WSPA
Antonio Machado
Director, Northwest Regulatory Affairs and Fuels

July 31, 2026

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

Ms. Lauren Sanner
Climate Rulemaking Planner
Washington State Department of Ecology
300 Desmond Drive SE
Lacey, WA 98503

Re: WSPA Comments on Clean Fuel Standard Credit Monetization and Annual Participation Fees Workshop – Rulemaking to Amend Chapter 173-424 WAC and WAC 173-455-150

Dear Ms. Sanner,

The Western States Petroleum Association (WSPA) appreciates the opportunity to provide comments on Ecology's July 15, 2026, Clean Fuel Standard workshop concerning credit monetization and potential changes to the annual participation-fee structure. We also appreciate Ecology's decision to raise these issues early, while the concepts remain open for discussion and before proposed rule language has been developed.

WSPA is a non-profit trade association that represents companies that safely explore for, produce, refine, transport and market petroleum, petroleum products, natural gas and other energy supplies in California, Washington, Oregon, Nevada, and Arizona. WSPA member companies participate in Washington's Clean Fuel Standard and similar programs in Oregon and California and seek to provide practical input based on extensive compliance and implementation experience.

WSPA continues to advocate for workable policies that are technology-neutral, cost-effective, and reduce administrative complexity.

WSPA supports Ecology's goals of improving access to credit transactions and making annual participation fees more equitable and predictable. Before advancing either concept into proposed rule language, however, Ecology should:

1. Clearly identify the specific credit-market problems participants are experiencing and determine whether existing voluntary tools can address them;
2. Publish the results of its fee modeling and explain the basis for each proposed fee component and cost allocation; and
3. Provide participants with sufficient notice, examples, and calculation tools to understand and budget for the effects of any revised fee structure.

These steps would give Ecology a stronger analytical record, allow stakeholders to provide more informed comments, and reduce the risk of creating new burdens while attempting to solve existing ones.

General Comments

Credit Monetization: Need for a Clearer Record

Ecology explained during the workshop that Clean Fuel Standard credits do not expire and that credit holders are not required to sell them within any particular period. Ecology also made clear that it is not considering mandatory credit sales or an agency-established credit price. WSPA supports maintaining those principles. The decision to sell or retain credits is an important part of compliance planning. A participant may hold credits because it expects to need them later, wishes to accumulate a larger volume, is waiting for different market conditions, or has not yet completed its internal contracting and approval process. The presence of unsold credits therefore does not, by itself, establish that the participant is unable to access the market.

The early survey responses and live polling presented during the workshop reflected a limited and mixed record. Some respondents reported positive selling experiences. Others identified difficulty locating buyers, the administrative effort involved in contracting, a desire to accumulate more credits, or dissatisfaction with available prices. Many respondents indicated that the questions did not apply to them.

That information is useful, but it does not yet show whether there is a broad structural market problem or a narrower set of challenges affecting particular participants. Before creating a new participant category or regulatory mechanism, Ecology should distinguish between participants that want to transact but face a practical obstacle and participants that have made a business decision not to sell.

WSPA recommends that Ecology publish an anonymized summary of the information collected through its survey, workshop polling, written comments, and stakeholder discussions. The summary should identify, to the extent the available information allows:

- How many participants have attempted to sell credits;
- How many report being unable to complete a transaction;
- Whether the principal obstacle involved locating a buyer, negotiating an agreement, reaching agreement on price, obtaining internal approval, or completing the transfer;
- Whether the challenges are concentrated among smaller or infrequent credit generators; and
- Whether the identified concerns require a rule change or can be addressed through guidance, reporting-system improvements, or voluntary market practices.

The purpose of this request is not to delay a useful change. It is to ensure that the response is proportionate to the problem Ecology is trying to solve.

Existing Voluntary Market Tools

WSPA supports Ecology's efforts to improve the Buy Board and Sell Board in the Washington Fuels Reporting System. These tools allow willing buyers and sellers to identify one another while preserving the voluntary and bilateral nature of credit transactions. Before creating a more elaborate regulatory structure, Ecology should give these tools a meaningful opportunity to work.

Potential improvements could include clearer instructions, more useful search functions, voluntary contact information, and periodic reminders that the boards are available. Ecology should also seek feedback from participants that have used the boards to determine whether the information provided is sufficient and whether the boards have resulted in completed transactions.

