

April 25, 2022

Rachel Assink
Rulemaking Lead
Washington State Department of Ecology
P.O. Box 47600, Olympia, WA 98504-7600

Re: Clean Fuels Comments on Clean Fuels Standard Rulemaking

Dear Ms. Assink:

Clean Fuels Alliance America (“Clean Fuels”), Renewable Energy Group, Inc. (“REG”), Darling Ingredients, World Energy, Sequential Biodiesel, and Crimson Renewables (collectively “we”) appreciate the opportunity to provide comments on the scope of the Washington Department of Ecology’s (“Ecology”) Clean Fuel Standard (“CFS”) rulemaking.

In addition to the joint comment letter submitted on April 8th by Clean Fuels and REG, we wish to provide supplemental comments based on the new rule language presented on April 14th.

Pathway Clarification

We appreciate the verbal clarification that has been provided regarding grandfathered Tier 2 pathways from other jurisdictions, as well as the opportunity to be granted a Tier 1 pathway for specified source feedstocks prior to 2025 when Tier 2 pathway applications will be accepted and reviewed.

However, further clarification in the draft rule is needed related to expansion of existing facilities. For example, REG is currently tripling the size of its renewable diesel facility in Geismar, LA. The existing plant has approved Tier 2 pathways in California and Oregon, which will be accepted in Washington. Clarification is needed to determine if new production from an existing facility will be included in the grandfathered pathway or will have to wait for Ecology to accept pathway applications in 2025.

REG suggests that expanded production from existing facilities be included in grandfathered Tier 2 pathways for the time period in which production begins and when Ecology approves a new Tier 2 pathway after 2025. This is due to utilizing the same technology for the expansion, so CI scores should remain equal.

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WAC 173-424-CI Carbon Intensities Sec. (7) and (8)

A strict interpretation of these subsections could indicate that each and every gallon of fuel sold in Washington State must meet a given producer's registered carbon intensity value. Since this does not appear to be the intent of the provision, we recommend removing the language in these sections prohibiting the generation of credits on fuel that has carbon intensity calculated above the certified carbon intensity value. It makes little sense to prohibit the generation of any and all credits from fuels that have carbon intensity below the annual CI standard for that compliance period.

While a "margin of safety" assigned by the producer is in line with the practices in California and Oregon, neither program prohibits the generation of any credit on a fuel that exceeds the margin. Instead, both states provide for an end-of-year reconciliation period in which a regulated party may "true up" the difference between the actual CI reported and the certified CI. Accordingly, we recommend adding clarifying language to these sections to incorporate a year-end reconciliation or true up period to ensure biofuel producers are in compliance with the program. This would be similar in practice to the way in which California and Oregon handle this situation and would provide clear guidance to biofuel producers whose CI can vary throughout the year. Variance can occur in the short term for a variety of reasons (e.g., due to planned or unplanned downtime for maintenance, catalyst replacement, or switching to different grades of renewable diesel).

We ask that these sections be clarified so that either an annual review of carbon intensity scores for facilities will be used to determine compliance for participants or that a minimum of 12 months will be used to evaluate the fuel carbon intensity and compliance.

WAC 173-424-FICDC Fuels to Include in Credit and Deficit Calculation

We oppose the inclusion of this section creating an 8 hour oxidation stability requirement for B100 to generate credits under the Washington Clean Fuel Standard. The purpose of the CFS is to reduce the carbon intensity of fuels and this provision has no grounding in carbon reduction or in legitimate fuel quality. Inclusion of this language that will exclude perfectly acceptable fuel in the market and require costly additives that yield no additional environmental benefit.

The ASTM specification for B100 is a 3 hour oxidation stability standard. ASTM standards govern all fuels in the United States and exceeding the ASTM specification is excessive and unnecessary. Additionally, the California LCFS does not include a oxidation stability requirement, relying on ASTM guidelines for eligible fuels in the program.

Clean Fuels (then the National Biodiesel Board) undertook a peer-reviewed study in 2015 with the National Renewable Energy Laboratory and a number of OEM representatives using vehicles from VW and Ford at their Arizona proving grounds in warmer weather to determine the impacts of stability for B20 blends on vehicles with high pressure common rail systems.¹ The study intentionally looked at fuels that were right at the specification limits. In conclusion, the study did not find that 3 hours for B100, nor 6 hours stability for B20, impacted performance for those vehicles. Additional Clean Fuels research has demonstrated that the petroleum diesel fuel and storage conditions of the fuel have a greater impact on the measured stability of the biodiesel blend than the biodiesel itself.

