



**Antonio Machado**

Director, Northwest Regulatory Affairs and Fuels

September 30, 2026

Sent via upload to: <https://ecology.commentinput.com/?id=pDR9UNjH4>

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 Carbon Intensity Targets for 2028–2038 –  
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 the Washington Department of Ecology's September 2026 Discussion Paper: Carbon Intensity Targets 2028–2038 as part of the rulemaking to amend Chapter 173-424 WAC and WAC 173-455-150.

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 appreciates Ecology's decision to engage stakeholders on the 2028–2038 carbon intensity (CI) schedule before developing proposed rule language. The discussion paper provides three potential annual trajectories, each designed to achieve the 45% cumulative CI reduction established by the Legislature for 2038, while varying the pace of reductions during the earlier years.

At this stage, WSPA does not recommend that Ecology adopt a particular one of the three scenarios. Rather, WSPA encourages Ecology to determine the appropriate annual trajectory through a methodical, data-driven process that evaluates the practical effects of the alternative schedules before selecting a preferred approach. That distinction is important. The Legislature has established the 45% endpoint and directed Ecology to set annual reductions of between three and four percent for 2028 through 2038. Ecology's task in this rulemaking is therefore not whether to implement that legislative direction, but how to pace the annual reductions within the statutory framework. RCW 70A.535.025 establishes those parameters.<sup>1</sup>

That decision should be informed by the best available information concerning fuel and credit availability, infrastructure development, technology deployment, investment timelines, market conditions, and compliance costs. Ecology's discussion paper states that the agency is in the process of contracting with an independent party to perform modeling and analysis of different CI reduction scenarios, including estimated market impacts. WSPA encourages Ecology to complete and publish that work, provide stakeholders a meaningful opportunity to review and comment on it, and allow the analysis to inform the annual trajectory incorporated into proposed rule language. This approach is consistent with WSPA's prior comments in this rulemaking. In March, WSPA

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<sup>1</sup> [Chapter 70A.535 RCW Carbon intensity in transportation fuels—Standards to reduce carbon intensity—Adoption of rules—Monthly calculation.](#)

encouraged Ecology to ground the future CI schedule in realistic and transparent assumptions concerning infrastructure constraints, consumer adoption, fuel and feedstock availability, interstate markets, capital investment, and economic impacts. WSPA continues to believe those considerations are central to development of a durable 2028–2038 schedule.

## **General Comments**

### **The Analysis Should Inform Selection of the Annual CI Schedule**

Ecology presents three scenarios reflecting different approaches to the statutory 2038 target. The relevant question, however, is not which sequence of annual percentages stakeholders prefer. The more consequential question is how the alternative trajectories are expected to perform under realistic assumptions regarding the fuels, credits, technologies, infrastructure, and investments available to support compliance.

The Legislature has provided an analytical framework that is directly relevant to that inquiry. RCW 70A.535.190 requires Ecology to publish analyses and forecasts of Clean Fuel Standard credit markets, including Washington credit prices and comparisons with other jurisdictions, trends in credit supply and demand, credit-market activity by fuel type, the share of credits and deficits generated by fuel type, and trends in in-state biofuel feedstock production. The statute also requires Ecology to consider that analysis when adopting rules implementing the program.<sup>2</sup>

This requirement was enacted as part of the same 2025 legislation that revised the CI schedule. WSPA therefore views the analysis contemplated by RCW 70A.535.190 as particularly relevant to Ecology's implementation of the amended standard.

Completing and publishing this analysis before Ecology settles on a preferred annual trajectory would provide a common factual record for the rulemaking and allow stakeholders to offer more informed input. It would also help distinguish between differences among the scenarios that may have meaningful implications for credit availability, compliance planning, market conditions, and investment.

WSPA has encouraged a similar process elsewhere in this rulemaking. In its July 31<sup>st</sup> comments regarding annual participation fees, WSPA asked Ecology to publish its modeling and supporting assumptions before finalizing a regulatory approach so stakeholders could evaluate the practical effects of the alternatives under consideration. The same principle is particularly important when establishing an annual CI trajectory that will guide compliance and investment decisions for more than a decade.

### **The Modeling Should Evaluate Feasibility and Market Performance Across the Full 2028–2038 Horizon.**

The fact that each of Ecology's three scenarios reaches a 45% cumulative reduction in 2038 does not mean that the schedules will necessarily have equivalent effects during the intervening years. The timing of the reductions can influence credit demand, the use of banked credits, fuel procurement, infrastructure investment, and the time available for additional lower-carbon fuel supply and credit-generating technologies to enter the market. WSPA therefore encourages Ecology to fully evaluate and model each trajectory across the full 2028–2038 period and to examine both the compliance resources expected to be available and the demand created by the

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<sup>2</sup> [Chapter 70A.535 RCW Transportation Fuel - Clean Fuels Program](#)

annual standard.

