AMENDATORY SECTION (Amending WSR 22-24-004, filed 11/28/22, effective 12/29/22)

**WAC 173-424-110 Definitions.** Except as provided elsewhere in this chapter, the definitions in this section apply throughout the chapter:

(1) "Above the rack" means sales of transportation fuel at pipeline origin points, pipeline batches in transit, barge loads in transit, and at terminal tanks before the transportation fuel has been loaded into trucks.

(2) "Advance credits" refers to credits advanced under WAC 173-424-550 for actions that will result in reductions of the carbon intensity of Washington's transportation fuels.

(3) "Aggregation indicator" means an identifier for reported transactions that are a result of an aggregation or summing of more than one transaction in Washington fuels reporting system (WFRS). An entry of "true" indicates that multiple transactions have been aggregated and are reported with a single transaction number. An entry of "false" indicates that the transaction record represent a single fuel transaction.

(4) "Aggregator" or "credit aggregator" means a person who registers to participate in the clean fuels program, described in WAC 173-424-140(3), on behalf of one or more credit generators to facilitate credit generation and to trade credits.

(5) "Aggregator designation form" means an ecology-approved document that specifies that a credit generator has designated an aggregator to act on its behalf.

(6) "Alternative fuel" means any transportation fuel that is not gasoline or a diesel fuel, including those fuels specified in WAC 173-424-120(2).

(7) "Alternative fuel portal" or "AFP" means the portion of the WFRS where fuel producers can register their production facilities and submit fuel pathway code applications and physical pathway demonstrations.

(8) "Alternative jet fuel" means a fuel made from ((~~petroleum or~~)) nonpetroleum sources that can be blended and used with conventional petroleum jet fuels without the need to modify aircraft engines and existing fuel distribution infrastructure. To generate credits under ((~~this CFP~~)) the CFS, such fuel must have a lower carbon intensity than the applicable annual carbon intensity standard in Table 2 of WAC 173-424-900. Alternative jet fuel includes those jet fuels derived from co-processed feedstocks at a conventional petroleum refinery.

(9) "Alternative marine fuel" means a watercraft fuel made from liquified natural gas or nonpetroleum sources. Such fuel must have a lower carbon intensity than traditional marine fuel, and only the volume of fuel combusted within Washington waters is eligible for credit generation.

(10) "Animal fat" means the inedible fat that originates from a rendering facility as a product of rendering the by-products from meat processing facilities including animal parts, fat, and bone. "Yellow grease" must be reported under an applicable animal fat pathway if evidence is not provided to the verifier or ecology to confirm the quantity that is animal fat and the quantity that is used cooking oil.

((~~(10)~~)) (11) "Application" means the type of vehicle where the fuel is consumed in terms of LDV/MDV for light-duty vehicle/medium-duty vehicle or HDV for heavy-duty vehicle.

((~~(11)~~)) (12) "Backstop aggregator" means a qualified entity approved by ecology under WAC 173-424-220 to aggregate credits for electricity used as a transportation fuel, when those credits would not otherwise be generated.

((~~(12)~~)) (13) "Base credits" refers to electricity credits that are generated by the carbon reduction between the gasoline or diesel standard and the carbon intensity of utility electricity.

((~~(13)~~)) (14) "Battery electric vehicle" or "BEV" means any vehicle that operates solely by use of a battery or battery pack, or that is powered primarily through the use of an electric battery or battery pack but uses a flywheel or capacitor that stores energy produced by the electric motor or through regenerative braking to assist in vehicle operation.

((~~(14)~~)) (15) "Below the rack" means sales of clear or blended gasoline or diesel fuel where the fuel is being sold as a finished fuel for use in a motor vehicle.

((~~(15)~~)) (16) "Bill of lading" means a document issued that lists goods being shipped and specifies the terms of their transport.

((~~(16)~~)) (17) "Bio-CNG" means biomethane which has been compressed to CNG. Bio-CNG has equivalent performance characteristics when compared to fossil CNG.

((~~(17)~~)) (18) "Biodiesel" means a motor vehicle fuel consisting of mono alkyl esters of long chain fatty acids derived from vegetable oils, animal fats, or other nonpetroleum resources, not including palm oil, designated as B100 and complying with ASTM D6751.

((~~(18)~~)) (19) "Biodiesel blend" means a fuel comprised of a blend of biodiesel with petroleum-based diesel fuel, designated BXX. In the abbreviation BXX, the XX represents the volume percentage of biodiesel fuel in the blend.

