U.S. Oil & Refining Co.
3001 Marshall Avenue
Tacoma, Washington 98421
Tel: (253) 383-1651
Web: www.usor.com

December 13, 2024

Sent via upload to: https://ecology.commentinput.com/?id=7auJYTbfk

Mr. Adam Saul
CFS Rule Lead
Washington State Department of Ecology
300 Desmond Drive SE
Lacey, WA 98503

Re: USOR Comments on Draft 2024 Clean Fuel Standard Amendments

Dear Mr. Saul:

U.S. Oil and Refining Company (USOR) has been a local supplier of high-quality clean fuels since the late 1950's. Even with significant growth since its early start as a family-owned enterprise, USOR is the smallest of the refineries in the state of Washington. Focused on the local market, USOR is less complex than the other refineries in the state and is the only producer of 100% recyclable asphalt in the region. Its configuration and investments over the years to improve efficiency have resulted in a refinery with significantly less direct GHG emissions per barrel of fuel produced, especially when viewed on a regional basis with 86% delivered within the region. It's performance in terms of MT of CO2e emitted per barrel of crude oil processed is near best in class nationally. We are proud of this history and, while recognizing the change in demand for fuels, we believe USOR will play an important role in the regional energy future for many years to come.

Under the ownership of Par Pacific Holdings, Inc. (Par), USOR is continuing its track record of excellence in environmental performance. As a small downstream enterprise, however, with an emphasis on logistically challenged local markets, Par and USOR do not have large planning or trading departments and do not have the ability to deploy significant capital quickly. While we have the desire and commitment, therefore, compliance prescribed under WAC 173-424, including reporting (Washington Fuels Reporting System (WFRS)), must be practicable (achievable without disproportionate cost) within Par's and USOR's capabilities.

There are several areas within the current draft regulations that cause us concern and warrant further attention. First, we endorse the comments submitted by WSPA, and will not directly repeat them here but include them by reference. As noted above, to not be disadvantaged as a small (and yet efficient, low intensity, and low GHG emitting) facility, the reporting requirements under the Clean Fuel Standard (CFS) must be efficient, and most importantly, practicable. In addition to the specific concern about reporting at state vs tank level raised by WSPA in reference to **§ 173-424-420(6)(d) - Specific Reporting Requirements,** we are concerned about the timing of the mass-balancing. The requirement on how to mass-balance within two quarters is very limiting. It removes the flexibility to realistically optimize the CI's and forces a fuel producer to allocate low CI's to exports that occur through diversion, which usually are only apparent to the seller during reconciliation with the counterparty after the current quarter and

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before reporting. Mass-balancing on an annual basis aligned with annual compliance requirements provides additional flexibility and would be more practicable and would not compromise accuracy (i.e., the calculated CI's will be representative of the actual fuels).

Thank you again for this opportunity to comment on the draft 2024 Clean Fuel Standard Amendments. We encourage Ecology to reach out for any clarification regarding these comments. Please do not hesitate to contact me directly at (253-680-3258) or via email at atroske@parpacific.com .

Kindest Regards,

Andrew Troske
Refinery Manager

Enclosure: WSPA Comments on Draft 2024 Clean Fuel Standard Amendments dated 13 December 2024

WSPA
Antonio Machado
Senior Manager, Northwest Regulatory Affairs and Fuels

December 13, 2024

Sent via upload to: https://ecology.commentinput.com/?id=7auJYTbfk

Mr. Adam Saul
CFS Rule Lead
Washington State Department of Ecology
300 Desmond Drive SE
Lacey, WA 98503

Re: WSPA Comments on Draft 2024 Clean Fuel Standard Amendments

Dear Mr. Saul:

Western States Petroleum Association (WSPA) appreciates the opportunity to comment on the Washington State Department of Ecology (Ecology) 2024 Draft Clean Fuel Standard (CFS) Regulation Amendments. 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, liquid fuels, natural gas, and other energy supplies.

General Comment

Corrections to Section References

Throughout the regulatory language, references are made to other sections of the document. WSPA requests that Ecology verifies and corrects as necessary the following section references:

Part 4 - The reference to § 173-424-400(11) does not appear to be valid.
Part 5 - The reference to § 173-424-530(1)(e)(iii) should be § 173-424-530(1)(a)(iii).
The reference to § 173-424-560(1)(a)(vi) should be § 173-424-560(1)(b)(vi).
The reference to § 173-424-560(1)(a)(vii) should be § 173-424-560(1)(b)(vii).
The reference to § 173-424-560(1)(c)(v) does not appear to be appropriate.
The reference to § 173-424-560(1)(c)(vi) does not appear valid.
Part 6 - The reference to §173-424-600(3)(ii) does not appear to be valid.

