. The CFS should recognize the same benefits the State acknowledges elsewhere.

⁶ See Am. Pub. Transp. Ass'n, *Quantifying Greenhouse Gas Emissions from Transit*, APTA SUDS CC-RP-001-09, Rev. 1 (2018), https://www.apta.com/wp-content/uploads/2026/05/APTA-SUDS-CC-RP-001-09_Rev-1.pdf.

⁷ See Sadegh Sabouri et al., *Estimating Transit's Land-Use Multiplier: Direct and Indirect Effects on Vehicle Miles Traveled*, TRANSPORTATION (2024), <https://doi.org/10.1007/s11116-024-10542-0>.

⁸ See Cal. Air. Pollution Control Officers Ass'n (CAPCOA), *Quantifying Greenhouse Gas Mitigation Measures* (2010); California Emissions Estimator Model (CalEEMod), <https://www.aqmd.gov/calcemod/home>. CalEEMod implements the CAPCOA methodology and is the tool California air districts accept for quantifying transit and land-use GHG reductions in California Environmental Quality Act (CEQA) review.

⁹ See generally Wash. State Dep't of Transp., *Regional Mobility Grant Program Performance Measurement Plan* (2026), <https://wsdot.wa.gov/sites/default/files/2026-01/PT-Guide-Grants-RegionalMobilityGrantPerformanceMeasurementPlan.pdf>.

3. Recommended methodology: a VMT-based credit pathway.

While there are multiple reasonable approaches for improving credit generation for fueling mass transit vehicles, Earthjustice recommends a VMT-based credit pathway. Credits would equal the carbon-intensity difference between the personal-vehicle travel a transit service displaces and the fuel the service itself consumes, multiplied by the displaced energy. In simplified form, the credits represent the avoided passenger vehicle emissions less the energy used by the transit service:

$$\text{Credits} = [(CI_standard) \times (P \times M \times L \times e_auto) - (CI_transit \times E_transit)] \times 10^{-6}$$

Where,

CI_standard is the carbon intensity standard of gasoline;

P is the transit service's passenger miles;

M is the mode shift factor (recommended value 0.329);

L is the regional transit land-use multiplier (recommended value 9.31 for Washington);

e_auto is the gasoline energy one vehicle mile consumes;

CI_transit is the CI of the fuel used by the transit service;

E_transit is the MJ of energy used by the transit service; and

10^{-6} converts grams of CO₂e to metric tons.

We recommend that Ecology adopt single, statewide values for both *M* and *L* unless an agency can supply better local data, which keeps the methodology administrable.

- **Mode shift factor (*M* = 0.329).** This is the value used in Sabouri et al.'s (2024) worked example, derived from National Household Travel Survey data. It sits within the range reported in APTA's own guidance, which derives mode shift factors from 0.284 to 0.508 across service-area types, with a value of 0.302 for the larger service areas that account for most of Washington's ridership and a higher value of 0.508 for smaller service areas.¹⁰ Because smaller Washington service areas tend to show higher mode shift, the recommended statewide value of 0.329 is conservative and represents the lower bound of the range of reasonable values for the state. Agencies with region-specific survey data may propose alternative values.
- **Land-use multiplier (*L* = 9.31).** We recommend the Seattle-region value of 9.31 from Sabouri et al. (2024) as the representative statewide land-use multiplier. It is the most regionally specific, peer-reviewed value available for Washington and the majority of the state's transit ridership is concentrated in the region from which it was derived. In the absence of other data, the best-available regional value is the appropriate default.

¹⁰ See Am. Pub. Transp. Ass'n, *Quantifying Greenhouse Gas Emissions from Transit*, APTA SUDS CC-RP-001-09 at 27, tbl. 10, https://www.apta.com/wp-content/uploads/2026/05/APTA-SUDS-CC-RP-001-09_Rev-1.pdf.