((~~(19)~~)) (20) "Bio-L-CNG" means biomethane which has been compressed, liquefied, regasified, and recompressed into L-CNG, and has performance characteristics at least equivalent to fossil L-CNG.

((~~(20)~~)) (21) "Bio-LNG" means biomethane which has been compressed and liquefied into LNG. Bio-LNG has equivalent performance characteristics when compared to fossil LNG.

((~~(21)~~)) (22) "Biogas" means gas comprised primarily of methane and carbon dioxide, produced by the anaerobic decomposition of organic matter in a landfill, lagoon, or constructed reactor (digester). Biogas often contains a number of other impurities, such as hydrogen sulfide, and it cannot be directly injected into natural gas pipelines or combusted in most natural-gas-fueled vehicles unless first upgraded to biomethane. It can be used as a fuel in boilers and engines to produce electrical power.

((~~(22)~~)) (23) "Biomass" means nonfossilized and biodegradable organic material originating from plants, animals, or microorganisms, including: Products, by-products, residues and waste from agriculture, forestry, and related industries; the nonfossilized and biodegradable organic fractions of industrial and municipal wastes; and gases and liquids recovered from the decomposition of nonfossilized and biodegradable organic material.

((~~(23)~~)) (24) "Biomass-based diesel" means a biodiesel or a renewable diesel.

((~~(24)~~)) (25) "Biomethane" means methane derived from biogas, or synthetic natural gas derived from renewable resources, including the organic portion of municipal solid waste, which has been upgraded to meet standards for injection to a natural gas common carrier pipeline, or for use in natural gas vehicles, natural gas equipment, or produc-

tion of renewable hydrogen. Biomethane contains all of the environmental attributes associated with biogas and can also be referred to as renewable natural gas.

((~~(25)~~)) (26) "Blendstock" means a fuel component that is either used alone or is blended with one or more other components to produce a finished fuel used in a motor vehicle. Each blendstock corresponds to a fuel pathway in the Washington Greenhouse Gases, Regulated Emissions, and Energy use in Transportation version 3.0 (WA-GREET 3.0) model, (November 28, 2022), which is incorporated herein by reference. A blendstock that is used directly as a transportation fuel in a vehicle is considered a finished fuel.

((~~(26)~~)) (27) "Book-and-claim accounting" means an indirect accounting methodology that allows a physical product (e.g., electrical energy or fuel) and its environmental attributes (e.g., a renewable energy certificate) to be separately traded. CFS participants may claim these environmental attributes to lower the carbon intensity of their fuel pathways by buying the environmental attributes of energy, sourced from zero- or low-CI electricity, renewable hydrogen, or renewable natural gas.

(28) "Break ground" means earthmoving and site preparations necessary for the construction of the digester system and supporting infrastructure that starts following approval of all necessary permits for the project.

(29) "British thermal unit" or "Btu" means a measure of the heat content of fuels or energy sources. It is the quantity of heat required to raise the temperature of one pound of liquid water by one degree Fahrenheit at the temperature that water has its greatest density (approximately 39 degrees Fahrenheit).

((~~(27)~~)) (30) "Brown grease" means an emulsion of fat, oil, grease, solids, and water separated from wastewater in a grease interceptor (grease trap) and collected for use as a fuel feedstock. Brown grease must be reported under an applicable used cooking oil (UCO) pathway, i.e., reported as "unprocessed UCO" only if evidence is provided to the verifier or ecology to confirm that it has not been processed prior to receipt by the fuel production facility.

((~~(28)~~)) (31) "Bulk system" means a fuel distribution system consisting of refineries, pipelines, vessels, and terminals. Fuel storage and blending facilities that are not fed by pipeline or vessel are considered outside the bulk transfer system.

((~~(29)~~)) (32) "Business partner" refers to the second party that participates in a specific transaction involving the regulated party. This can either be the buyer or seller of fuel, whichever applies to the specific transaction.

((~~(30)~~)) (33) "Buy/sell board" means a section of the WFRS where registered parties can post that they are interested in buying or selling credits.

((~~(31)~~)) (34) "By-product" means a secondary product with marginal economic value outside its use in a biofuel pathway.

(35) "Carbon intensity" or "CI" means the amount of lifecycle greenhouse gas emissions per unit of energy of fuel expressed in grams of carbon dioxide equivalent per megajoule ($gCO_2e/MJ$).