Specific Comments

§ 173-424-110(126) - "Renewable hydrocarbon diesel" or "renewable diesel". WSPA suggests that Ecology provides a broader definition of renewable diesel beyond limiting the definition to 40 CFR Part 79.

§ 173-424-110(162) - "Total obligated amount (TOA)". As the initial inventory in 2023 should not impact credits and deficits generation, WSPA believes that reference to the initial inventory in 2023 should be removed from the Total Obligated Amount (TOA) definition.

§ 173-424-110(163) - "Book-and-claim accounting". WSPA requests that Ecology confirms that a renewable fuel producer can lower its fuel pathway carbon intensity (CI) by purchasing Renewable Energy Certificates, even if the renewable electricity is not connected behind the meter at the renewable fuel facility.

§ 173-424-120(3) - Applicability. WSPA suggests that Ecology adds alternative marine fuel as defined in § 173-424-110(164) as an opt-in fuel.

§ 173-424-120(4)(d) - Applicability. WSPA believes that Ecology should not set arbitrary limits on renewable content for hydrogen or arbitrary date limits. Hydrogen, like other fuels, should be evaluated based on its CI and the CI standard in a given year. If the CI of hydrogen is below the CI standard, then the hydrogen should generate credits. If the CI of hydrogen is above the CI standard, then the hydrogen should generate deficits.

§ 173-424-130(2)(a)(ii) - Exemptions. While this subsection exempts vessels, the proposed § 173-424-110 (164) definition would allow fuels with credit generation. WSPA requests that Ecology clarifies the conditions in § 173-424-130 for not exempting vessels from the CFS.

§ 173-424-130(3)(b) - Exemptions. WSPA requests that Ecology corrects the regulatory language to specify that the fuel distributor to the end user is responsible for the accuracy of the submitted information for exempt fuel uses, and not necessarily the fuel importer or the fuel producer.

§ 173-424-400(1) - Recordkeeping. Note that the record retention requirement in the CFS is 7 years and not 10 years as cited in this section. WSPA requests that Ecology corrects this section regarding duration of record retention.

§ 173-424-420(6)(a)(ii) - Specific Reporting Requirements. Ecology should remove the requirement to report crude oil information (MCON reports) as not all petroleum gasoline and petroleum diesel fuel supplied in Washington originate from refineries located in Washington. Requiring MCON reports for refineries located in Washington-only does not provide representative information of all the crude oils that are processed to supply fuel in Washington. Therefore, this information is not useful, and the MCON reporting treats Washington State refineries unfairly compared to refineries located out of state and out of the country that supply fuel in Washington.

§ 173-424-420(6)(d) - Specific Reporting Requirements. The report in the Washington Fuels Reporting System (WFRS) is not done at the "tank" level nor at the "facility" level but statewide. Therefore, the regulatory language in this section should not refer to a *"tank"* or *"tanks"* or "facility" but rather the statewide inventory. Specific fuel pathway code inventory is not tracked by "tank" or "facility." Furthermore, "tank" and "facility" are not defined in the CFS regulation.

§ 173-424-420(10) - Specific Reporting Requirements. WSPA requests that Ecology provides at least 10 business days to make corrections instead of only 2 business days after the correction request is approved, as reporting entity may not be available right away due to other duties, vacation, etc. Furthermore, the proposed regulatory language should allow the generation of additional credits or the removal of deficits if the correction adds credits or removes deficits.

§ 173-424-420(11)(a) - Specific Reporting Requirements. WSPA believes that fuels should not be treated differently after December 31, 2033. Ecology should not set arbitrary limits on fuels. The CI standards should remain drivers for credits and deficits generation before and after December 31, 2033.

§ 173-424-420(11)(b) - Specific Reporting Requirements. WSPA requests that Ecology reword this subsection to clearly state that hydrogen produced at a facility not physically connected to a renewable fuel facility can be book-and-claimed.

§ 173-424-430(4) - Annual Compliance Reports. WSPA requests that Ecology provides at least 10 business days to make corrections instead of only 2 business days after the correction request is approved, as reporting entity may not be available right away due to other duties, vacation, etc. Furthermore, the proposed regulatory language should allow the generation of additional credits or the removal of deficits if the correction adds credits or removes deficits.

§ 173-424-510(5)(c) - Credits and Deficits Basics. WSPA requests that the proposed regulatory language allows for the generation of credits if the reporting period has passed when making a report correction. Residential charging should not be the only exemption for credit generation after the reporting period has passed.

