

CFS Rule Changes Summary

November 26, 2024 – Public Draft Release #2 (updated December 4, 2024, with corrections)

This document contains a summary of additional draft rule changes to Chapter 173-424 WAC (Clean Fuels Program Rule) made since the initial draft was released on August 29, 2024. Some minor wording and formatting edits are not included in this summary.

Please [click here](#) for a summary of the rule changes released in August.

Part 1: Definitions/Overview

Section	Change	Reason for Change
173-424-110(67)	Amended definition of “specified source feedstock” to specify the point of origin for used cooking oil collected from U.S.-based municipal or other public collection sites.	Add for clarity and based on feedback on the burden of traceability of used cooking oil feedstocks at U.S.-based public collection sites.
173-424-110(160) and (161)	Amended definitions of “HD-HRI” and “HD-FCI” refueling and charging sites. The rule that no equipment training be required for site users was changed to a stipulation that any required training be available at no additional charge.	Edited to be in alignment with changes to ZEV capacity credits in Part 5 by making a separate credit pool for heavy-duty vehicles. The changes to equipment training rules were made in response to feedback about potential impacts on safety and accessibility.
173-424-110(163)	Added a definition of "book-and-claim" accounting.	Added for clarity and to better explain suggested rule changes in Part 6. Definition is similar to those used by CARB and OR-DEQ.
173-424-110(164)	Added definition of "alternative marine fuel".	Added in response to interest about incorporating these fuels as a credit generation opportunity in the CFS. We are also suggesting marine as a "hard-to-decarbonize" sector, which would open additional opportunities for using electrolytic hydrogen as a feedstock. Clarifies credit generation eligibility for alternative marine fuels.

173-424-110(165)	Added definition of "fugitive methane".	Similar to CARB definition. Added to better clarify and define updates proposed rule updates to avoided methane credit generation.
173-424-110(166)	Added definition for "HD-ZEV capacity credits".	This puts capacity credits for heavy-duty zero emission vehicle infrastructure in the same credit pool, regardless of whether the fuel supply equipment is hydrogen or electricity. Light- and medium-duty charging infrastructure is assigned its own separate credit pool. Please see Part 5 for more details.
173-424-120(4)(d)	Added carbon intensity requirements for hydrogen used as a vehicle fuel or feedstock.	This proposal matches updates in the CARB LCFS and meets our program's goal of ensuring the use of low-carbon intensity hydrogen in the CFS.
173-424-140(3)(b)(iv)	Added the sentence: "In order to be excluded from the annual fee for the current year, aggregators must notify ecology of the withdrawal by March 31st."	Improves clarity and responds to comment asking Ecology to specify timelines regarding notifications and assignment of annual participation fees.

Part 2: Designation of Regulated Parties/Credit Generators

Section	Change	Reason for Change
173-424-220(3)(c) and (d)	For designating another entity as credit generator, we added two subsections: (c) updates contract terms and (d) requires aggregators to notify the first reporting entity of annual credit revenues.	(c) is intended to better define each party's responsibilities in written contract language, while (d) is intended to increase transparency for market participants.
173-424-220(11)(i) and (A) through (D)	Added notification requirements for electric utilities participating in the CFS by generating residential base credits for EV charging.	Improves program administration and helps Ecology better track electric utility participation in the CFS.

Part 3: Registration

Section	Change	Reason for Change
173-424-300(1)(h)(ii)(C)	Amended to define "operational" as "meaning the FSE is fully constructed and available for refueling or recharging vehicles".	Clarity and in response to comment asking Ecology to define "operational" for purposes of FSE registration.
173-424-300(1)(h)(iii)(I)	Edited to require eTRUs to be registered by facility, rather than individually.	Improves program administration and efficiency and aligns with LCFS updates.

Part 4: Recordkeeping & Reporting

Section	Change	Reason for Change
173-424-400(7)	Updated third-party verification reference to add "through 173-424-850".	Accuracy.
173-424-400(11)	Added subsection detailing proposed rules for using utility-specific carbon intensities for reporting electrolytic hydrogen used as process energy. This option may be used to lower the CI of fuels that use green hydrogen as a feedstock.	The proposed language is intended to further incentivize new and innovative fuel production methods addressing hard-to-decarbonize sectors. We are proposing that this option only be available for alternative, low carbon intensity fuels for the marine and aviation sectors and that the opportunity be phased out at the end of 2033. These requirements are intended to provide support for new fuel types being produced in Washington while establishing guardrails on new credit generation opportunities in the CFS program to balance market conditions.
173-420-420(6)(d)	Added mass balance accounting rules for reporting biogenic fuels that are commingled in storage, production, or transport with fossil fuels.	Added to ensure all fuel suppliers have a uniform requirement to report co-mingled gallons of fuel consistently across the program. Aligns with OR-DEQ requirement and provides regulatory certainty.

