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Department of Ecology
Clean Fuel Standard Rule Lead
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Submitted electronically via: <https://ecology.commentinput.com/?id=R57Ysf3Ud>

**RE: POET COMMENTS ON WASHINGTON’S DEPARTMENT OF ECOLOGY’S
CLEAN FUEL STANDARD RULEMAKING**

Dear Mr. Saul:

POET appreciates the opportunity to participate in Washington’s Department of Ecology (Ecology) Clean Fuel Standard Rulemaking through workshops, advisory committee meetings, and the submission of comments. POET supports Ecology’s dedication to decarbonizing the transportation sector and is committed to delivering low-carbon biofuels that will help Washington achieve its climate goals. POET has participated actively in Ecology’s ongoing rulemaking, including through comments submitted this year on [March 24](#) and [June 7](#). While POET reiterates its requests in those comments, these comments are focused on the topics discussed during the Sept. 9, 2024 CFS Rulemaking Workshop (“Ecology Sept. 9 Presentation”).

POET is encouraged by Ecology’s proposal to align its third-party verification rules with those adopted by OR-DEQ and CARB. *See* Ecology Sept. 9 Presentation at Slides 16-18. POET also appreciates Ecology’s recognition that re-verification is not necessary for pathways verified by DEQ and/or CARB, provided the requirements of WAC 173-424-820(2)(b)(iv) are met. *Id.* at Slide 18. Our comments below address concerns related to other issues subject to Ecology’s proposed rule changes.

I. Credit Modifications and Penalties

Although POET understands and appreciates Ecology’s need to allow for credit modifications based on differences in approved carbon intensities and reported carbon intensities, POET urges Ecology to take a less punitive approach for self-reporting entities. *Id.* at Slides 19-22. Under Ecology’s current proposal, inadvertent, self-identified, and self-reported errors—reported to Ecology before the end of the compliance period—would be penalized with up to a three-times penalty for a first-time offender. *Id.* at Slide 21. While Ecology justifies this penalty as being necessary to prevent abuse and protect the credit market, the reality is the proposed penalty will

harm transparent and pro-active credit-generating entities. POET strives to report accurate information, but unexpected events can and do occur. A more reasonable enforcement approach would be to claw back all incorrectly generated credits on a one-to-one basis. As such, POET respectfully requests Ecology reconsider its credit-modification proposal.¹

Ecology also proposes adopting CARB's 4:1 deficit punishment for verified carbon intensity exceedance. *Id.* at Slide 22. For the same reasons discussed above, this punishment is overly punitive and fails to recognize the realities as to why a verified carbon intensity may be exceeded. Of particular concern, Ecology's proposed penalty makes no exception for *force majeure* events out of the credit-generating entities control. This includes, for example, the extensive flooding in the Midwest occurring earlier this year that may have affected many biofuel-producer operations. POET again respectfully requests Ecology reconsider incorporating CARB's verified carbon intensity exceedance penalty, or at the very least include a *force majeure* clause with a 1:1 credit claw back.

II. Book-and-Claim Accounting

POET is encouraged by Ecology's indication that it will soon release proposed rule language for book-and-claim accounting for electricity and mass-balancing for fuels. *Id.* at Slides 4-9. But we are concerned with Ecology's comments surrounding proposed "additionality" and "regionality" requirements. *Id.* at Slides 5-8.

Additionality can be useful to encourage building new renewable energy projects, and POET is supportive of such projects; however, we request Ecology be mindful not to set a cutoff date that would ignore carbon intensity reductions associated with new renewable energy projects that were not built with Washington's CFS rulemaking in mind. With respect to the "regionality" limitation, Ecology's proposal to require energy to be generated in the Pacific Northwest ignores the benefits that would result from a broader approach that would accelerate decarbonization in Washington's transportation sector and attract SAF feedstocks to Washington. For Washington to meet its SAF goals, which will require significant volumes of SAF produced through alcohol-to-jet pathways, it will unquestionably need large volumes of bioethanol. But as shown in the map below, taken from recent research published the former Department of Energy Secretary, Dr. Ernest Moniz, nearly all bioethanol production facilities are located in the Midwest. *See, e.g.,* Moniz, Ernest, et al., *A Strategic Roadmap for Decarbonizing the U.S. Ethanol Industry*, EFI FOUNDATION at pp. 2-7, 28-42 (Sept. 2024) available at <https://efifoundation.org/foundation-reports/a-strategic-roadmap-for-decarbonizing-ethanol-in-the-united-states/> ("Moniz Study").

