



Jim Verburg
Senior Manager, Fuels

April 25, 2022

Sent via e-mail and upload to: <https://aq.ecology.commentinput.com/?id=DpgZ3>

Ms. Rachel Assink
Rulemaking Lead
Washington State Department of Ecology
300 Desmond Drive SE
Lacey, WA 98503

Re: WSPA Comments on April 13, 2022 Washington CFP Stakeholder Meeting #5

Dear Ms. Assink,

Western States Petroleum Association (WSPA) appreciates the opportunity to comment pursuant to the Washington Department of Ecology (Ecology) Clean Fuels Program Rule (Chapter 173-424 WAC) Stakeholder Meeting #5, held on April 13, 2022. WSPA is a trade association that represents companies which provide diverse sources of transportation energy throughout the west, including Washington. This includes the transporting and marketing of petroleum, petroleum products, natural gas, and other energy supplies.

Presented below are WSPA comments regarding the Ecology staff/consultant slide presentation¹ presented during Stakeholder Meeting #5 as well as the document entitled WA-GREET 0.7a Supplemental Document and Tables of Changes² and the revised draft rule language³.

General Comments

Consideration of Past Comments - During Stakeholder Meeting #5, Ecology staff provided a brief summary of public comments (as done in recent stakeholder meetings). In addition, Ecology staff and consultant did respond to Crude and Petroleum CI comments. While WSPA appreciates the overall comment summary and the direct response to modeling questions, we are concerned that Ecology staff has yet to provide responses to key regulation-related comments either verbally during the Stakeholder Meetings or in writing. Understanding that Ecology staff are reluctant to provide responses to stakeholder comments regarding draft regulatory language during this informal rulemaking period, WSPA believes it is critical for the overall transparency of the rulemaking process that Ecology staff provide stakeholders in written form the direction Ecology intends to take on key issues identified by stakeholders during this informal rulemaking process and in advance of initiating the formal rulemaking process.

Fuel Pathways - WSPA requests that rule language be added to put in place a process making certified fuel pathways available for 1st Quarter, 2023 reports in the Washington CFP. This is necessary because , ethanol, biodiesel, and renewable diesel fuel will have to be reported as soon as 1st Quarter, 2023 and as such, will need pathway codes. Further, fuel pathways that are already approved in California and Oregon should be deemed approved in Washington for year 2023 and/or 2024, until Ecology has the time to certify the pathway in Washington. WSPA also requests that WAC 173-424-CI (5)(b) and (6) be revised so that Tier 2 pathways be allowed as soon as January 1, 2023 as well as specified source feedstocks, and not restricted for application consideration until

¹ <https://ecology.wa.gov/DOE/files/92/92f2c056-6b35-4538-8f65-00c68b224f82.pdf>

² Life Cycle Associates, WA-GREET 0.7a Supplemental Document and Tables of Changes, April 4, 2022

³ <https://ecology.wa.gov/DOE/files/69/6948522a-3c2d-49d1-8736-2c955029bffe.pdf>.

July 2025.

Incremental Deficits - WSPA reiterates comments from prior letters that Ecology remove all references to incremental deficits and MCON (crude oil) reports from the regulatory language. The modeling of crude oil CI is very approximative, with a sizable portion of the crude oil processed not identified, as discussed in the Stakeholder Meetings, and the errors in the modeling will cause “noise” in the crude CI that do not warrant creating incremental deficit burden.

Crude CI - WSPA reiterates comments from previous comment letters^{4,5} that simple averaging of the CI from Canadian crude oil is not an accurate approach. In addition to variations in overall field production levels, certain Canadian grades (i.e., Cold Lake) have significantly lower CI than other heavy Canadian crudes. This CI variation was acknowledged in Slide 63 of the Ecology staff/consultant slide presentation: *“We recommend that future average crude oil CI updates include actual crude import data by oil field to improve its accuracy.”*

WSPA appreciates the adjustments made to the crude CI’s based on *“Differences in transport mode between CA and WA for the crude transport adjustment calculation”* as noted in Slide 63 of the Ecology staff/consultant slide presentation. However, WA-GREET 0.7a Supplemental Document and Tables of Changes Page 21 notes: *“As shown in Table 4, the OPGEE emission factors are four time higher for pipeline transport compared to vessel, therefore Canadian crude CI was estimated to be only 0.08 g/MJ lower than in California, with higher emission factors offsetting reduced transport distances.”* It is not obvious as to why the emission factors for pipeline shipment of crude shown in Table 11 of this document are that high. WSPA requests that Ecology provides the specific inputs to Equation 4.84 (Crude Oil Transport) from the OPGEE v2.0c User Guide⁶ and the rationale for those inputs that are yielding such a high emission factor.

Refinery Investment Credit Program - The proposed regulatory language makes a single reference to refinery investment credits - WAC 173-424-OIC (5)(h). WSPA requests that Ecology adopt provisions for refineries to allow CFP crediting when refineries lower their carbon footprint, such implementing energy efficiency projects, electrification, carbon capture, and low carbon electricity production. The Refinery Investment Credit Program (RICP) should be defined and expanded in the regulatory language to reflect the program from the California Low Carbon Fuel Standards (LCFS) Regulation §94589(e).

Renewable Hydrogen Refinery Credit Program - WSPA urges Ecology to incorporate a provision for CFP crediting for refinery producing hydrogen from renewable sources. For guidance, please refer to the California LCFS Regulation §94589(f). Renewable fuel gas (such as renewable ethane, renewable propane, renewable butanes, renewable pentanes, or a mixture of thereof) and not only biomethane should qualify for the generation of renewable hydrogen by steam reforming. For instance, the off-gas from a renewable diesel operation, if fed to a hydrogen plant, should be qualified feedstock to produce renewable hydrogen.

