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August 1, 2025

Clean Fuel Standard Department
Washington Department of Ecology

Re: 2025 Proposed Rulemaking (CR-102) Comments

Submitted via Online Portal

Clean Fuels Regulatory Team,

RPMG Inc. (RPMG) appreciates the opportunity to comment on the Washington Clean Fuels Program proposed rulemaking. 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 to further the CFS program goals. Our comments are submitted today for program improvement and reflect the issues impacting RPMG and our member plants.

Credit True Up After Annual Verification

We appreciate the Department of Ecology's (Ecology) efforts to refine the program's implementation and support the proposed introduction of the 2025 credit adjustment process under WAC 173-424-610(m), including incorporating a margin of safety. These provisions promote regulatory certainty and better reflect the realities of fuel market volatility and lifecycle carbon intensity data reporting.

4:1 Deficit Penalty Ratio

RPMG strongly opposes the proposed 4:1 penalty ratio for compliance deficits. Such a disproportionate punitive ratio would impose excessive burdens on regulated entities, especially in a nascent credit market. Washington's updated enforcement structure, as laid out in HB 1409 and Ecology's rulemaking, already includes robust fines—up to $10,000 per day for late reporting, up to $25,000 per month for operating without registration, and targeted penalties of $1,000 per credit for misreporting, among others.[1]

Credit or Deficit Modifications

RPMG recognizes the valuable role that incentive-based compliance programs play in meeting GHG and low-carbon fuel objectives. However, RPMG does not support the unsubstantiated assertion that the credit and deficit modifications requirements will improve compliance and reduce reporting errors, as outlined in WAC 173-424-700(3). We fear that imposing more "penalties" for human reporting errors that do not amount to violations—such as the recently proposed credit and deficit modification—could unfairly penalize organizations. It is our recommendation the proposed section WAC 173-424-700(3) be removed and further evaluated for expected benefit contribution to the program and to ensure the standard of accountability is the same for all reporting entities.

RPMG further raises a concern that the provisions at WAC 173-424-700(3)(a) and (3)(b) for credit and deficit modification will ultimately prove to unfairly target large reporting entities and reporters of low-CI

[1] https://lawfilesext.leg.wa.gov/biennium/2025-26/Pdf/Bill%20Reports/House/1409-S2%20HBR%20PL%2025.pdf?q=20250422183214&utm

products by virtue of their size, frequency of their reporting, and the inherent nature of lower Carbon Intensities generating a larger margin of credits or deficits per unit of fuel. RPMG asserts any modification 'penalty' brought against a reporting entity should be reflective of the nature of a given violation and that all reporting entities should be held accountable to the same standard. These provisions will instead be influenced by the virtue of the size of the reporting entity or the competitively low CI nature of the fuel they are reporting.

Below is a table to illustrate these effects. An entity of larger size with more data to report, high frequency of reporting, or possessing a greater margin of low-CI fuel differential, will be more likely to encounter credit and deficit modification than their peers in the program. In calendar year 2026 when the annual standard is 95.96, the following table describes the volume of ethanol product at a given CI reference that would trigger each tear of Ecologies considered categories in section (3)(a) and (3)(b):

2026	Rail Car count		CI 80	CI 60	CI 25
Standard	Reported	Gallons	Credits	Credits	Credits
95.96	1	28,800	37	84	167
	2	57,600	75	169	333
	3	86,400	112	253	500
	10	288,000	375	844	1,666
	15	432,000	562	1,266	2,499

=(95.96-CI)*81.51*0.000001*28800 gallons per rail car

(a) If party self-reports an action:

	First Occurrence	Second Occurrence	Third Occurrence
0-10 credits or deficits	Warning + 1:1	Warning + 1:1	2:1
11-99 credits or deficits	Warning + 1:1	2:1	3:1
100-499 credits or deficits	2:1	3:1	4:1
500 + credits or deficits	3:1	4:1	4:1

(b) If ecology finds an unreported violation:

	First Occurrence	Second Occurrence	Third Occurrence
0-10 credits or deficits	Warning + 1:1	2:1	3:1
11-99 credits or deficits	Warning + 1:1	3:1	4:1
100-499 credits or deficits	3:1	4:1 + further enforcement action	4:1 + further enforcement action
500 + credits or deficits	4:1	4:1 + further enforcement action	4:1 + further enforcement action

[99] RDS-6434.2

This means that an entity that inadvertently commits a simple human error in reporting could be 'penalized' under the increasing scale, and further just by virtue of the volume and CI value of the product reported they could automatically be brought to a higher, or quickly the highest, category of modification. This is true even where there has been no environmental impact or claimed carbon reduction violation has occurred. This same error committed by another entity that has a smaller volume to report, or a higher CI value of their product, will be treated differently for the same action.