¹ To the extent Ecology is concerned with repeat violations due to inconsistencies between operational and certified carbon intensities, POET once again encourages Ecology to adopt DEQ's credit reconciliation process for replacing the certified carbon intensity for provisional applications with the higher operational carbon intensity and adjust the credit balance accordingly.



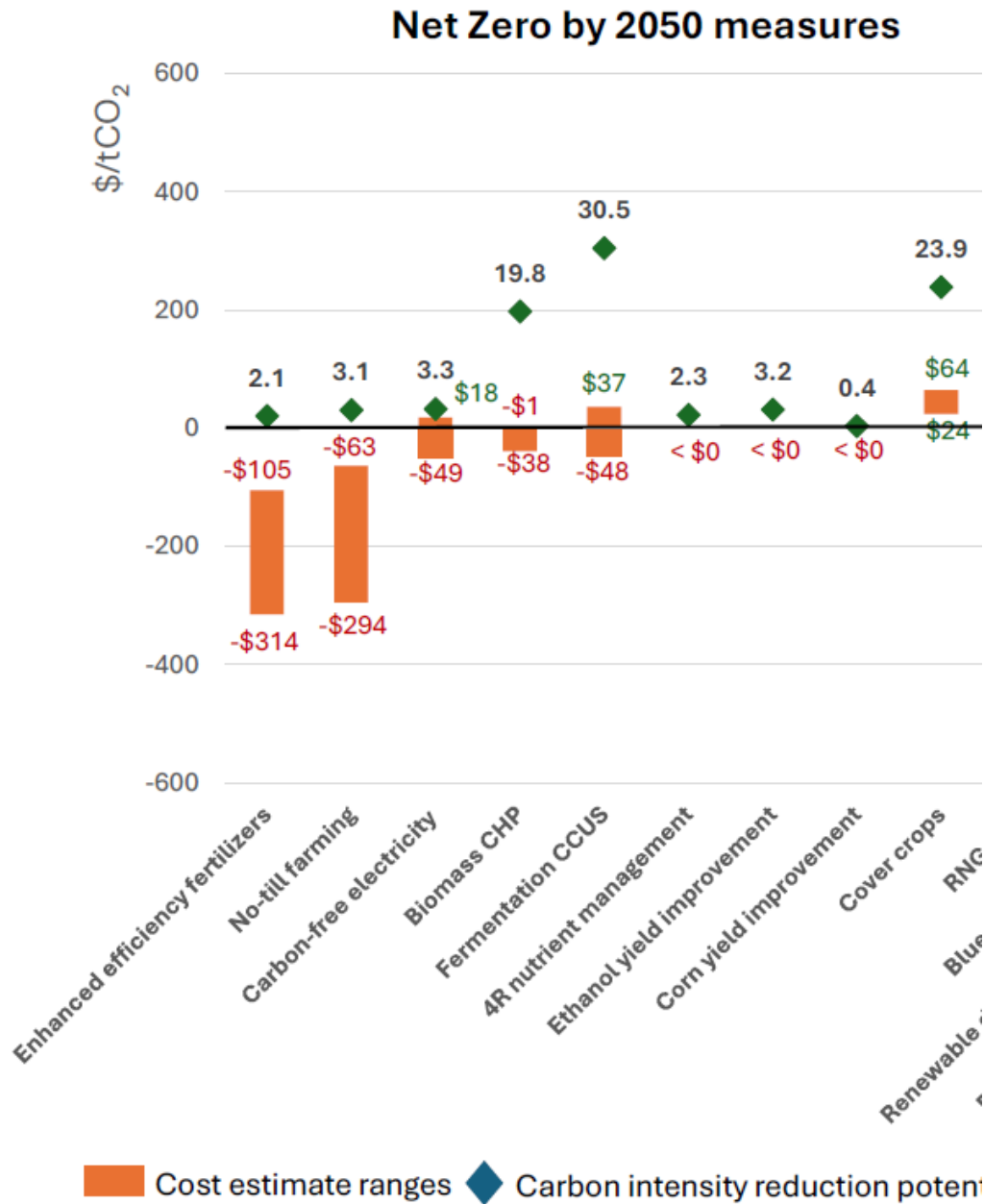
This map highlights the distribution of ethanol plants across the U.S., with a concentration primarily in the Midwest Corn Belt region, reflecting the area's prominence in corn production. Data from: Horizon Climate Group.