Ecology also discussed the possibility of providing sellers with information about participants that have net deficits. Such information may be helpful, particularly to smaller credit generators that do not have established relationships with obligated parties. Any disclosure should, however, be designed carefully. A participant's ledger position may change, and the presence of a net deficit does not necessarily mean that the participant is currently seeking to purchase credits.

Ecology should avoid creating the impression that a listed participant is required or prepared to transact. Any information-sharing tool should include appropriate safeguards for confidentiality, accuracy, timing, and voluntary participation.

Voluntary Model Transaction Agreements

Ecology asked whether model contract language could reduce the administrative burden associated with credit transactions. WSPA agrees that a voluntary model agreement may provide a useful starting point, particularly for participants that transact infrequently or do not maintain their own standardized form. The agreement should be developed and maintained outside Ecology's regulatory role. Ecology should not prescribe mandatory commercial terms or create an expectation that a particular agreement must be used.

Valid transactions may differ with respect to payment timing, credit transfer procedures, representations, remedies, confidentiality, and other commercial terms. Buyers and sellers should remain free to modify a model agreement, use another form, or negotiate terms that fit the transaction. A model agreement should reduce contracting burdens. It should not limit lawful commercial arrangements or place Ecology in the position of appearing to approve or guarantee private contractual terms.

Third-Party Credit Clearing Services

Ecology is also considering whether third-party credit clearing services should be permitted to register in Washington's Clean Fuel Standard, drawing from the framework used in California. A clearing service could give willing buyers and sellers another way to locate counterparties and conduct the financial portion of a transaction, while the official credit transfer would continue to occur through Ecology's reporting system.

WSPA supports further evaluation of this concept. Before moving forward with a clearing-service framework, Ecology should identify the specific market barrier it would address and explain why existing voluntary tools are insufficient.

Ecology should seek input from participants that have used clearing services in other clean-fuel markets. That inquiry should examine whether the service:

- Improved access for smaller or less frequent sellers;
- Reduced transaction or contracting costs;
- Provided meaningful benefits beyond direct bilateral transactions;
- Charged transparent and reasonable fees; and
- Preserved the security and confidentiality of participant information.

If Ecology proceeds with rule language, the framework should preserve several basic principles. Participation must remain voluntary. Buyers and sellers should retain the ability to transact directly without using a third-party service. The Washington Fuels Reporting System should remain the official record of credit ownership and transfer. Registration requirements should address financial responsibility, cybersecurity, confidentiality, conflicts of interest, record retention, and clear disclosure of service fees.

A clearing service should facilitate transactions. It should not become a required intermediary, establish an official credit price, or receive preferred access within the program.

Annual Participation Fees

Limitations of the Current Tier Structure

Ecology identified several limitations in the present fee structure. Deficit generators are assigned to tiers according to their position relative to other deficit generators. As a result, entities with substantially different deficit totals may pay the same fee, while entities with similar totals may pay materially different amounts because they fall on opposite sides of a tier boundary.

The current structure may also produce unexpected year-to-year changes. A participant could generate the same number of deficits in two consecutive years but move into a higher tier because another participant's activity declined. That result is not driven by a change in the participant's own operations and can make annual budgeting difficult. WSPA agrees that these features warrant reconsideration. A formula tied more closely to an entity's own activity may improve predictability and reduce the cliff effects created by the present tiers.

WSPA also recognizes Ecology's stated goals of reducing disproportionate effects on small deficit generators, avoiding unnecessary barriers for small credit generators, and continuing to recover the reasonable cost of administering the program. The current record, however, does not yet provide enough information to support a particular formula or the illustrative amounts presented during the workshop. Important questions remain concerning the treatment of pathways, aggregators, designators, registered entities with limited activity, and the proposed allocation between credit and deficit fees.

Fee Modeling and Supporting Analysis

Ecology stated during the workshop that it tested several possible fee structures using actual reported data and selected the current concept because it appeared to provide the best balance among equity, predictability, and program funding. Stakeholders should be allowed to review the results of that work before Ecology develops proposed rule language. WSPA recommends that Ecology publish anonymized modeling comparing the current structure, the leading concept presented during the workshop, and reasonable alternatives.