§ 173-424-560 - Generating and Calculating Capacity Credits for ZEV Fueling Infrastructure Pathways. Note that the equations in this section did not print legibly in the PDF file. WSPA requests that a "clean version" be reissued which prints legibly in PDF format.

§ 173-424-560(1)(d)(v) - Heavy-duty Hydrogen Refueling Infrastructure (HD-HRI) Pathways. WSPA requests that the references to CI score, renewable content and year restriction be removed from this section. Hydrogen should be evaluated on its CI score and generate credits if the CI score is below the CI standard and generate deficits if the CI score is above the CI standard.

§ 173-424-600(1)(a) - Carbon Intensities. WSPA believes that the proposed regulatory language should not restrict the indirect land use change (ILUC) to 10-year-old emission factor (AEZ-EF from December 2014), but rather allow newer ILUC that were derived from more recent studies.

§ 173-424-600(5)(b)(iii) - Primary Alternative Fuel Pathway Classifications. WSPA requests clarification as to whether Ecology will develop a CI Calculator for hydrogen and, if so, would hydrogen fuel pathways be classified as Tier 1 pathways.

§ 173-424-600(5)(b)(iv) - Primary Alternative Fuel Pathway Classifications. WSPA suggests, for consistency and clarity, that this subsection be revised to reflect the regulatory language from subsection (a)(iii) as follows: *"*Renewable *diesel, propane, naphtha, or alternative jet fuel produced from conventional feedstocks (plant oils, tallow, and related animal wastes and used cooking oil) using hydrotreatment processes."*

§ 173-424-600(6)(g) - Specified Source Feedstocks. WSPA urges Ecology to avoid requiring additional attestation requirements, as specified source feedstocks are already subject to special data tracking and third-party verification requirements. WSPA suggests that this section be removed from the proposed regulatory language. If Ecology chooses to include additional attestation requirements for specified source feedstock, the following paragraphs need to be addressed:

> *"(i) The specified source feedstocks have not undergone additional processing, such as drying or cleanup, except as explicitly included by the fuel producer in their lifecycle analysis and pathway carbon intensity."*

The provisions in subsection (i) are too stringent. Water content should be left to a minimum before transporting feedstock to minimize GHG emissions associated with transportation, as it is not effective to transport feedstocks with high water content. WSPA requests that the language of this section be modified to allow reasonable drying and cleanup of feedstocks before they are transported to a renewable fuel production facility.

> *"(ii)(B) Deliveries of the specified source feedstock(s) consist entirely of what is documented on the feedstock transfer documents and are not mixed or altered with any materials that do not meet the definition of that specified source feedstock."*

The provisions of subsection (ii)(B) are also too stringent. Specified source feedstock should be allowed to be transported along and/or mixed with other renewable feedstocks, such as soybean oil or canola oil. The proposed regulatory language of this subsection should be updated to allow commingled feedstocks.

"(ii)(C) The specified source feedstocks were not intentionally produced, modified, or contaminated to meet the definition."

The intent of the language in this subsection needs to be clarified as specified source feedstocks are produced as co-product of other operations. Thus, the wording of subsection (ii)(C) could be interpreted that no specified source feedstock would ever qualify under the CFS.

§ 173-424-600(6)(g)(iii)(E) - Specified Source Feedstocks. WSPA requests that the proposed regulatory language in the attestation be modified to allow for drying and cleanup of the feedstock and transportation with other renewable feedstocks, including soybean oil and canola oil.

§ 173-424-600(7) - Book-and-Claim Accounting. WSPA suggests adding the following to this subsection for consistency with the evolving regulatory approach in other states: *"…to produce electricity for linear generation, EV charging…Indirect accounting may be applied to RNG used as a transportation fuel to produce electricity from linear generators or using a fuel cell for EV charging, to produce hydrogen…"*

Ecology should clarify that Book-and-Claim Accounting is also applicable to hydrogen used in the production of renewable fuels. For instance, Book-and-Claim could be applied to credit a low CI hydrogen facility not physically connected to a renewable fuel facility. Additional clarity is requested whether Book-and-Claim of hydrogen is allowed for all renewable fuel or only alternative jet fuel or alternative marine fuel as suggested by § 173-424-420(11). Further, Ecology should clarify how Book-and-Claim hydrogen should be applied to a specific pathway within the State, whereby the facility produces renewable fuels for other States that do not recognize Book-and-Claim accounting. For example, can the lower carbon intensity hydrogen be applied preferentially to hydrogen use required for the renewable fuel placed in Washington?