Part 5: Compliance

Section	Change	Reason for Change
173-424-530(1)(e)(iii)	Added stipulation that parties may not accept or initiate credit transfers before generating credits or deficits.	Added to ensure that only registered parties who have generated credits or deficits (i.e., fuel producers, fuel suppliers, and aggregators) are transacting on the CFS credit market, and that credit transactions are used for purposes of compliance.
173-424-530(2)(e) and (f)	Added Type 1 and Type 2 credit transfers.	Clarity/accuracy.
173-424-530(5)	Amended “voiding credits” to “voiding credit transfers” and updated the timeline for buyers and sellers to fulfill credit transfer requirements to within 10 days of the credit transfer being initiated.	To clarify that this subsection deals with voiding credit transfers, not credit generation itself. The timeline is being updated to 10 days to align with WFRS and the credit buyer requirements in subsection (4).

ZEV Capacity Credits

173-424-560

General Note: we are proposing to reorder this section by creating two separate brackets: HD-ZEV (including both heavy-duty FCI and heavy-duty HRI, including public and shared sites) and LMD-ZEV (light- and medium-duty FCI, only public sites). Both HD-ZEV and LMD-ZEV would each qualify for 2.5% of the previous quarter's deficits. Aside from this restructuring, most of the general requirements for capacity credits remain the same.

Including medium-duty vehicles with light-duty vehicles (instead of with heavy-duty, as in our previous draft text) aligns with the recent LCFS rule update, comments we received during our last informal comment period, and the EER values in table 4. We had previously proposed phasing out light-duty credits at the end of 2026 due to the need for heavy-duty FCI in Washington; this updated proposal allows for continued light-duty FCI crediting to meet expected demand growth for public EV charging, while nevertheless expanding potential capacity credits for heavy-duty FCI. Putting heavy-duty FCI in a shared credit pool with heavy-duty HRI should expand heavy-duty charging deployment in the near-term, while keeping FCEVs as an option for the heavy-duty sector. We propose to eliminate HRI for LMD vehicles sector due to a lack of actual and projected FCEV growth in that sector.

<i>Heavy-Duty HRI</i>		
173-424-560(1)	Added “heavy-duty” to requirements for HRI capacity credit eligibility and changed “HRI” to “HD-HRI” throughout the rest of the section.	See above – better matches actual and projected FCEV deployment and use cases, and separating credit pools into weight classes/use cases makes more sense than doing so by fuel type.
173-424-560(1)(a)(ii)(A) and (B)	Reordered access requirements (including shared sites) to be included in this subsection.	Clarity – makes more sense to address this requirement at the top of the regulation than further down. Actual requirements for public sites are the same, shared site changes are referenced in Part 1.
173-424-560(1)(a)(vi)	Amended section about HySCapE 1.0 model to only reference heavy-duty vehicles.	Follows proposal to make HRI specific to the HD sector.
173-424-560(1)(a)(vii)	Updated HRI refueling capacity cap to be specific to the heavy-duty sector.	See above.
173-424-560(1)(c)(i)	Changed “HRI applications” to “All HD-ZEV applications.”	Makes clear that HD-HRI and HD-FCI applications will be evaluated consistently, since they are sharing the same credit pool.
173-424-560(1)(c)(v)	Added requirement to meet new renewable hydrogen requirements under 173-424-120(4)(d).	See above