((~~(32)~~)) (36) "Carbon intensity standard" means the annual average carbon intensity a regulated party must comply with, as listed in Table 1 under WAC 173-424-900 for gasoline and gasoline substitutes and in Table 2 under WAC 173-424-900 for diesel fuel and diesel substitutes.

(37) "Cargo handling equipment" or "CHE" means any off-road, self-propelled vehicle or equipment, other than yard trucks, used at a port or intermodal rail yard to lift or move container, bulk, or liquid cargo carried by ship, train, or another vehicle, or used to perform maintenance and repair activities that are routinely scheduled or that are due to predictable process upsets. Equipment includes, but is not limited to, rubber-tired gantry cranes, top handlers, side handlers, reach stackers, loaders, aerial lifts, excavators, tractors, and dozers.

((~~(33)~~)) (38) "Carryback credit" means a credit that was generated during or before the prior compliance period that a regulated party acquires between January 1st and April 30th of the current compliance period to meet its compliance obligation for the prior compliance period.

((~~(34) "Clean fuel standard" or "low carbon fuel standard" means the annual average carbon intensity a regulated party must comply with, as listed in Table 1 under WAC 173-424-900 for gasoline and gasoline substitutes and in Table 2 under WAC 173-424-900 for diesel fuel and diesel substitutes.~~

~~(35)~~)) (39) "Clear diesel" means a light middle or middle distillate grade diesel fuel derived from crude oil that has not been blended with a renewable fuel.

((~~(36)~~)) (40) "Clear gasoline" means gasoline derived from crude oil that has not been blended with a renewable fuel.

((~~(37)~~)) (41) "Compliance period" means each calendar year during which regulated parties must demonstrate compliance under WAC 173-424-140.

((~~(38)~~)) (42) "Compressed natural gas" or "CNG" means natural gas stored inside a pressure vessel at a pressure greater than the ambient atmospheric pressure.

((~~(39)~~)) (43) "Conventional jet fuel" means aviation turbine fuel including commercial and military jet fuel. Commercial jet fuel includes products known as Jet A, Jet A-1, and Jet B. Military jet fuel includes products known as JP-5 and JP-8.

((~~(40)~~)) (44) "Co-processing" means the processing and refining of renewable or alternative low-carbon feedstocks intermingled with crude oil and its derivatives at petroleum refineries.

((~~(41)~~)) (45) "Co-product" means a product with significant market value that is produced alongside a main primary product.

(46) "Credit facilitator" means a person in the WFRS that a regulated party designates to initiate and complete credit transfers on behalf of the regulated party.

((~~(42)~~)) (47) "Credit generator" means a person eligible to generate credits by providing clean fuels for use in Washington and who voluntarily registers to participate in the clean fuels program.

((~~(43)~~)) (48) "Credits" and "deficits" mean the units of measure used for determining a regulated entity's compliance with the average carbon intensity requirements in WAC 173-424-900. Credits and deficits are denominated in units of metric tons of carbon dioxide equivalent ($CO_2e$), and are calculated pursuant to WAC 173-424-540 and 173-424-560.

((~~(44)~~)) (49) "Crude oil" means any naturally occurring flammable mixture of hydrocarbons found in geologic formations.

((~~(45)~~)) (50) "Day" means a calendar day unless otherwise specified as a business day.

((~~(46)~~)) (51) "Deferral" means a delay or change in the applicability of a scheduled applicable ((~~clean fuel~~)) carbon intensity standard for a period of time, accomplished pursuant to an order issued under WAC 173-424-720 or 173-424-730 as directed under RCW 70A.535.110 and 70A.535.120.

((~~(47)~~)) (52) "Deficit generator" means a fuel reporting entity who generates deficits in the CFP program.

((~~(48)~~)) (53) "Denatured fuel ethanol" or "ethanol" means nominally anhydrous ethyl alcohol meeting ASTM D4806 standards. It is intended to be blended with gasoline for use as a fuel in a spark-ignition internal combustion engine. Before it is blended with gasoline, the denatured fuel ethanol is first made unfit for drinking by the addition of substances approved by the Alcohol and Tobacco Tax and Trade Bureau.

((~~(49)~~)) (54) "Diesel fuel" or "diesel" means either:

(a) A light middle distillate or middle distillate fuel suitable for compression ignition engines blended with not more than five volume percent biodiesel and conforming to the specifications of ASTM D975; or

(b) A light middle distillate or middle distillate fuel blended with at least five and not more than 20 volume percent biodiesel suitable for compression ignition engines conforming to the specifications of ASTM D7467.