The analysis should show:

- How many participants would pay more, pay less, or experience little change;
- The approximate range of increases and decreases;
- The effects on small, medium, and large deficit generators;
- The effects on small and newly participating credit generators;
- The effects on regulated entities, opt-in entities, pathway holders, utilities, aggregators, and designators;
- How the formulas would have operated using more than one year of historical data; and
- How changes in the annual budget, total credits, total deficits, pathway counts, and participant counts affect the results.

Ecology can present this information without identifying individual companies or disclosing confidential data. Grouped or anonymized results would still allow stakeholders to understand how costs would shift. A formula may appear more predictable in concept while producing significant increases for particular categories of participants. Publishing the modeling would allow stakeholders to evaluate whether the proposed structure is more equitable in practice.

Application of the Base Fee

WSPA understands the basis for charging a reasonable base fee. Registration, account administration, technical support, and compliance oversight require Ecology staff resources even when an entity reports limited activity. The final rule should clearly establish when the base fee obligation begins and ends and how Ecology will treat entities that are registered but inactive, suspended, withdrawn, or approved late in the reporting year.

During the workshop, Ecology indicated that an entity would likely remain subject to the base fee if it were registered in the program, even when a technical or administrative delay prevented it from completing fuel-supply-equipment registration or generating credits.

WSPA encourages Ecology to consider whether an exception or adjustment is appropriate when a participant's inability to operate results from an unresolved system issue or agency-processing delay. Inactivity caused by circumstances outside the participant's control should not necessarily be treated in the same manner as a voluntary decision to maintain an active account without reporting.

Ecology should also explain the basis for any difference between the base fees charged to regulated entities and opt-in entities. The workshop examples used a $1,500 base fee for a regulated entity and a $150 base fee for an opt-in entity, a tenfold difference. Although the examples were illustrative, Ecology did not identify why the distinction between regulated and opt-in participation, standing alone, would justify that difference, particularly where both types of entities may require registration, account administration, reporting support, and compliance oversight.

WSPA recognizes that the amounts presented during the workshop were examples and remain subject to stakeholder feedback. Ecology should develop any proposed base-fee structure through supporting analysis that identifies the agency resources associated with each participant category and demonstrates that any difference in fees reasonably reflects those differences in administrative burden.

Application of Pathway Fees

Ecology's preliminary concept would impose a fee on each pathway that was active during the previous reporting year, regardless of whether the pathway was used or generated credits. Ecology explained that pathway review and maintenance require staff time and contribute to program costs. WSPA recognizes that pathway administration requires agency resources. The workshop discussion nevertheless showed that the term "active pathway" and the scope of the fee require further development.

Questions remain concerning lookup-table pathways, zero-carbon-intensity electricity pathways, pathways held by producers that do not conduct quarterly reporting, pathways approved or retired during the year, and pathways that remain available in the system but are not used. Ecology should consider whether applying the same annual fee to every active pathway accurately reflects the work involved. A pathway requiring detailed technical review and continuing oversight may impose a different administrative burden from a standardized pathway broadly available under the program.

For example, the Tier 1 Calculator for renewable diesel pathways generates equivalent carbon intensity values for each co-product, effectively multiplying the number of active pathways by two or three without materially increasing the review or resource requirements needed to maintain them. Similarly, the number of feedstock type-and-source combinations for biomass-based diesel pathways can increase the number of active pathways, even though those pathways are typically consolidated into a single group based on a common dataset for purposes of pathway applications, annual reporting, verification, Ecology review, and annual margin-of-safety adjustments or recertification.

For Tier 1 and Tier 2 pathways, a fee structure based on the number of active fuel pathway groups, identified by application number, may more accurately reflect the annual agency resources required than a structure based on the number of individual pathways. This approach would better align the fee structure with how annual pathway review and recertification are conducted in practice and would distribute fees more equitably among pathway holders across different fuel types.

Further, if the pathway fee is intended to recover ongoing maintenance costs rather than the cost of initial approval, Ecology should identify the annual work associated with an unused pathway and explain how the proposed fee relates to that work. The rule should provide an objective definition of “active pathway,” in the context of the fee structure, address partial-year activity, and distinguish among pathway types where their administrative demands differ materially.

Aggregators and Designators

Ecology is considering invoicing aggregators directly for their own base fee and for fees associated with the designators they represent. Ecology explained that this approach could simplify administration because some designators are removed from the quarterly reporting process and may not expect to receive a direct invoice. WSPA understands the administrative benefit of sending one invoice to the entity responsible for reporting. The rule should nevertheless clearly identify which entity is legally responsible for payment, how the fee applies when a designator changes aggregators, and how Ecology will prevent duplicate charges.