Co-Processing - Co-processing renewable feedstocks at petroleum refineries, such as in fluid catalytic cracking (FCC) units and hydrotreaters should qualify for CFP credit generation. Multiple approaches to determine the carbon intensity and the volume of renewable fuel should be

⁴ Western States Petroleum Association, “WSPA Comments on Washington Department of Ecology Rulemaking for WAC 173-424”, February 10, 2022.

⁵ Western States Petroleum Association, “WSPA Comments on March 15, 2022 Washington CFP Rule Overview Presentation”, April 1, 2022.

⁶ https://ww2.arb.ca.gov/sites/default/files/classic/fuels/lcfs/crude-oil/opgee_v2.0c_user_guide_technical_doc.pdf?_ga=2.262927119.2099622863.1650636904-237475923.1631295388

acceptable, such as mass balancing and computer modeling.

Third-Party Verification - WSPA reiterates that all references to third-party verification be removed from the draft regulatory language. It is premature to include a third-party verification at the start of the program and Ecology should focus on topics mentioned above and below. A third-party verification program could be added during future rulemaking.

Reporting Deadline for 3rd Quarter Reports - WSPA requests that Ecology changes the deadline for 3rd Quarter reports from December 31st to the second Friday of January of the following year to allow for flexibility in reporting during to the end of year holidays.

Program Fee - WSPA requests that Ecology provide an estimate of the annual cost of the program, anticipated year-to-year changes of fee (if any), and timing for initial payment.

Fixed Guideway Systems - The date of the January 1, 2012 in WAC 173-424-SRR (3)(e)(ii) appears to be in error (inexplicably cites the California LCFS implementation date). This date should be changed to January 1, 2023 or later.

Forklifts - The model years 2015 and 2016 in WAC 173-424-SRR (3)(f) also appear to be based on the California LCFS implementation timing. These model years should be changed to 2023 model years or later.

Credit Corrections - WSPA reiterates that credits or deficits should be corrected and claimed if errors are discovered in prior quarters with the language in WAC 173-424-SRR (10) and WAC 173-424-ACR (4) being updated accordingly.

Forecast Deferral - WSPA believes that the fuel forecast deferral should be triggered if less than 200 percent of the credits projected to be necessary (rather than 100 percent) to comply with the program are available, as regulated entities bank credits and not all credits will be offered for sale on the market.

Fuel Pathways - As WSPA indicated previously, if a fuel pathway operational CI is found greater than the certified CI, the CI should be readjusted, but the fuel pathway holder should not be found out of compliance. Please revise language in WAC 173-424-OIC (9)(g)(iii)(G) accordingly.

COMMENTS ON THE NEW PROPOSED REGULATORY PUBLISHED ON APRIL 13, 2022

WAC 173-424-CDB (5)(c) Deficit and Credit Generation - WSPA requests that the language in this section be modified to allow credit generation for all fuels (and not just for residential charging of electric vehicles) for prior quarters if a correction is required and an adjustment to the credits is necessary.

WAC 173-424-TC (1)(c)(ii) Transacting Credits - This section conflicts with other advance crediting provisions in the regulation. WSPA requests that Ecology clarifies if advanced credits are allowed or not.

WAC 173-424-FICDC (1) Fuels to Include in Credit and Deficit Calculation - Fuels Included - WSPA suggests that this section be removed as CFP/LCFS programs do not typically define product specifications. Product specifications are defined in other State or Federal fuel regulations.

WAC 173-424-FICDC (3) Fuels to Include in Credit and Deficit Calculation - Voluntary Inclusion - Deficit generating fuels should not be included in voluntary reporting of exempt fuel

uses. Only credit generating fuels should be included.

WAC 173-424-FICDC (4)(a) Fuels to Include in Credit and Deficit Calculation - When fuels are exported from Washington - Only fuels that have been reported in the CFP that are subsequently exported out of Washington should be reported. Fuels that are directly exported from Washington refineries to out of state destinations should not be reported in the CFP.

WAC 173-424-CCD Calculating Deficits and Credits - Please provide mathematical formulas, in addition to the text, to clarify the calculations.

WAC 173-424-CCD (3)(e) Calculating Deficits and Credits Residential EV Charging - Residential electric vehicle charging - Credits for residential EV charging should be issued once a quarter, not twice a year, so that the CFP credit bank evolution could be updated with consistent data.

WAC 173-424-CCM (2)(a) Credit Clearance Market - As year 2023 will not be a compliance period, the 2023 year referenced in this section should be replaced with year 2024.

WAC 173-424-CCM (2)(b) Credit Clearance Market - Reference to annual reports for 2018 appears to be in error and needs to be corrected.

WAC 173-424-CCM (6) Credit Clearance Market - WSPA requests that Ecology not apply a 5% increase in unmet deficits. Carryover deficits should be moved in the following year entity obligation without a multiplier applied.

WAC 173-424-GCCZFI (1)(d)(vi) Generating and Calculating Credits for ZEV Fueling Infrastructure Pathways - Ecology should not restrict the CI value of the hydrogen or the renewable content arbitrarily. WSPA believes that this restriction would limit the development of hydrogen fueling stations.

WSPA appreciates the opportunity to provide comments on this important proposed regulation. If you have any questions regarding this submittal, please contact me at (360) 296-0692 or via email at jverborg@wspa.org.

Sincerely,



James Verburg
Sr. Manager, Fuels



Cc: Jason Alberich – WA Ecology
Joel Creswell – WA Ecology