((~~(50)~~)) (55) "Direct current fast charging" means charging an electric vehicle at 50 kW and higher using direct current.

((~~(51)~~)) (56) "Disproportionately impacted communities" means communities that are identified by the department of health pursuant to chapters 70A.02 and 19.405 RCW.

((~~(52)~~)) (57) "Distiller's corn oil" has the same meaning as "technical corn oil."

((~~(53)~~)) (58) "Distiller's sorghum oil" has the same meaning as "technical sorghum oil."

((~~(54)~~)) (59) "Duty-cycle testing" means a test procedure used for emissions and vehicle efficiency testing.

((~~(55)~~)) (60) "E10" means gasoline containing 10 volume percent fuel ethanol.

((~~(56)~~)) (61) "E100" also known as "denatured fuel ethanol," means nominally anhydrous ethyl alcohol.

((~~(57)~~)) (62) "Ecology" means the Washington state department of ecology.

((~~(58)~~)) (63) "Electric cargo handling equipment (eCHE)" means cargo handling equipment using electricity as the fuel.

((~~(59)~~)) (64) "Electric ground support equipment (eGSE)" means self-propelled vehicles used off-road at airports to support general aviation activities that use electric batteries for propulsion and functional energy and only has electric motors. For the purpose of this rule that includes, but is not limited to, pushbacks, belt loaders, and baggage tractors.

((~~(60)~~)) (65) "Electric power for ocean-going vessel (eOGV)" means shore power provided to an ocean going vessel at-berth.

((~~(61)~~)) (66) "Electric transport refrigeration units (eTRU)" means refrigeration systems powered by electricity designed to refrigerate or heat perishable products that are transported in various containers including, but not limited to, semi-trailers, truck vans, shipping containers, and rail cars.

((~~(62)~~)) (67) "Electric vehicle (EV)," for purposes of this regulation, refers to battery electric vehicles (BEVs) and plug-in hybrid electric vehicles (PHEVs).

((~~(63)~~)) (68) "Emergency period" is the period of time in which an emergency action under WAC 173-424-720 is in effect.

((~~(64)~~)) (69) "Energy economy ratio (EER)" means the dimensionless value that represents the efficiency of a fuel as used in a powertrain as compared to a reference fuel used in the same powertrain.

(a) EERs are often a comparison of miles per gasoline gallon equivalent (mpge) between two fuels.

(b) EERs for fixed guideway systems are based on MJ/number of passenger-miles.

((~~(65)~~)) (70) "Environmental attribute" means greenhouse gas emission reduction recognition in any form, including verified emission reductions, voluntary emission reductions, offsets, allowances, credits, avoided compliance costs, emission rights and authorizations under any law or regulation, or any emission reduction registry, trading system, or reporting or reduction program for greenhouse gas emissions that is established, certified, maintained, or recognized by any international, governmental, or nongovernmental agency.

((~~(66)~~)) (71) "Export" means transportation fuel reported in the WFRS that is delivered from locations within Washington state to locations outside of Washington state by any means of transport, other than in the fuel tank of a motor vehicle for the purpose of propelling the motor vehicle.

((~~(67)~~)) (72) "Feedstock transfer document" means a document, or combination of documents, that demonstrates the delivery of specified source feedstocks from the point of origin to the fuel production facility as required under WAC 173-424-600(6). For collection of used cooking oil from U.S.-based municipal, county, or state sites, the point of origin is the municipal collection site. For collection of other specified source feedstocks, including internationally sourced used cooking oil, the point of origin is the location in the supply chain in which the feedstock is first produced.

((~~(68)~~)) (73) "Ferry vessel" means a vessel 65 feet or greater designed for operations on lakes, bays, and sounds, built to 46 C.F.R. Subchapter H, K, or T standard that is used on a regular schedule to:

(a) Provide transportation only between places that are not more than 300 miles apart;

(b) Transport only:

(i) Passengers; or

(ii) Vehicles, or railroad cars, that are being used, or have been used, in transporting passengers or goods.

((~~(69)~~)) (74) "Finished fuel" means a transportation fuel that is used directly in a vehicle for transportation purposes without requiring additional chemical or physical processing.

((~~(70)~~)) (75) "First fuel reporting entity" means the first entity responsible for reporting in the WFRS for a given amount of fuel. This entity initially holds the status as the fuel reporting entity and the credit or deficit generator for this fuel amount, but may transfer either status pursuant to WAC 173-424-200 or 173-424-210.