173-424-560(1)(c)(vi)	Added “in the following quarter” to reapplication requirements.	Clarity.
173-424-560(1)(d)(vii)	Changed “reported pursuant to (f)(iii)(E) of this subsection” to “received towards capital, operational, and maintenance expenditures in the prior quarter”.	Clarity.
<i>Heavy-Duty FCI</i>		
173-424-560(2)	Added section specific to heavy-duty FCI pathways and moved light- and medium-duty pathways to 173-424-560(3).	This separates light- and medium-duty FCI from heavy-duty FCI, helping fulfill the goal stated above of creating separate credit brackets for the LMD and HD sectors rather than separating them by fuel type. <i>The actual requirements for HD-FCI are very similar to our prior rule text, except for the changes noted below.</i>
173-424-560(2)(b)(v)(A)	Added sentence confirming that nameplate power rating cap for HD-FCI does not affect other, non-FCI forms of credit generation.	Clarity.
173-424-560(2)(b)(viii)	Amended to clarify that “operational” for purposes of the HD-FCI credit application means that the FSE is “fully constructed and available to charge heavy-duty electric vehicles”.	Clarity and alignment with similar language in other sections of this chapter.
DELETED 173-424-560(2)(a)(vi)	Removed requirements about the “effective simultaneous power rating”.	Aligns with LCFS updates and gives more flexibility to applicants, as long as total nameplate rating for all FSE is below 10 MW.
<i>Light- and Medium-Duty FCI</i>		
173-424-560(3)	This section was previously (2) and has now been moved to (3) to be specific to light-and medium-duty FCI pathways.	This separates LMD-FCI into its own category that is eligible for capacity credits equal to 2.5% of program deficits in the prior quarter. Most changes are simply removing text from the prior draft that stipulated different requirements for medium-and heavy-duty vehicles and moving them to the HD side.

173-424-560(3)(b)(v)(A)	Added sentence confirming that nameplate power rating cap for LMD-FCI does not affect other, non-FCI forms of credit generation.	Clarity.
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Part 6: Obtaining Carbon Intensities for Fuel Pathways

Section	Change	Reason for Change
WAC 173-424-600(1)	Added reference date (December 31, 2014) for Agro-Ecological Zone Emissions Factor (AEZ-EF) model.	Clarity.
WAC 173-424-600(2)	Changed requirement for Ecology to review program carbon intensities from “every three years” to “regularly”.	Intended to better align the CFS with available science and updated lifecycle analysis models by incorporating updates on an as-needed basis, rather than a pre-defined timeline.
173-424-600(3)(b)	Clarified that hydrogen suppliers can only temporarily use the fuel pathway codes under WAC 173-424-900 Table 8 and must eventually apply for a specific carbon intensity.	Clarity/correcting error.
173-424-600(3)(ii)	Added option for electricity suppliers to lower their CI using RECs.	Clarity/consistency with other parts of the rule.
173-424-600(5)(a)	Added details to section regarding Tier 1 fuel pathways.	Expands list of fuels defined as Tier 1 and clarifies that the carbon intensities of these fuels have been well-analyzed in California, Oregon, and Washington’s clean fuels programs.
173-424-600(5)(b)	Removed sentences referencing October 1, 2024 deadline for Ecology to accept Tier 2 pathway applications. Clarifies details on which fuels are Tier 1 vs. Tier 2.	The deadline has passed, and Ecology is now accepting Tier 2 applications. In addition, some fuels previously defined as Tier 2 (e.g. alternative jet fuel) now have enough data established to be reclassified as Tier 1 if they are produced from conventional feedstocks. However, per (b)(vi), they will still be classified as Tier 2 if they use innovative and new production methods.
173-424-600(6)(a)	Included additional eligible type of specified-source feedstocks, including forest residue	To broaden the feedstock base and align with CARB and OR-DEQ programs

173-424-600(6)(b)	Clarified what the requirements for joint applicants to claim source-specific feedstock	Clarity.
173-424-600(g)	Added requirements for feedstock attestation letter	To establish requirements to ensure the integrity of specified-source feedstock and align with CARB and OR-DEQ rules.
173-424-600(7)	Added new subsection on book-and-claim of electricity and biomethane.	To ensure the integrity of the emissions reductions from renewable electricity generation and RNG production, incentivize additional renewable resources to be delivered to Washington, to better align program incentives with the promotion of new and additional renewable electricity and RNG production, and to better align with meeting statewide emissions reduction targets. Additionally, the new section will implement the amendments made to the CFS statute by SB 5447 to add book-and-claim biomethane as a feedstock for SAF.
173-424-600(8)	Amended to clarify that a margin of safety may be imposed by Ecology as a condition during pathway approval.	To align with OR-DEQ. To create room for establishing a margin of safety where there is uncertainty in the data and model used in a pathway application.
173-424-610(2)(e)	Included a positive or qualified validation or verification as a precondition for recertification of a pathway application	To clarify in the rule what is required for the recertification of a pathway application, and to align with OR-DEQ.
173-424-610(3)(h)	Included production capacity information for non-liquid fuels to be provided in terms of equivalent figures as 'million gallons per year'	To clarify that the requirement to provide production capacity is not only limited to liquid fuel production but includes other fuels as well.
173-424-610(4)(a)	Included the date of publication of the Tier 1 calculators Instruction manual	To clarify the date of publication of the Tier 1 calculators instruction manual.
173-424-610(5)	Described the process of Tier 2 fuel pathway application information submittal and review prior to releasing the application for a third party verifier.	To clarify the process of Tier 2 fuel pathway applications, and to align with OR-DEQ.
173-424-610(5)(a)	Included pathways that have 'qualified positive' assessment by a third-party verifier to be eligible to apply for fuel pathway approval.	To clarify that 'qualified positive' assessment by a third-party verifier in California or Oregon does not prevent the fuel producer or pathway holder from applying for pathway approval.