§ 173-424-600(7)(a) and (b)(ii) - Book-and-Claim Accounting. WSPA requests that the reference to *"feedstock"* for RNG used to produce hydrogen be removed from the proposed regulatory language. As the molecules of RNG are not traced under book-and-claim accounting; there is no way to identify that the RNG is a feedstock rather than a heat source for hydrogen production. This subsection should allow book-and-claim for RNG used for the production of hydrogen and renewable fuels regardless of whether the RNG is used as a feedstock or a heat source (as the molecules are not tracked to a particular processing unit or section of a processing unit).

If Ecology intends to allow book-and-claim accounting for biomethane as a production input to some forms of electricity production and fuel production, WSPA suggests modification of the regulatory language in subsections (7)(a) and (b)(ii) to clarify how matching and deliverability requirements extend to those uses. For example, would the three-quarter time-span referred to in subsection (7)(a) be from the quarter pipeline injection occurs to the quarter the input is claimed in a CI calculation as an electricity/fuel production input? For the deliverability requirements in subsection (7)(b)(ii), WSPA further suggests that the reference be corrected from *"fuel dispensing facility"* to *"fuel production facility"*.

§ 173-424-600(7)(b), (b)(ii), and (b)(iii) - Book-and-Claim Accounting. WSPA recommends that Ecology reassess the deliverability requirement in both subsections as these dates may limit the number of RNG facilities that can participate in the program (i.e., deliverability requirements stricter than other states). WSPA also suggests adding the following to this subsection for consistency with the evolving regulatory approach in other states: *"…for the production of electricity using a fuel cell or linear generation for EV charging, or biomethane …"*

§ 173-424-610(6)(e) - Applicants Seeking a Provisional Carbon Intensity. Fuel pathway applicants should not have to resubmit an application to qualify for a lower CI score if the operational CI is lower than the provisional CI. Ecology should certify the application with the operational CI plus a safety of margin as selected by the applicant.

§ 173-424-610(9)(l)(iii) - Review and Approval Process to Use Carbon Intensities. The proposed penalty of four times the difference between the verified CI and the operational CI is excessive and not justified. WSPA suggests that Ecology simply adjusts the credits based on the operational CI score, with no multiplier.

§ 173-424-610(9)(l)(v) - Review and Approval Process to Use Carbon Intensities. WSPA requests clarification from Ecology as to how a CI exceedance would occur as a result of a calculator update, given that Ecology is not planning to update WA-GREET.

§ 173-424-610(9)(l)(vi) - Review and Approval Process to Use Carbon Intensities. The fuel pathway holder should not be considered out of compliance (Ecology should not take enforcement action) in the event that the verified CI is higher than the operational CI. This subsection should simply indicate that the credits should be adjusted accordingly and reset the CI to the verified CI, plus a margin of safety, with no penalty.

§ 173-424-610(9)(m) - Review and Approval Process to Use Carbon Intensities. The proposed regulatory language should not exclude prior reporting periods when trueing up credits. Excluding prior reporting periods from true up credits would defeat the purpose of this section.

§ 173-424-610(9)(m)(i) - Review and Approval Process to Use Carbon Intensities. While WSPA supports the addition of a true up, we suggest that credits are deposited after August 31 but before October 31.

§ 173-424-610(15) – For Non-Provisional pathways. A fuel pathway holder should not be found out of compliance if the operational CI is found to be greater than the certified CI. Ecology should simply adjust the credits accordingly and reset the certified CI to the operational CI value plus a margin of safety.

§ 173-424-610(16)(c)(i) and (c)(ii) - Avoided Methane Crediting. The proposed regulatory language penalizes those projects that were early adopters and broke ground before 2009. It also imposes a more limited crediting period than California. WSPA recommends that these subsections align with California's program that allows for two 10-year crediting periods for projects developed prior to 2030.

§ 173-424-630(3) - Determining the Carbon Intensity of Electricity. WSPA recommends that the proposed regulatory language specify the basis for the emission factor of 0.437 metric tons/MWh.

§ 173-424-700(3) - Credit and Deficit Modifications. WSPA recommends that instead of establishing a threshold with an absolute number of credits to determine penalties, this subsection should use a percentage of the credits or deficits generated. For example, if less than 5% of the credits or deficits generated need adjustments, then the credits or deficits will be adjusted in the reporting entity account with no penalties. If the *"offense"* represents a high percentage of the credits or deficits generated (for example greater than 25%), then Ecology could start an investigation to determine if penalties are applicable.

In addition, WSPA requests that § 173-424-700(3)(a)(iii) and (3)(b)(ii) be removed from the proposed regulatory language, assigning 4 times the deficits or removing 4 times the credits is not

justified, if a correction needs to be made due to fuel CI reporting adjustments, due to operations variability. Rather, a true up should be performed for the credits/deficits without penalty.