- **M × L product.** The product of the mode shift factor and the land-use multiplier ($M \times L$) expresses the total avoided vehicle miles per transit passenger mile. These two factors tend to move in opposite directions across service-area types. As APTA’s data show, smaller and less dense service areas exhibit a higher mode shift factor (0.508) than larger ones (0.302), because riders in those areas are more likely to have driven absent transit. A region with a lower land-use multiplier would therefore tend to carry a higher mode shift factor, leaving the product (and thus the credit generation) broadly comparable. For example, one could recommend the higher mode shift factor of 0.508 observed in smaller service areas with the national average land use multiplier of 6.59, yielding an $M \times L$ for these regions of 3.35 and the $M \times L$ for the Seattle area would be 3.1 (0.329×9.31). For the ease of implementation, and as a conservative value in the absence of other data, we recommend $M = 0.329$ and $L = 9.31$ as a single representative combination rather than a Seattle-specific advantage. This also provides equity across the transit operations within the state absent more detailed information.

Implementation of this approach does not require new data collection. Transit agencies already report the inputs this methodology requires. For mixed fleets operating both electric and non-electric vehicles, passenger miles should be attributed by fuel type: agencies with route-dedicated electric vehicles may use NTD route-level data, while agencies without clean route separation may apportion passenger miles using a vehicle-revenue-mile ratio (for example, $P_{\text{electric}} = P_{\text{total}} \times (\text{VRM}_{\text{electric}} \div \text{VRM}_{\text{total}})$, where VRM represents the vehicle revenue miles from the transit service).

4. Improving credit generation for transit providers will allow the CFS to better fulfill its statutory purpose and aid Washington’s achievement of its climate goals.

In requiring Ecology to adopt the CFS, the Legislature declared that its intent was to achieve three goals, the first two of which are: (a) reducing conventional air pollutants from diesel and gasoline that harm public health, and (b) reducing GHG emissions associated with transportation fuels, which are the state’s largest source of GHGs.¹¹ The Legislature explicitly authorized Ecology to advance the second of these goals by allowing “the generation of credits from activities that support the reduction of greenhouse gas emissions associated with transportation in Washington.”¹² That provision provides Ecology with broad discretion to identify activities that support reduction of GHGs “associated with transportation in Washington.”¹³ Providing public transit and school bus service in Washington undoubtedly reduces GHGs associated with transportation in the state through the direct and indirect mechanisms that Ecology recognized at the May 2026 workshop, making these activities and benefits appropriate for CFS credit generation.

¹¹ RCW 70A.535.005(3)(a)–(b).

¹² RCW 70A.535.050(1).

¹³ RCW 70A.535.070(1)(c).

While RCW 70A.535.050(1) provides clear authority for Earthjustice’s proposal, RCW 70A.535.050(3) provides further evidence of the Legislature’s intent for the CFS to help improve mobility options for Washingtonians. Specifically, RCW 70A.535.050 requires Ecology to allow generation of credits from a variety of state investments that reduce transportation-sector emissions, ranging from capital investments in ferries to pedestrian grant programs.¹⁴ While the statute allows credit generation for many activities with difficult-to-quantify climate benefits, it is important to note that Earthjustice’s recommendation is a mechanism for recognizing the real and quantifiable GHG benefits of transit service. Thus, credit generation for the mode shift, indirect land-use, and congestion relief benefits of transit and school buses is wholly consistent with the statutory framework.