The analysis should include, at a minimum:

- realistic permitting, construction, infrastructure, and capital-investment timelines;
- projected availability and growth of lower-carbon liquid and gaseous fuels and other compliance options;
- feedstock availability, production capacity, and logistical constraints;
- reasonable assumptions regarding transportation electrification, vehicle adoption, charging infrastructure, and grid capability;
- the effects of changing federal and state policies and incentives where those policies materially affect assumptions regarding technology or fuel deployment;
- interstate movement of fuels and feedstocks and competition for lower-carbon supply among Washington and other clean-fuel markets;
- projected annual credit and deficit generation, including the availability and expected use of banked credits;
- projected credit supply and demand and the potential for periods of market tightness or surplus; and
- potential effects on credit prices, compliance costs, fuel procurement, and longer-term investment decisions.

Transportation electrification warrants careful treatment within this analysis. Projections extending through 2038 necessarily depend on assumptions regarding vehicle deployment, consumer adoption, charging infrastructure, grid development, and the policy and economic conditions supporting electrification. Those conditions will change over the period covered by this rule.

WSPA does not suggest that Ecology adopt a particular assumption regarding the pace of electrification or any other technology. Rather, Ecology should evaluate a reasonable range of outcomes and test how the alternative CI trajectories perform if deployment occurs more quickly or more slowly than the central forecast. This would reduce the risk that the long-term schedule depends disproportionately on any single technology or fuel pathway developing according to one specific projection. That approach is consistent with WSPA's previous comments encouraging Ecology to preserve the technology-neutral, performance-based structure of the program.

A durable Clean Fuel Standard should allow multiple fuels and technologies to contribute based on verified lifecycle greenhouse gas performance and should remain workable as market conditions and technology deployment evolve. A sensitivity analysis should be applied to fuel and credit availability. A more stringent near-term trajectory could increase credit demand relative to a more gradual trajectory if credit supply does not expand at the same rate. Greater-than-expected deployment of lower-CI fuels or credit-generating technologies could produce a different result. The appropriate conclusion depends on the underlying supply, demand, and market assumptions. Ecology's modeling should make those relationships transparent rather than assume a particular market outcome.

The analysis should therefore show, on a year-by-year basis, projected credit generation and deficits, expected use of banked credits, projected credit supply and demand, and the potential implications of those conditions for credit prices and compliance costs. Where future conditions are uncertain, reasonable ranges and sensitivity cases would be more useful than reliance on a single point forecast. Washington's existing fuel-supply forecast provides a useful analytical reference. RCW 70A.535.100 requires consideration of potential fuel volumes, the existing and future vehicle fleet, geographic and logistical constraints, banked credits and carried-over deficits, anticipated

credits, credits needed for compliance, and a comparison of expected supply with compliance requirements.<sup>3</sup>

WSPA encourages Ecology to incorporate similar concepts into its longer-term evaluation of the 2028–2038 trajectories. The existing forecast and deferral provisions remain important safeguards if actual market conditions later diverge from expectations. RCW 70A.535.110 requires a forecast deferral when the statutory fuel-supply forecast projects insufficient credits for an upcoming compliance period, while RCW 70A.535.120 provides additional authority for emergency and certain participant-specific deferrals.

Those mechanisms, however, address conditions that arise close to or during an individual compliance period. They do not substitute for thoughtful long-term planning when establishing the schedule itself. Fuel-production investments, refinery and terminal projects, transportation infrastructure, supply contracts, and other compliance strategies can require decisions and capital commitments years in advance. Establishing the trajectory on a well-developed analytical record gives participants greater ability to plan for those investments and reduces reliance on short-term corrective mechanisms later.

### **Ecology Should Clarify the Statutory 20% Condition Applicable Beginning in 2030.**

WSPA also requests clarification regarding how Ecology intends to implement RCW 70A.535.025(6). Beginning with program year 2030, that provision states that Ecology may not increase the applicable CI reduction beyond 20% until the agency demonstrates that at least one new or expanded biofuel production facility has received a qualifying siting, operating, or environmental permit after January 1, 2025. Each of the schedules presented in Ecology's discussion paper exceeds a 20% cumulative reduction in 2030.

Scenarios A and B reach 21%, while Scenario C reaches approximately 20.8%. The discussion paper does not address the permitting condition or explain how Ecology intends to account for it in implementing the schedule. WSPA would appreciate Ecology clarifying this issue before proposed rule language is developed. If Ecology has determined that the statutory condition has already been satisfied, identifying the basis for that determination would provide stakeholders a common understanding of the applicable record. If the condition has not yet been satisfied, Ecology should explain how it intends to reflect the requirement in the proposed schedule and its implementation.

WSPA raises this issue as a request for clarity regarding how the statutory provisions fit together, rather than as a position on which of the three scenarios Ecology should ultimately select.

### **WAC 173-424-700 Should Preserve Incentives for Good-Faith Reporting Corrections.**

WSPA also encourages Ecology to revisit the credit and deficit modification provisions in WAC 173-424-700(3)(a)(i) as part of this rulemaking. In 2025, Ecology amended WAC 173-424-700 to establish a framework for modifying credits and deficits when a registered party identifies and self-reports information that resulted in illegitimate credits or unclaimed deficits. Beginning January 1, 2026, where a correction is made after the applicable quarterly reporting deadline but before the end of the compliance period, the rule allows Ecology to remove additional credits or issue additional deficits based on both the size of the correction and the number of occurrences within a rolling 36-month period.