§ 173-424-710(5) - Public Disclosure. WSPA recommends that Ecology continue publishing the cost per gallon of fuel of the CFS, as the public should remain informed of the cost of the program.

§ 173-424-810(1) - General Requirements for Verification. As the CFS Regulation Amendments will likely not be adopted until sometime in 2025, the requirement for a fuel pathway to be verified should be for reporting year 2026 (rather than 2025). In addition, the first annual verification statement should be 2028 (rather than 2027), with the verification of fuel pathway data covering years 2026 and 2027. This will also provide more time for Ecology to qualify third-party verifiers under the CFS Regulation Amendments.

§ 173-424-810(4)(c)(ii) - General Requirements for Verification. WSPA requests that this subsection be deleted from the regulatory language as *"total reported emissions"* applies to a greenhouse gas (GHG) reporting program but does not apply to the CFS.

§ 173-424-820(2)(b)(iv) - Requirements for Verification of CFS Reports and Validation of Fuel Pathway Applications. For California and Oregon fuel pathway recertifications, this subsection should include language allowing for acceptance of California or Oregon Simplified CI Calculators (CA-GREET or OR-GREET models).

§ 173-424-820(4) - Verification of Crude Oil Quarterly and Annual Volumes Reports. WSPA requests that this subsection be removed as Ecology should not require a verification of crude oil reports. Because not all fuels supplied in Washington originate from Washington state refineries, the crude oils processed by Washington state refineries do not represent all the crude oils used to supply fuel in Washington. The verification of crude oils processed by Washington state refineries would not cover all the crude oils processed for fuel deliveries in Washington and, therefore, put an unnecessary burden on Washington state refineries and would add no value to the CFS.

§ 173-424-830(2)(c) - Requirements for Verification Services. It is WSPA's position that site visits should not be required at reporting entities offices. Virtual meetings with tools such as Zoom, Webex, Microsoft Teams, and others should be acceptable. Only a site visit for the initial fuel pathway validation should be required in this subsection at the producing facility.

§ 173-424-830(2)(k) - Crude Oil Quarterly and Annual Volumes Reports. WSPA requests that this subsection be removed as Ecology should not require a verification of crude oil reports. Because not all fuels supplied in Washington originate from Washington state refineries, the crude oils processed by Washington state refineries do not represent all the crude oils used to supply fuel in Washington. The verification of crude oils processed by Washington state refineries would not cover all the crude oils processed for fuel deliveries in Washington and, therefore, put an unnecessary burden on Washington state refineries and would add no value to the CFS.

§ 173-424-850 - Conflict of Interest Requirements. WSPA requests that this section be revised to clearly state that using the same verification body for GHG verification in Washington state, GHG and/or LCFS verification in Oregon and/or California, GHG and/or LCFS verification in Canada (federal and provinces) and USEPA RFS RIN verification does not constitute a conflict of interest.

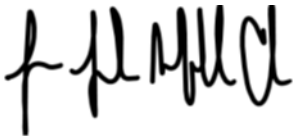
§ 173-424-900 - Table 6. WSPA requests the rationale as to why WAGAS002 and WAULSD002 were removed from Table 6 (i.e., no finished E10 gasoline or blended biodiesel that are supplied to Washington by truck from other states?).

§ 173-424-900 - Table 7. WSPA requests the rationale as to why substitute pathway code WAGAS0116 for E10 was removed from Table 7 (i.e., no E10 that gets exported from Washington?). Further, WSPA requests feedback from Ecology as to whether Ecology is considering the creation of a new substitute pathway code for B5 or other biodiesel or renewable diesel percentage blended fuel.

§ 173-424-900 - Table 8. WSPA recommends that this subsection set temporary fuel CI scores for renewable diesel, alternative jet fuel, renewable naphtha, renewable gasoline, and renewable propane to 45 gCO2e/MJ and 65 gCO2e/MJ for waste oils and vegetable oils, respectively. There is no reason for the regulatory language to arbitrarily vary these CI scores, as all co-products have the same CI score for a given feedstock. Biodiesel, renewable diesel, alternative jet fuel, renewable naphtha, renewable gasoline, and renewable propane from distiller's corn oil should be set at 45 gCO2e/MJ as distiller's corn oil is a by-product of ethanol manufacturing.

WSPA appreciates the opportunity to provide comments on this important proposed regulation. We encourage Ecology to reach out for any clarification regarding these comments. Please do not hesitate to contact me directly at (360) 594-1415 or via email at amachado@wspa.org.

Sincerely,



Cc: Jessica Spiegel - WSPA