173-424-610(8)(a)	Reorganized the text for temporary fuel pathway application	To clarify section requirements.
173-424-610(9)	Re-named this subsection to clarify the scope of the subsection.	To clarify that this subsection covers the review and approval of the use of utility-specific carbon intensities for renewable electricity.
173-424-610(9)(b)	Included additional conditions and processes that needs to be satisfied to get a Tier 1 or Tier 2 fuel pathway approved.	The added text clarifies the factors to be considered and processes to be followed for approving Tier 1 or Tier 2 fuel pathway application.
173-424-610(9)(e)(iii)	To add references to WAC 173-424-800 through WAC 173-424-850.	To incorporate references to proposed third-party verification requirements.
173-424-610(9)(g)(iii)	Establishes the deadline for submitting verification statement of annual fuel pathway report	To clarify the deadline for submitting verification statements of annual fuel pathway report.
173-424-610(9)(l)	Included provisions lays out the conditions for being out of compliance, fuel producers' obligation, and Ecology's action on the excess credits generated and how the deficit obligation is calculated if the verified operational CI exceeds the certified CI for a facility.	To clarify the requirements if a verified operational CI is found to be greater than a certified CI score, and this results in differences in credits or deficits for the fuel producer and/or supplier.
173-424-610(9)(m)	Included provisions for true-up if the verified annual fuel pathway report associated with a facility has lower operational CI than the reported CI. The requirements specify the types of transaction the true up applies to and how to calculate the additional true up credits.	The requirement is included in response to stakeholders' request and to align with CARB and OR-DEQ. The requirement allows fuel suppliers to claim credits for the lower operational CI compared to the certified CI of a fuel pathway.
173-424-610(10)	Clarified the process of Tier 1 or Tier 2 fuel pathway application completeness determination with the addition of the Third-Party Verification program.	To clarify the fuel pathway application completeness determination process

<p>173-424-610(16)</p> <p>Update 12/4/2024: Correcting error to clarify that the proposed avoided methane crediting period for post-2023 projects is a maximum of 15 years, not 14 years.</p>	<p>Added a new subsection establishing more specific criteria for the generation of avoided methane credits from biomethane production. The changes establish an up to 15-year avoided methane crediting period for projects that began operating after 2023 and gradually decreasing credit amounts for facilities that began operations before 2023, as alluded to in our prior workshops. In addition, rules have been added to grant avoided methane credits for generating biogas from organic material that would have otherwise been disposed of at a landfill. The rule also allows for avoided methane credit generation from incremental biomethane production in an existing facility.</p>	<p>To better incentivize new and additional methane capture and RNG production from dairy and swine manure so that methane capture that otherwise would not have occurred in the absence of the CFS program receives the most generous incentives from avoided methane crediting. This provision proposes establishing the baseline for each new facility built after Jan. 1, 2023, as its operational date for a period up to 15 years. Facilities operational before the start date of the CFS will receive gradually decreasing avoided methane credits for a maximum of 14 years, depending on the start date of the project, with more recent projects receiving a longer crediting period. Applicants using dairy and swine manure as a feedstock must demonstrate their manure management system prior to their participation in the CFS program to determine that their methane capture is new and additional due to the CFS. Avoided methane crediting has also been expanded to include biogas produced from organic material that would have otherwise been disposed of at a landfill to better incentivize the reduction in landfill methane emissions as well as dairy and swine.</p>
<p>WAC 173-424-620 (1)</p>	<p>Clarifying the process of applying for an EER-adjusted CI.</p>	<p>Vehicles applying for an EER-adjusted CI must not already have an assigned EER in the CFS rule.</p>
<p>WAC 173-424-620 (2)(a)</p>	<p>Clarified eligibility requirements for applying for an EER-adjusted CI: that the vehicle owner must be based in Washington, including vehicles otherwise exempt.</p>	<p>Clarity.</p>
<p>WAC 173-424-620(4)(a)</p>	<p>Setting application requirements for an EER-adjusted CI to clarify that the letter of intent must provide data demonstrating that electricity is not the majority of the fuel currently used by that vehicle category.</p>	<p>Clarity/process improvement.</p>
<p>WAC 173-424-620(7)</p>	<p>Gives Ecology the discretion to deny applications in certain circumstances.</p>	<p>Clarifies Ecology's requirement for denying petition for EER-adjusted CI for vehicles exempt use under WAC 173-424-130.</p>