((~~(71)~~)) (76) "Fixed guideway" means a public transportation facility using and occupying a separate right of way for the exclusive use of public transportation using rail, a fixed catenary system, trolley bus, streetcar, or an aerial tramway.

((~~(72)~~)) (77) "Fossil" means any naturally occurring flammable mixture of hydrocarbons found in geologic formations such as rock or

strata. When used as an adjective preceding a type of fuel (e.g., "fossil gasoline," or "fossil LNG"), it means the subset of that type of fuel that is derived from a fossil source.

((~~(73)~~)) (78) "Fuel cell" means a technology that uses an electrochemical reaction to generate electrical energy by combining atoms of hydrogen and oxygen in the presence of a catalyst.

((~~(74)~~)) (79) "Fuel pathway" means a detailed description of all stages of fuel production and use for any particular transportation fuel, including feedstock generation or extraction, production, distribution, and combustion of the fuel by the consumer. The fuel pathway is used to calculate the carbon intensity of each transportation fuel through a complete well-to-wheel analysis of that fuel's life cycle greenhouse gas emissions.

((~~(75)~~)) (80) "Fuel pathway applicant" refers to an entity that has registered in the alternative fuel portal pursuant to WAC 173-424-300 and has submitted an application including all required documents and attestations in support of the application requesting a certified fuel pathway.

((~~(76)~~)) (81) "Fuel pathway code" or "FPC" means the identifier used in the WFRS that applies to a specific fuel pathway as approved or issued under WAC 173-424-600 through 173-424-630.

((~~(77)~~)) (82) "Fuel pathway holder" means a fuel pathway applicant that has received a certified fuel pathway carbon intensity based on site-specific data, including a provisional fuel pathway from ecology, or who has a certified fuel pathway code from the California air resources board or Oregon department of environmental quality that has been approved for use in Washington by ecology.

((~~(78)~~)) (83) "Fuel production facility" means the facility at which a regulated or opt-in fuel is produced. With respect to biomethane, a fuel production facility means the facility at which the fuel is upgraded, purified, or processed to meet the standards for injection to a natural gas common carrier pipeline or for use in natural gas vehicles.

((~~(79)~~)) (84) "Fuel reporting entity" means an entity that is required to report fuel transactions in the WFRS pursuant to WAC 173-424-200 through 173-424-220. Fuel reporting entity refers to the first fuel reporting entity and to any entity to whom the reporting entity status is passed for a given quantity of fuel.

((~~(80)~~)) (85) "Fuel supply equipment" refers to equipment registered in the WFRS that dispenses alternative fuel into vehicles including, but not limited to, electric vehicle chargers, hydrogen fueling stations, and natural gas fueling equipment.

((~~(81)~~)) (86) "Fugitive methane" is methane emitted into the atmosphere from leaks, venting, or incomplete combustion. Fugitive methane sources may be quantified using either standard values or a site-specific energy balance of methane inside the fuel pathway system boundary.

(87) "Gasoline" means a fuel suitable for spark ignition engines and conforming to the specifications of ASTM D4814.

((~~(82)~~)) (88) "HD-ZEV capacity credits" refers to the estimated potential combined sum of heavy-duty hydrogen refueling infrastructure (HD-HRI) and heavy-duty fast charging infrastructure (HD-FCI) credits from all approved FSE.

(89) "Heavy-duty vehicle" or "HDV" means a vehicle that is rated at or greater than 14,001 pounds gross vehicle weight rating (GVWR).

((~~(83)~~)) (90) "Home fueling" means the dispensing of fuel by use of a fueling appliance that is located on or within a residential property with access limited to a single household.

((~~(84)~~)) (91) "Hybrid electric vehicle (HEV)" means any vehicle that can draw propulsion energy from both of the following on-vehicle sources of stored energy:

(a) A consumable fuel; and

(b) An energy storage device, such as a battery, capacitor, or flywheel.

((~~(85)~~)) (92) "Hydrogen station capacity evaluator" or "HySCapE" means a tool developed by the National Renewable Energy Laboratory to determine the dispensing capacity of a hydrogen station, HySCapE Version 1.0 (August 13, 2018).

((~~(86)~~)) (93) "Illegitimate credits" means credits that were not generated in compliance with this chapter.

((~~(87)~~)) (94) "Import" means to have ownership title to transportation fuel at the time it is brought from outside Washington into Washington by any means of transport other than in the fuel tank of a motor vehicle for the purpose of propelling that motor vehicle.