¹ Christensen, E., McCormick, R., et al., Impact of a Diesel High Pressure Common Rail Fuel System and Onboard Vehicle Storage on B20 Biodiesel Blend Stability, <https://www.nrel.gov/docs/fy16osti/65397.pdf>, accessed April 24, 2022.

Further, Clean Fuels has performed industry surveys the last 4 years to analyze the biodiesel fuel quality, including stability, at the point of production. Since 2017, the statistical analysis shows that the stability of B100 has averaged nearly 9.5 hours, with median results of over 8.5 hours. In 2020 (we are currently working to analyze the 2021 data), over 95% of the biodiesel produced had OSI results of 5.5 hrs. or higher.² It should also be noted that no vehicle manufacturer has published or shared any data demonstrating that the current limits are not protective enough. Establishing an expensive requirement unrelated to GHG reductions on ASTM-compliant biodiesel fuel is unwarranted and counterproductive, especially given there are no analogous stability limits for petroleum diesel fuel.

Fee Structure

While the Washington Department of Ecology has the statutory authority to implement fees for CFS participation, we suggest avoiding fees charged to credit generators. The Washington CFS will be the only carbon market charging a fee for participation³, which could create a competitive imbalance. Even the modest fees to producers of renewable fuels (covering 20–30% of the program cost) could stifle the program's success. Smaller producers might avoid Washington's program due to the fee, opting instead to sell fuel in British Columbia, California, and Oregon markets, which would have lower costs and potentially higher value credits. This will reduce Washington's access to important biofuels and could hinder the advancement of the program and innovation needed to create new production in the state. To the extent fees are necessary, those should be levied on obligated parties rather than credit generators.

Lifecycle Accounting and Science

We also wish to strongly reiterate our request that the following topics be addressed during this rulemaking period:

- Focus the WA-GREET Model to account for updated science related to indirect land use change for canola production, similar to British Columbia's carbon intensity score for Canola Methyl Esters and Canola renewable diesel, along with the updated science for soy. See Comments from Clean Fuels and REG from April 13, 2022.
- Establish a mechanism in WA-GREET to reduce the carbon intensity of fuels for feedstock utilizing carbon reducing agricultural practices such as no-till.
- Provide a mechanism for indirect accounting of electricity, hydrogen, and renewable natural gas used at renewable fuel production facilities to allow them to pursue low carbon inputs that will reduce their carbon intensity without having a direct connection.

Finally, we are puzzled by the contractor's recommendation to use different lifecycle assessment models for corn ethanol and soy (and canola) biodiesel even though the same model has been updated by Argonne National Laboratory for both feedstocks and fuels. It would seem that the latest version of GREET is either good enough for both or neither, especially when the substitution rationale


² See BQ-9000 Technical Reports: 2017 (<https://www.nrel.gov/docs/fy20osti/75795.pdf>), 2018 (<https://www.nrel.gov/docs/fy20osti/75796.pdf>), 2019 (<https://www.nrel.gov/docs/fy20osti/76840.pdf>), and 2020 (<https://www.nrel.gov/docs/fy21osti/79815.pdf>).

³ For example, California's Cost of Implementation Fee Regulation explicitly exempts biodiesel, renewable diesel, or any other biomass-derived fuel from the fee used to support the implementation of California's climate programs since such fuels are credit generators. See section 95201(c), title 17, California Code of Regulations, <https://www2.arb.ca.gov/our-work/programs/ab-32-coi-fee-regulation/regulation>, page 4.

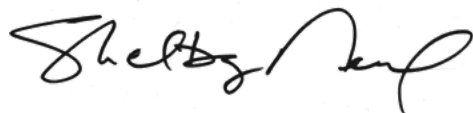
cited by the contractor⁴ for treating soy and canola differently has been addressed in the latest publications from Argonne and Purdue University. Above all else, it is our hope that the department chooses consistent methodological and sound science-based approaches toward all issues, including lifecycle analysis.

Thank you for the opportunity to present our initial comments. We look forward to continuing to be a partner in Washington's decarbonization efforts.

Respectfully,



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Renewable Energy Group



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Darling Ingredients



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⁴ On a related note, the "peer review" cited in support of the contractor's recommendation would appear to fall short of best practices for independent, scientific peer reviews given that the reviewer has previously published on the unproven issue of substitution/displacement in biofuels policies. See, e.g., <https://theicct.org/sites/default/files/publications/Biofuels-displacement-emissions-oct2020.pdf>.