In line with rulemaking webinar context, RPMG appreciates discretionary language used in the proposed rule text (e.g., "Ecology may…", "as determined by Ecology"); but believes because market participants may see future credit computations or deficit assessments as unclear, additional specificity of what discretion Ecology has and when they can use that discretion should be added to the rule text.

An example of proposed language that could be included at WAC 173-424-700(3) is expressed here in underlined text:

> *"Ecology may take action, after providing 45-day notice, under subsection (1)—including suspend, restrict, modify, or revoke credits, or deficits, notwithstanding appeal procedures under WAC 173-424-800 and WAC 173-424-820:*
>
> > *(a) Formal notice of an initial determination with a clear explanation,*
> > *(b) At least one formal opportunity to correct non-material or technical reporting errors within 45 days, and*
> > *(c) A summary of reasons and data to the party before implementing credit and deficit modification action."*

WFRS Deregistering Trigger

The proposed language states Ecology would deregister an entity's WFRS account due to inactivity. Entities with credit balances in the system or pending verifications are particularly affected by this. This deregistering has material and practical impacts as entities may have an active pathway subject to on-going Verification and Credit True-up or Deficit Penalty but may not import fuel within that given calendar year while review is conducted.

RPMG recommends updating WAC 173-424-300(g)(vi) to address this concern. The language suggested below is intended to provide ECY with a path to exclude certain WFRS accounts from deactivation resulting from zero activity where there are pending verification outcomes:

> *(vi)* ***Inactivity.*** *If a registered party does not have any fuel transactions reported in four consecutive quarters, or pending activities within the current verification cycle, the party will:*
>
> > *(A) The party will receive a 30-day notice from ecology that:*
> >
> > > *(I) Its account in the WFRS will be deactivated.*
> > > *(II) Any remaining credits in its WFRS account will be transferred to the backstop aggregator.*
> >
> > *(B) The party will be able to reregister and have its WFRS account reactivated upon having new qualifying fuel transactions in Washington.*

Verification

RPMG acknowledges the inclusion of third-party verification requirements in WAC 173-424-800, which serve as safeguards for the integrity and transparency of carbon intensity reporting under Washington's

Clean Fuels Standard. These provisions align Washington with the existing California (LCFS) and Oregon (CFP) frameworks and reinforce confidence in the program.

We support the inclusion of deferred and less-intensive verification pathways within the proposed rule, such as remote document/data reviews without site visits for low-volume or low-risk pathways—particularly those generating under 6,000 credits or deficits per calendar year.

Additionally, we favor and wish to thank Ecology for acknowledging validation and verification that have already been completed under Oregon's CFP or California's LCFS for likewise certified pathways in those states. This equivalence lowers expenses and delays, encourages regional consistency, and eliminates the need for duplicate verification work for unaltered paths.

WA-GREET

Under WAC 173-424-600(2)(d)(i), the rule specifies the modeling systems that Ecology will use to calculate lifecycle greenhouse gas emissions of transportation fuels. Notably, OR-GREET is not included on that list, and we believe its omission warrants reconsideration given its relevance and widespread use in lifecycle analysis.

Conclusion

RPMG and our affiliated facilities strive to be in good standing and full compliance with all the provisions of the Clean Fuels Standards program, including reporting and recordkeeping. RPMG would like to draw attention to the contributions that our industry has made to Washington's greenhouse gas program and is grateful for the chance to provide concerns on the proposed regulation. RPMG looks forward to conversations with Ecology staff as the proposed rulemaking progresses.

Please contact me with any questions, or if additional follow-up discussions would be helpful. I can be reached at jnowicki@rpmgllc.com.

Thank you,

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