Increasing the CFS’ support for transit agencies and school buses would also improve the program’s alignment with the Washington’s strategies for achieving its climate and public health goals. Washington’s 2026 Comprehensive Climate Action Plan (CCAP) recognizes that VMT reduction is essential for state goals:

Reducing VMT on a per capita basis is necessary to make progress on many community and state goals related to climate, health, safety and livability. It is also a practical solution to meeting the mobility needs of our growing population. We cannot build our way out of congestion, or the climate or safety crises, by continuing to use the same vehicle-capacity strategies that contributed to our current challenges.¹⁵

Thus, the CCAP makes clear that VMT reduction is necessary for tackling GHG emissions and other pollution from the transportation sector. It is appropriate for the CFS to specifically advance this strategy for reducing transportation-sector emissions because the Legislature designed the program to “[r]educe greenhouse gas emissions associated with transportation fuels.”¹⁶ A significant increase of revenue for transit from the CFS could contribute to expanding public transportation, which is a priority measure in the CCAP for reducing VMT.¹⁷

Similarly, Washington’s 2021 State Energy Strategy places VMT reduction at the heart of the state’s plans for reducing GHG emissions associated with transportation fuels. The chapter on the transportation sector opens with the clear statement that: “To meet emission reduction limits, vehicles will need to operate on renewable fuels . . . and communities must reduce miles traveled, as well as increase transit, cycling and walking.”¹⁸ To do so, the State Energy Strategy calls for expanding and aligning transportation funding with emissions and equity goals.¹⁹

¹⁴ RCW 70A.535.050(3).

¹⁵ Wash. Climate P’ship, Washington State Comprehensive Climate Action Plan (CCAP) (2026) at 90, <https://deptofcommerce.app.box.com/s/bo1ly7ol0lfq4kof220y9exp7886view>.

¹⁶ RCW 70A.535.005(3)(b).

¹⁷ CCAP at 93.

¹⁸ Wash. State Dep’t of Commerce, Washington 2021 State Energy Strategy (2020) at 51, <https://deptofcommerce.app.box.com/s/zsbjvf0nato9q7dk3t7jjh0vjbd4iqof>.

¹⁹ *Id.* at 56.

Specifically, this strategy document finds the Legislature should establish stable, equitable, and accessible funding mechanisms to cover the costs of maintaining and improving the full spectrum of transportation modes.²⁰ Improving the CFS' ability to recognize the GHG benefits of transit would provide a new funding mechanism that could begin meeting these needs.

Finally, the CFS has the ability to support Washington's broader climate goals as codified in the Clean Energy Transformation Act (CETA).²¹ CETA's goal of transitioning to a clean energy economy contemplates transportation electrification as a contributing factor. The CFS can provide a signal to utilities, transportation-sector participants, and Washingtonians that Ecology can provide support from a financial perspective and in terms of providing predictable and stable regulatory conditions for transportation investments.

5. Update the EER for trolleys to reflect an efficiency greater than or equal to battery electric buses.

At the May 2026 workshop, representatives from King County raised significant concerns with the CFS' current EER value for trolley buses being less than half that of battery electric buses (BEBs). Earthjustice shares these concerns. A lower EER for trolley buses is difficult to justify on technical grounds. Trolley buses have the potential to provide more passenger-miles of service with the same amount of energy because, for instance, the lack of a heavy on-board battery enables a trolley to have greater passenger capacity than a BEB of a similar weight.²² Moreover, BEBs incur losses in their charging and discharging cycles that trolley buses do not incur because their catenary lines deliver power directly from the grid to the drivetrain. An analysis for San Francisco Muni's showed that trolleys require fewer vehicles and are more energy-efficient per service mile than BEBs.²³ This study provides further justification for adopting an EER that is, at a minimum, the 5.0 that applies to BEBs. Updating the EER for trolley buses will help encourage further investment in this zero-emission technology.

C. Establish a Statewide Investment Program to Deploy Credit Revenue Efficiently Toward Community-Identified Priorities.

Earthjustice strongly supports Ecology's exploration of a statewide investment program as a mechanism for deploying CFS credit revenue. Such a program could direct a defined share of credit value toward clean transportation investments through a single, coordinated statewide mechanism rather than relying solely on each utility to design and administer its own programs. We believe this concept holds significant promise and encourage Ecology to develop it in this rulemaking.

²⁰ *Id.* at 57.

²¹ RCW 19.405 et seq.