WSPA supports accurate reporting and agrees that program records should be corrected when

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<sup>3</sup> [Washington State Legislature Chapter 70A.535 RCW Transportation Fuel - Clean Fuels Program](#)

information affecting credits or deficits is found to be inaccurate. WSPA remains concerned, however, that the current structure can impose escalating consequences on a registered reporting party even when that party did not cause the underlying circumstance requiring the correction and is acting in good faith to provide Ecology with updated information.

Fuel transactions often involve multiple entities, and information relevant to a previously submitted report may change or become available only after the reporting deadline. For example, a nonregistered fuel distributor may notify its supplier months after a transaction that the ultimate destination of the fuel changed. The registered supplier may then be required to correct its previously submitted report based on information that was neither known nor reasonably available when the original report was filed. Treating that correction as an occurrence for purposes of an escalating credit or deficit modification can place a consequence on the party for appropriately updating Ecology's records when new information becomes available.

A similar issue can arise when both parties to a transaction are registered participants. If a registered fuel supplier transacts with a registered fuel distributor and the distributor later identifies a destination change after the reporting deadline, both entities may have reporting obligations associated with correcting the same underlying transaction. The current framework can therefore result in separate report corrections associated with a single underlying change being treated as occurrences for the respective reporting parties, even where both are acting in good faith to ensure that the program record is accurate.

This outcome may be inconsistent with the compliance behavior the program should encourage. Ecology explained during development of the 2025 amendments that the credit and deficit modification provisions were intended to improve the accuracy and timeliness of reporting and were not intended to be overly punitive toward small mistakes. A framework that creates an escalating consequence whenever a reporting party voluntarily brings newly discovered information to Ecology could, however, create a disincentive to the prompt self-reporting and correction that supports program integrity.

WSPA does not suggest that corrections should leave improperly generated credits or unclaimed deficits in place. The underlying ledger should be corrected as necessary to accurately reflect the transaction. The separate question is whether every correction should also constitute an occurrence for purposes of escalating additional credit removals or deficit assessments when the reporting party did not cause the underlying change.

WSPA therefore requests that Ecology workshop potential amendments to WAC 173-424-700(3)(a)(i) that better distinguish between reporting errors attributable to a registered party and corrections arising from subsequent information or actions outside that party's reasonable control. Ecology should also consider how the rule applies when multiple reporting parties must correct records because of the same underlying transaction or destination change.

Any revised framework should preserve incentives for timely and accurate reporting, correct credits and deficits where necessary, and appropriately address repeated or material noncompliance, while avoiding additional consequences for registered parties that did not cause the underlying issue and are acting in good faith to correct the record. This would better align the rule with Ecology's stated objectives for accurate reporting and program integrity.

WSPA raised a related principle in its March 3<sup>rd</sup> comments, encouraging Ecology to ensure that enforcement provisions are prospective, proportionate, and clearly defined and do not create unnecessary uncertainty for entities seeking to comply with the program. WSPA believes further

stakeholder discussion of WAC 173-424-700(3)(a)(i) would help Ecology refine the provision while preserving its underlying purpose.

## Conclusion

WSPA appreciates Ecology's continued engagement on the 2028–2038 carbon intensity reduction schedule and recognizes the Legislature's direction establishing a 45% cumulative reduction by 2038.

At this stage, WSPA is not requesting adoption of a particular scenario. Instead, WSPA encourages Ecology to allow the forthcoming modeling and market analysis to inform its selection of the annual CI trajectory. The analysis should evaluate feasibility and market performance across the full 2028–2038 period; use realistic and transparent assumptions regarding fuel and credit availability, infrastructure, investment, electrification, and technology deployment; examine year-by-year credit-market and compliance effects; and test key assumptions through reasonable sensitivity analysis.

WSPA further encourages Ecology to clarify how the statutory 20% condition applicable beginning in 2030 will be addressed.

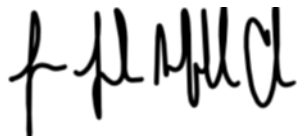
Separately, WSPA requests that Ecology workshop amendments to WAC 173-424-700(3)(a)(i) to ensure that the credit and deficit modification framework promotes accurate and timely reporting without imposing escalating consequences on registered parties that did not cause the underlying reporting issue and are acting in good faith to correct the program record.

Once Ecology's CI analysis is complete, the agency should publish the methodology, principal assumptions, and results in sufficient detail for stakeholders to understand the basis for its conclusions and provide a meaningful opportunity for review and comment before incorporating a preferred schedule into proposed rule language.

WSPA and its member companies remain available to share practical experience concerning fuel supply, infrastructure development, credit-market operation, compliance planning, reporting, and implementation of clean-fuel programs across the West as Ecology completes this work.

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](mailto:amachado@wspa.org).

Sincerely,



cc: Jessica Spiegel - WSPA