The reason for bioethanol facilities being clustered in the Midwest is clear; it is where a majority of corn is grown. In addition to economics, locating the bioethanol facilities within a short distance of the corn feedstock significantly reduces the carbon intensity of transporting corn to the bioethanol facilities. Due to their locations, these bioethanol facilities also rely on energy from the Midwest, including renewable energy. Ecology’s proposal essentially requires bioethanol facilities be located in the Pacific Northwest to receive credit for using renewable energy, but Ecology fails to reconcile this with the fact that any carbon-intensity benefits effectively be wiped out by the carbon emissions associated with transporting corn feedstock to the Pacific Northwest. The “regionality” requirement would thus diminish opportunities for bioethanol producers to lower their transportation carbon emissions through the purchase of renewable energy. Such a policy is counterintuitive to the goals of the CFS. Accordingly, POET encourages Ecology to reconsider including a “regionality” requirement in the proposed book-and-claim accounting language.

III. WA-GREET Model

Finally, POET once again requests Ecology modify the WA-GREET model to account for climate-smart agriculture. In previous [comments](#), POET highlighted the publicly available science demonstrating the carbon-reduction opportunities for bioethanol production, including those associated with climate-smart agriculture. Since then, additional research published by former Energy Secretary Moniz reinforces the carbon-reduction opportunities available to bioethanol

producers through various methods, including climate-smart agriculture, as shown in the abridged graph below. *See, e.g., Moniz Study at pp. 2-7, 28-42 (unabridged graph available on p. 7).*



As demonstrated by the Moniz study, carbon-reduction opportunities that can help the bioethanol industry reach net zero by 2050 are available now. *Id.* at p. 7. These opportunities include climate-smart agricultural practices such as enhanced-efficiency fertilizers, no-till farming, and cover crops. *Id.* at pp. 7, 36-40. And the carbon-reduction numbers are significant; cover crops alone represent a carbon reduction of nearly 24 gCO₂e/MJ. *Id.*

While these climate-smart agricultural practices are being put to use by some farmers already, the costs associated with implementing these practices are a barrier to many farmers. These costs

can be off-set through regulatory incentives recognizing the carbon-intensity reductions associated with climate smart farming and thus allowing bioethanol producers, such as POET, to pay a premium to farmers to implement climate-smart agricultural practices. This is consistent with the U.S. Treasury which recently adopted, as part of the Inflation Reduction Act § 40B SAF Guidance, a GREET model that incentivizes SAF production from corn ethanol. *See* U.S. Department of Treasury, Notice 2024-37, § 40B SAF Credit Guidance (April 30, 2024) (§ 40B Guidance) *available at* <https://www.irs.gov/pub/irs-drop/n-24-37.pdf>. Ecology should adopt a similar approach, incentivizing the decarbonization of bioethanol as a feedstock for SAF and promoting sustainability on American farms.

The recent and best-available science continues to demonstrate the carbon-reduction opportunities through which the bioethanol industry can help Washington meet its net-zero and SAF goals. POET thus urges Washington to update the WA-GREET model to recognize these opportunities and provide incentives to drive the investments necessary to meet these goals.

IV. CONCLUSION

POET appreciates the opportunity to comment and looks forward to working with Ecology to make the Clean Fuel Standard a continued success for Washington. If you have any questions, please contact me at Paul.Townsend@POET.com or (605) 756-5612.

Sincerely,



Paul W. Townsend
Associate Regulatory Counsel