²² Andres Diez Restrepo et al., *San Francisco Muni Electrification: Alternatives Analysis* (2023) at 36, <https://climateandcommunity.org/wp-content/uploads/2023/12/ElectrificationofSFMuni.FINAL-2.pdf>.

²³ *Id.* at 66, tbl. 20 (estimating average energy consumption for a trolleybus to be 2.17 kWh/mi and for a BEB to be 2.55 kWh/mi).

1. Any Statewide Programs Should Reflect Needs Identified by Members of Overburdened Communities.

It is essential that any statewide program address the priorities of Washington's overburdened communities, which disproportionately bear the impacts of the state's current reliance on combustion fuels which face unique barriers to deploying zero-emission technologies. In separate comments to Ecology, Earthjustice and a coalition of groups that are based in overburdened communities begin identifying top priorities for a statewide program. We join with this coalition in urging Ecology to consider the following:

- *Incentives that help convert public-serving fleets that are currently degrading air quality in overburdened communities with diesel pollution to electric vehicles.* It is important to target fleets like school and transit buses because they directly serve residents and disproportionately impact public health by frequenting residential neighborhoods. A statewide program that assists public-serving fleets should include eligibility for private entities like People for People, which provides vital public services.
- *Vehicle rebates for low-income households.* These rebates should be reserved for, or provide enhanced incentives to, participants who trade in very old combustion vehicles that disproportionately degrade air quality, similar to California's Clean Cars for All program. More families can benefit from vehicle rebates than at-home charger rebates; every family that goes electric will purchase a vehicle, but not all families need to invest in at-home charging because some will rely on level 1 home charging and/or public charging. Ecology should also consider directing funds to programs like Washington State Department of Transportation's WE-Bike and provide rebates for e-bikes.
- *Incentives for electrification of farm equipment in overburdened communities.* There is not much support for electrification of off-road vehicles, even though there are increasingly competitive electric options for vehicles like tractors.

Any program that supports electrification of passenger vehicles should specifically target low-income households to increase the program's cost-effectiveness and ability to promote equity. Multiple studies have found that incentives for customers with lower incomes are more effective at catalyzing EV adoption.²⁴

2. A Statewide Approach Would Advance the Program's Goals.

There are several reasons why a statewide program would allow revenue to flow more quickly and efficiently to support transportation electrification. Ecology should establish a statewide program to take advantage of these benefits.

²⁴ Gordon Bauer et al., *When Might Lower-Income Drivers Benefit from Electric Vehicles? Quantifying the Economic Equity Implications of Electric Vehicle Adoption*, International Council on Clean Transportation (2021) at 17, <https://theicct.org/sites/default/files/publications/EV-equity-feb2021.pdf>; Tamara L. Sheldon et al., *Designing Policy Incentives for Cleaner Technologies: Lessons from California's Plug-in Electric Vehicle Rebate Program*, JOURNAL OF ENVIRONMENTAL ECONOMICS AND MANAGEMENT, Vol. 84 (2016) at 26–28, https://innovation.luskin.ucla.edu/wp-content/uploads/2019/03/Designing_Policy_Incentives_for_Cleaner_Technologies.pdf.

A statewide program would be simpler and less costly to administer. A single statewide program consolidates functions that are otherwise duplicated across every participating utility: program design, application intake, eligibility review, outreach, and reporting. Consolidating these functions reduces administrative overhead and the transaction costs borne by both the agency and applicants, allowing a larger share of credit revenue to reach projects on the ground rather than being absorbed by parallel administrative structures. A coordinated program also makes outcomes easier to track and evaluate because investments flow through one accountable mechanism, rather than a patchwork of separately reported utility programs.

A statewide program would be easier to publicize and access. Fragmented, utility-by-utility programs are difficult for the public to find and navigate, particularly for individuals and community organizations that do not know which utility territory governs a given project or which programs are currently open. A single, statewide program provides one recognizable point of entry, supports unified public outreach, and makes it far easier to build awareness among the communities the program is intended to serve. This is especially important given the recent withdrawal of federal electrification support, which makes every state dollar and every potential applicant more consequential.

