



June 7<sup>th</sup>, 2024

Clean Fuel Standard Department  
Washington Department of Ecology

Re: 2024 Proposed Rulemaking Comments

Clean Fuels Regulatory Team,

RPMG Inc. (RPMG) would like to provide suggestions to help improve the program and reduce unnecessary administrative burdens on Department of Ecology “Ecology” staff and regulated entities as the Clean Fuels program evolves. RPMG is a biofuel marketing company representing our owner and marketing partner facilities throughout the Midwest. Our member facilities provide bioethanol and distillers corn oil (DCO) as essential inputs to Washington’s low-carbon transportation fuel market. These facilities continually invest in lower-carbon technologies, innovative production methodologies, and ways to reduce carbon emissions in furtherance of the CFS program goals. RPMG appreciates the staff’s openness to broader comments during this proposed rulemaking. Our comments are submitted today in the interest of program improvement and reflect the issues directly impacting RPMG and our member plants.

To address various areas of improvement within the program, RPMG is grateful for the prior opportunities to speak with Ecology staff over the last several months. RPMG would like to continue the discussions on the proposed rulemaking and WFRS administration improvement to reduce detrimental effects on fuel pathway holders. As the informal and formal rulemaking process progresses, RPMG will turn its attention to important policy and rule development to include book and claim, third-party verification, WA-GREET, and indirect land use change. RPMG looks forward to discussing those policy developments with Ecology through the upcoming June webinar and anticipated rulemaking schedule for fall 2024.

## Definitions

The definitions and terms used throughout the regulation, WFRS and Ecology staff require further clarification. In particular, the following terms are not defined in the regulation and require clarification:

- *Total Obligated Amount*
- *Reconciled Total Obligated Amount*
- *Retroactive Credits*
- *Credits Adjusted*
- *Deficits Adjusted*
- *Retroactive Credit Adjustment*
- *Retroactive Deficit Adjustment*
- *Deficit Generator – for the purpose of Fee Rule consideration*

Program resources and reporting systems frequently use the terms listed interchangeably, but it is not always apparent what these terms mean within the context of the regulation, thus the rule should define them.

## **Credit True Up**

RPMG is requesting the program implement a credit true up mechanism to be implemented after annual reporting and verification. Per the current regulations, fuel pathway holders are not entitled to credits generated after quarterly, annual reporting, or reporting corrections. Due to this restriction, facilities are discouraged from implementing protocols to reduce their greenhouse gas emissions as the facilities are not gaining the profits from credit accumulation.

Implementing a credit true up procedure similar to that provided in the Oregon Clean Fuels Program would be of benefit for the pathway holder, the program, and Ecology Staff and the environment. RPMG believes the credit true up supports improved regulatory compliance and administrative efficiency. Most importantly, a credit true-up procedure further benefits the environment as it provides the incentive to continue to lower greenhouse gas emissions in on-going, continuous operation of the production environment. Today's system of subjecting pathway holders to both administrative adjustments and potential enforcement action for any CI exceedance, without the counterbalance of receiving additional credits for all incremental CI reductions is a scheme that is punitive in both directions. The added benefit is an incentive and will thus encourage pathway holders to improve CI scores without having to reapply for incremental production efficiency changes in their CI scores. This administrative efficiency will also benefit Ecology's pathway staff.

With no current implementation of credit true ups, RPMG is requesting guidance on the transition process from the temporary fuel pathways to the Ecology-approved fuel pathway carbon intensities. As stated in WAC 173-424-600(9)(c),

*Must submit the 2023 temporary annual compliance reports using the CARB or OR-DEQ approved fuel pathway, unless ecology approves the revised fuel pathway before December 31, 2023, according to WAC 173-424-430. The registered entity must submit the 2023 revised annual compliance report together with the 2024 annual compliance report using an ecology-approved fuel pathway carbon intensity.*

The regulation describes that the 2023 annual compliance reports will be revised, but guidance documentation has yet to be provided on what the revised compliance report will include and how it affects fuel pathway holders. Additionally, as fuel pathway holders transition to Ecology-approved fuel pathway carbon intensities in 2024, more guidance is required outlining when and how those credits and/or deficits will be handled for the 2023 and 2024 compliance periods.

## **Retroactive Credits & Deficits Clarification**

RPMG is proposing that the following sections of the regulations be clarified. As stated under WAC 173-424-430(4) & 410(10):

*Pursuant to WAC 173-424-510 (5)(c), no credits may be claimed, and no deficits may be eliminated, retroactively for a quarter for which the quarterly reporting deadline has passed.*

Currently, the system generates retroactive credit adjustments after reporting. There remains ambiguity on how system generated or staff manual retroactive credit adjustments are produced. It is RPMG's understanding, if corrections result in retroactive credit generation or deficit reduction, Ecology staff will make an administrative credit or deficit adjustment to remove those credits and/or deficits. The process of generating retroactive credits/deficits and removing the credits/deficits is not clearly defined in the regulation or program guidance. Further explanation would be beneficial for fuel pathway holders to understand how each adjustment is conducted and how the terms are associated with manual adjustments by Ecology staff. The timing, frequency, and mechanics of this process are also not transparent. The lack of transparency is causing confusion for pathway holders who are reconciling their ledgers. It is suggested to further add explanation and transparency to the regulations and guidance material for how retroactive credits are added and removed by Ecology. This recommendation coincides directly with the noted terms and definitions to be added to the regulation stated above.

Additionally, RPMG is suggesting Ecology staff reconfigure WFRS to distribute credits and deficits at the end of the reporting period rather than at the point of report generation. This would eliminate the continuous reconciliation that results in the ledger and credit bank continuously changing throughout the 90-day period. This process would streamline the ledger more clearly and allow pathway holders to calculate the appropriate credits and deficits in a credit true up.

### **WFRS & Other Guidance Documents**

Additional clarity on the program's reconciliation process is needed under the CFS Program, i.e. regulations and WFRS guidance documentation. RPMG requests that Ecology add necessary details regarding the reconciliation reports that occur multiple times in WFRS for a given quarter and how to perform reconciliations with the credit ledger expressed in the WFRS-CBTS User Guide.

WFRS runs multiple reconciliation reports in the 90-day period, causing the credit bank to change numerous times. The various changes to the credit bank do not allow facilities to understand the changes between counterparties and reconcile with internal ledgers. For facilities to better understand the changes, it would be beneficial to explain how these automatic (or system-generated) transactions are calculated in CBTS for facilities' internal processes. Adding these calculations and clarifications would eliminate the need for continuous follow-up with Ecology staff. If adding the methods and calculations to the WFRS-CBTS User Guide does not fit, then RPMG is requesting Ecology staff generate additional guidance documents.

### **Summary**

RPMG would like to highlight the benefits that our industry has made to Washington's GHG program and appreciate the opportunity to contribute toward the improvement of this regulatory proposal. RPMG would also reiterate that with a regulatory structure that promotes innovation, the biofuels industry can continue to lead the way in terms of reducing the carbon intensity of the biogenic liquid fuel market that will remain in the state for years to come. RPMG looks forward to conversations with Ecology staff and available to clarify any suggestions provided in this letter.

Please contact me with any questions, or if additional follow up discussions would be helpful. I can be reached at (952) 465-3255 or [jnowicki@rpmgllc.com](mailto:jnowicki@rpmgllc.com).

Thank you,

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