WAC 173-424-620(8)(a)	Adds the ability of the vehicle manufacturer or vehicle owner as eligible to be added as a joint applicant for an EER-adjusted CI if they meet the eligibility criteria in this section.	Provides additional flexibility for the use of EER-adjusted CIs by joint applicants.
WAC 173-424-630(1)	States Ecology process for proposing and adopting utility-specific carbon intensities	Clarifies existing process.
WAC 173-424-630(2)	States that Ecology will post the statewide average carbon intensity along with the utility-specific carbon intensity values.	Clarifies the existing practice.
WAC 173-424-630(4)(c)	Added information on where to find utility-specific fuel pathway codes for reporting grid electricity.	Clarity. We removed the reference to “statewide electricity mix” because it is not eligible to be used in the context of this section.
WAC 173-424-630(5)	Removed language stating that RECs must be certified by WREGIS. Added language stating that after January 2026, CFS eligible RECs must be generated from facilities located in Washington, Oregon, or Idaho that commenced operations on or after January 1, 2019 or from incremental efficiency improvements completed on or after January 1, 2019. Added that incremental hydroelectric generation must meet conditions specified in the Clean Energy Transformation Act (CETA) that disallow new diversions, impoundments, bypass reaches, or expansion of existing reservoirs constructed after May 7, 2019 unless they are necessary for the operation of a pumped storage facility that does not conflict with existing state	Clarifies that WREGIS does not operate as a certification body for RECs. Better aligns CFS incentives to support new renewable electricity and incremental electricity generation that can be delivered to Washington from the Pacific Northwest region, aligning with CFS and statewide greenhouse gas emissions reductions targets. Aligns with CETA to disallow new hydro power unless it is for the operation of a pumped storage facility.

	or federal fish recovery plans and complies with all local, state, and federal laws and regulations.	
WAC 173-424-630(6)	Removes “geothermal” as an eligible source of zero-CI electricity and adds it to the set of energy sources that must apply for a Tier 1 fuel pathway to determine its carbon intensity. Adds requirement that Ecology “shall” adopt an energy efficiency adjustment for biogas-to-electricity pathways.	Better aligns with CFS and statewide emissions reduction targets, as geothermal energy is not always zero-CI due to process energy. Also aligns with OR-DEQ CFP requirements.
WAC 173-424-630(7)(c)	Adds requirements that electric utilities that supply lower carbon intensity electricity to entities participating in CFS through power purchase agreements must submit an annual fuel pathway report by June 30 of each year, and that this report must include a verification statement if the product is subjected to third-party verification requirements. Several small edits were also made to this section for clarity.	To better account for low-CI electricity provided via power purchase agreements in the determination of utility-specific carbon intensities for electric utilities. Establishes a deadline for submitting annual fuel pathway report, and verification statement, if applicable.

Part 7: Other

Section	Change	Reason for Change
1730-424-710(5)	Replaced prior rule language with the following: “By May 1 of each year, Ecology will post on its web page the information specified in RCW 70A.535.090(1)(a) through (e) regarding the previous year’s program activities”.	Clarity and consistency with authorizing statute.

Part 8: Validation and Verification

Section	Change	Reason for Change
1730-424-800(7)	Deleted “for fuels other than electricity” from the definition of “less intensive verification”. In effect, this would allow electricity-based fuel types to also be eligible for less intensive verification under the CFS program.	To establish a consistent standard across different fuel types and align our rule with CARB LCFS and OR-DEQ CFP rule language regarding less intensive verification.
1730-424-810(4)(iii)	Deleted “no electricity-based transaction types are covered in the report(s) requiring verification” from the eligibility requirements for less intensive verification.	See above.

Part 9: Tables

Section	Change	Reason for Change
Table 7: Washington Substitute Fuel Pathway Codes	Re-inserted substitute fuel pathway code for renewable diesel.	Removed by error in previous draft.