Ecology should also clarify the treatment of utilities and other entities that use an aggregator for only part of their credit-generating activity. Ecology should not prescribe how aggregators and designators allocate costs through their private agreements. It should, however, provide enough notice and certainty for those parties to address fee responsibility in their contracts. The revised structure should also avoid discouraging small credit generators from using aggregators. Aggregation can make program participation practical for entities that lack the resources to report independently. Administrative streamlining should not create a new barrier for those participants.

Allocation Between Credit and Deficit Fees

Under the framework presented at the workshop, Ecology would first collect base and pathway fees. The remaining program budget would then be recovered through two activity-based charges: five percent through a per-credit fee and ninety-five percent through a per-deficit fee.

WSPA does not recommend a different allocation based on the limited record available today. Ecology should, however, explain why the proposed 95-percent/5-percent split remains appropriate within a redesigned fee structure. If Ecology is reconsidering how annual program costs are allocated, the existing split should not simply be carried forward without analysis. Ecology should model reasonable alternatives and explain the principles used to compare them.

That analysis should consider the administrative work associated with credit and deficit reporting, the mandatory or voluntary nature of different forms of participation, the benefits participants receive from the program, and the combined effect of all fee components. The final allocation should be supported by a transparent rationale and by modeling showing its cumulative effect on each major category of participant.

Fee Timing and Predictability

Ecology explained that annual reporting concludes at the end of April and that the budget and fee are generally set during May and June. Any formula based on actual credits, deficits, pathways, or participant counts will necessarily rely on information from the prior reporting year. WSPA recognizes that Ecology may not be able to calculate a final invoice before the relevant reporting data are complete. Ecology can nevertheless provide participants with earlier and more useful information.

Ecology should publish the anticipated annual program budget, expected formula inputs, and estimated fee ranges as early as reasonably possible. Once annual reporting is complete, Ecology could update those estimates and explain any material changes before invoices are issued.

Ecology should also provide a calculation tool or worksheet that allows participants to estimate their fees using their own prior-year activity. Even when some inputs remain uncertain, a transparent calculator would improve budgeting and help participants understand how credits, deficits, pathways, designators, and other factors affect the final invoice.

Because the revised structure would first apply to 2028 invoices based on 2027 reported activity, participants should receive clear guidance before making the business decisions that will determine their 2027 activity. The final rule should be accompanied by examples covering both common and more complicated participant configurations. Where the revised structure would result in a substantial increase for a category of participants, Ecology should consider a reasonable transition period, advance-notice provision, or other mechanism to avoid abrupt and unexpected cost changes.

Program Budget Transparency

Ecology stated that this rulemaking is not intended to change the process used to establish the total annual program budget. WSPA understands that the immediate question concerns how the budget is allocated among participants. The amount being allocated nevertheless remains important. Ecology should continue to provide a clear description of the staffing, information-technology, contracting, and administrative costs supported by the annual fee and should explain material year-to-year changes.

Over the longer term, Ecology and the Legislature may also wish to consider whether some portion of program administration should be supported through appropriated climate-program revenues rather than recovered entirely through participant assessments.

WSPA recognizes that this broader funding question may require legislative action and may fall outside the immediate scope of this rulemaking. We raise it as an issue for continued consideration, not as a substitute for improving the current structure.

Conclusion

WSPA appreciates Ecology's early engagement on credit monetization and annual participation fees. Before advancing new credit-market requirements, Ecology should more clearly identify the barriers participants are experiencing, improve existing voluntary tools, and preserve the voluntary nature of credit transactions.

WSPA also supports revisiting the current fee structure to improve equity and predictability. Ecology should publish its modeling, explain the basis for each fee component, address the treatment of pathways, aggregators, designators, and limited-activity entities, and provide participants with adequate notice and calculation tools. The final structure should be transparent, reasonably connected to program administration, and predictable enough to support informed business and compliance decisions.

WSPA appreciates the opportunity to submit comments on these important issues and remains committed to constructive engagement. Please do not hesitate to contact me directly at (360) 594-1415 or via email at amachado@wspa.org.

Sincerely,

cc: Jessica Spiegel - WSPA