A statewide program would provide more consistent and equitable access across the state. Under a utility structure, the clean-transportation investment available to a Washington resident depends heavily on which utility serves them and how robust that utility's program happens to be. Residents of smaller or less-resourced utility territories may have access to fewer resources than residents of large urban utilities. A statewide program can ensure a consistent baseline of access regardless of service territory, helping to close, rather than widen, geographic disparities in clean-transportation investment.

A statewide program could prioritize the communities and regions of greatest need. A coordinated statewide program would give Ecology a direct mechanism to target credit revenue toward the communities that stand to benefit most. Investments could be prioritized for areas designated as non-attainment for federal air quality standards, communities ranking high on Washington's Environmental Health Disparities map, and low-income communities that have borne disproportionate transportation-related pollution. Reducing conventional air pollutants in these communities is not incidental to the CFS; the Legislature identified the reduction of air pollutants harmful to public health as a primary purpose of the program. While utilities would retain their required investment goals and be able to develop local priority projects, certain projects, like vehicle rebates, may be better suited to a statewide model.

A statewide program could serve as a backstop to ensure revenue is deployed promptly. A statewide program could also function as a mechanism to deploy credit revenue that is not being spent quickly or effectively through existing channels. Credit value that sits unspent delivers no climate or air quality benefit. A statewide program offers a structured way to ensure that revenue is put to work on a reasonable timeline and directed toward high-priority needs. This backstop function is among the features that the community partners we have spoken with have identified as valuable.

Washington can look to other programs as an example. California administers a portion of its Low Carbon Fuel Standard credit value through a statewide program that has delivered millions of dollars in electric vehicle rebates, first for light-duty vehicles, and now for heavy-duty vehicles. We encourage Ecology to pursue a statewide investment program in this rulemaking, and look forward to offering detailed input on program priorities informed by the frontline and overburdened communities that such a program should serve.

3. Role of a Statewide Program in the CFS' Statutory Framework.

At this stage of Ecology's program development process, the department has multiple options for how a statewide program could fit into the CFS' statutory framework. In these comments, we provide two illustrative examples. First, Ecology could establish one statewide program that supports electrification for transit and school bus fleets, and another statewide program that helps low-income families replace old combustion vehicles with EVs. Under RCW 70A.535.080(2), Ecology must develop a list of types of programs and projects with the Washington State Department of Transportation that serves as the menu for how utilities can spend 50 percent of their revenue from residential charging credits. The statewide programs can comprise the complete menu of options, giving the utilities the option of whether to fund the priority fleets or the EVs for low-income households. In this scenario, Ecology could provide utilities with the option of providing additional funding for the statewide programs with their spending under RCW 70A.535.080(1).

Second, another approach for funding a statewide program is by directing utilities to transfer revenues that are governed by RCW 70A.535.080(1)(b). That provision requires electric utilities to expend 30 percent of the revenue from their residential electricity credits on transportation electrification projects that are in or directly benefit areas that meet air quality criteria. Ecology could use a statewide program as a tool for ensuring compliance with the requirement to expend a minimum amount of revenue on transportation electrification projects in communities with the greatest air quality needs. That is, Ecology could establish a program that exclusively funds transportation electrification projects in the statute's priority communities and require the utilities to transfer 30 percent of their revenue from residential EV charging to that program.²⁵ Thus, disbursements to such a program would be an efficient way to ensure utilities to comply with the statute.

D. Incorporate Air Quality and Equity Co-Benefits in Credit Generation Opportunities.

The CFS serves three statutory purposes. In establishing the program, the Legislature declared its intent to design a program that would: "(a) reduce levels of conventional air pollutants from diesel and gasoline that are harmful to public health;" (b) reduce greenhouse gas

²⁵ The statute puts requirements on how certain revenues must be "expended" by electric utilities. RCW 70A.535.080(1). By its plain meaning, the expending revenue can include any payout or disbursement of that revenue. *See, e.g.*, Dictionary.com, <https://www.dictionary.com/browse/expend> (defining "expend" to mean: 1) to use up; 2) to pay out; disburse; spend); *see also* Black's Law Dictionary (12th ed. 2024) (defining "expenditure" to mean "1. The act or process of spending or using money, time, energy, etc.; esp., the disbursement of funds" or "2. A sum paid out"). Thus, the statutory language is consistent with utilities funding transportation electrification projects by paying into a statewide program.

emissions associated with transportation fuels; and (c) create jobs and spur economic development.²⁶ Notably, the reduction of conventional air pollutants harmful to public health appears first among these purposes. The program, as currently designed, focuses on GHG reduction, but does not provide a consistent evaluation of the reduction of air pollutants. A fuel that lowers GHG emissions while continuing to emit conventional air pollutants harmful to nearby communities is credited identically to one that eliminates those pollutants entirely, even though only the latter advances all three of the program's stated purposes. This rulemaking is an appropriate time to begin closing that gap. To that end, we offer the following mechanisms for Ecology's consideration and recommend that Ecology convene a dedicated workshop to develop them.

1. Adopt a co-benefit factor to align credit value with the program's statutory purposes.

One administratively straightforward mechanism would incorporate a co-benefit factor into the credit calculation. Under this approach, a pathway that delivers the program's air quality and public health co-benefits, i.e., one that eliminates conventional tailpipe pollutants, would carry a factor of one, while a pathway that achieves greenhouse gas reductions without those co-benefits would carry a factor of less than one. This keeps the program's accounting in GHG terms while ensuring that credit value reflects how fully a fuel serves the program's stated purposes. Such a factor would also provide a measured tool for addressing the overgeneration of credits by combustion fuels that deliver limited or no air quality benefit. We recognize that quantifying and justifying the factor would require careful technical work, and we would welcome the opportunity to help develop it.

2. Prioritize projects in overburdened communities throughout the program.

Two more targeted provisions would direct program benefits to the communities that bear the greatest pollution burden, consistent with the statute's existing direction that a substantial portion of utility credit revenue be spent in nonattainment areas and disproportionately impacted communities.

First, applicants whose projects serve overburdened communities could receive priority access to advance credits and additional time for repayment. Ecology could also ensure that established nonprofit providers serving these communities—such as school bus electrification operators—are able to access a share of advance credits, recognizing that such providers often serve the very populations the program prioritizes yet may be excluded from public-agency-only funding programs.

Second, for infrastructure credits, Ecology could provide enhanced crediting through a multiplier, an extended payback period, and/or expedited review, for medium- and heavy-duty charging infrastructure that displaces diesel and is sited in or directly serving disproportionately

²⁶ RCW 70A.535.005(3).

impacted communities and nonattainment areas. A multiplier for a subset of infrastructure credits would not fundamentally alter the program because infrastructure credits are capped as a limited share of the overall credit pool. We note that community demand for this infrastructure is strongest where it electrifies existing freight and drayage traffic whose pollution nearby communities already bear. We therefore recommend focusing these provisions on medium- and heavy-duty, freight-serving infrastructure, while approaching light-duty charging siting with greater deference to community preferences.

3. Ecology should convene a workshop to develop these mechanisms and examine current utility spending.

We recommend that Ecology convene a workshop dedicated to recognizing the program's air quality and equity co-benefits. A workshop would allow Ecology, stakeholders, and frontline communities to work through the design and data questions together. As part of that discussion, stakeholders could explore how the program might more directly recognize pathways that eliminate criteria pollutants in overburdened airsheds. We raise this concept not as a formal proposal at this stage, but as a question worth working through collaboratively.

The workshop should also examine how utility credit revenue is currently being spent. The statute already directs that a portion of utility revenue be spent on transportation electrification within or directly benefiting nonattainment areas and disproportionately impacted communities. The latest reporting (through calendar year 2024), however, shows little spending to date by utilities, and among that spending, the equity requirements are not being met. Access to the 2025 data and review of spending to date would help ensure that the substantial revenue already directed toward equity purposes is in fact achieving them. Such a review would also inform whether further refinements to the program's spending and prioritization provisions are needed.

E. Ensure Excess Credit Generation by Fuels with Questionable Climate Benefits Does Not Undermine the Incentive for Transportation Electrification.

One of the greatest threats to the CFS' ability to provide meaningful support for transportation electrification is that a glut of credits from biofuels could drive down the value of CFS credits without providing the GHG benefits that the CFS' carbon accounting assumes. Recently, credible scientific studies have found that liquid biofuels are much more carbon intensive than the CFS' indirect land-use change (ILUC) values would suggest.²⁷ Perhaps most alarmingly, a study by Chen et al. (2026) estimated that a lower bound for land-use change effects from biomass-based diesel would be 83 gCO₂e/MJ²⁸—far higher than the ILUC values

²⁷ Earthjustice, Scoping Comments on the 2026 Clean Fuel Standard Rulemaking (Earthjustice Scoping Comments) (Mar. 3, 2026) at 8.

²⁸ Tzu-Hui J. Chen, Richard. J. Sexton & Aaron Smith, *Using Vegetable Oils for Biofuel Accelerates Tropical Deforestation and Increases Carbon Emissions* (Mar. 2026 ed.) at 12–13, available at <https://www.aaronsmithagecon.com/research>.

the CFS currently relies on. Similarly, unreliable assumptions in WA-GREET related to the carbon intensity of biomethane likely allow fuel suppliers to generate credits that are disproportionate to their fuels' real climate impacts.²⁹

An oversupply of biogenic fuels can dramatically suppress credit prices in a clean fuels program. The United States' production capacity for renewable diesel has boomed unexpectedly in the short time since the Washington State legislature authorized the CFS.³⁰ While federal policies have largely driven the renewable diesel boom, state policies can determine where the renewable diesel is consumed.³¹ As long as the value of a CFS credit exceeds the marginal cost of delivering renewable diesel to Washington, industry will have an incentive to send it there.³² In California, this readily available source of inexpensive credits has driven down credit prices in the Low Carbon Fuel Standard program, and could continue to do so even with a 30 percent carbon intensity reduction target.³³ If renewable diesel continues to gain market share, emissions from transportation fuels can increase "even while [program] targets are nominally met."³⁴ Leading experts have urged reform in a tone rarely seen in academic publications: "Significant restrictions on the growth of [renewable diesel] appear to be the most feasible and certain, and **possibly the only, way to reestablish the [program] capacity to support innovative low carbon fuel technologies** and a strong credit price, especially in the short timeframe relevant for these investment decisions."³⁵ If Ecology fails to reign in credit generation by biofuels that do not deliver their promised climate benefits, an oversupply of credits from these fuels may undermine the department's laudable efforts to support transportation electrification in the CFS.

Conclusion

We appreciate Ecology's efforts to update the CFS and look forward to continuing collaboration.

Sincerely,

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²⁹ Earthjustice Scoping Comments at 9.

³⁰ Colin W. Murphy & Jin Wook Ro, *Updated Fuel Portfolio Scenario Modeling to Inform 2024 Low Carbon Fuel Standard Rulemaking*, UC Davis: Policy Institute for Energy, Environment, and the Economy (2024) at 1, <https://escholarship.org/content/qt5wf035p8/qt5wf035p8.pdf>.

³¹ *Id.* at 2.

³² *Id.*

³³ *Id.* at 8.

³⁴ *Id.* at 9.

³⁵ *Id.* (emphasis added).