((~~(88)~~)) (95) "Importer" means:

(a) With respect to any liquid fuel, the person who imports the fuel; or

(b) With respect to any biomethane, the person who owns the biomethane when it is either physically transported into Washington or injected into a pipeline located outside of Washington and contractually delivered for use in Washington through a book-and-claim accounting methodology.

((~~(89)~~)) (96) "Incremental credit" means a credit that is generated by an action to further lower the carbon intensity of electricity. Incremental credits are calculated from the difference between the carbon intensity of utility-specific electricity and the carbon intensity of renewable electricity.

((~~(90)~~)) (97) "Indirect land use change" means the average lifecycle greenhouse gas emissions caused by an increase in land area used to grow crops that is caused by increased use of crop-based transportation fuels, and expressed as grams of carbon dioxide equivalent per megajoule of energy provided ($gCO_2e/MJ$). Indirect land use change values for biofuels are listed in Table 5 under WAC 173-424-900. Indirect land use change for fuel made from sugarcane, corn, sorghum, soybean, canola, and palm feedstocks is calculated using the protocol developed by the California air resources board.

((~~(91)~~)) (98) "Ineligible specified source feedstock" means a feedstock specified in WAC 173-424-600 (6)(a) through (c) that does not meet the chain-of-custody documentation requirements specified in WAC 173-424-600 (6)(d).

((~~(92)~~)) (99) "Invoice" means the receipt or other record of a sale transaction, specifying the price and terms of sale, that describes an itemized list of goods shipped.

((~~(93)~~)) (100) "Lifecycle greenhouse gas emissions" are:

(a) The aggregated quantity of greenhouse gas emissions, including direct emissions and significant indirect emissions, such as significant emissions from changes in land use associated with the fuels, as approved by ecology;

(b) Measured over the full fuel lifecycle, including all stages of fuel production, from feedstock generation or extraction, production, distribution, and combustion of the fuel by the consumer; and

(c) Stated in terms of mass values for all greenhouse gases as adjusted to $CO_2e$ to account for the relative global warming potential of each gas.

((~~(94)~~)) (101) "Light-duty vehicle" and "medium-duty vehicle" mean a vehicle category that includes both light-duty (LDV) and medium-duty vehicles (MDV).

(a) "LDV" means a vehicle that is rated at 8,500 pounds or less GVWR.

(b) "MDV" means a vehicle that is rated between 8,501 and 14,000 pounds GVWR.

((~~(95)~~)) (102) "Liquefied compressed natural gas" or "L-CNG" means natural gas that has been liquefied and transported to a dispensing station where it was then regasified and compressed to a pressure greater than ambient pressure.

((~~(96)~~)) (103) "Liquefied natural gas" or "LNG" means natural gas that has been liquefied.

((~~(97)~~)) (104) "Liquefied petroleum gas" or "propane" or "LPG" means a petroleum product composed predominantly of any of the hydrocarbons, or mixture thereof; propane, propylene, butanes, and butylenes maintained in the liquid state.

((~~(98)~~)) (105) "Liquid fuels" means fossil fuels (including gasoline, diesel, and conventional jet fuels), liquid alternative fuels (including ethanol, biomass-based fuels, and alternative jet fuels), and blend of liquid fossil and alternative fuels.

((~~(99)~~)) (106) "Low-carbon intensity (Low-CI) electricity" means any electricity that is determined to have a carbon intensity that is less than the average Washington grid or utility-specific, as applicable including, but not limited to, a renewable resource as defined in RCW 19.405.020(34).

((~~(100)~~)) (107) "Motor vehicle" means any vehicle, vessel, watercraft, engine, machine, or mechanical contrivance that is self-propelled.

((~~(101)~~)) (108) "M-RETS renewable thermal" means the electronic tracking and trading system for North American biomethane and other renewable thermal attributes run by the M-RETS organization. For the purposes of this ((~~division~~)) chapter, only the biomethane or renewable natural gas certificates generated by this system are recognized.

((~~(102)~~)) (109) "Multifamily housing" means a structure or facility established primarily to provide housing that provides four or more living units, and where the individual parking spaces that an electric vehicle charger serves, and the charging equipment itself, are not deeded to or owned by a single resident.

((~~(103)~~)) (110) "Multifuel vehicle" means a vehicle that uses two or more distinct fuels for its operation. A multifuel vehicle (also called a vehicle operating in blended-mode) includes a bi-fuel vehicle and can have two or more fueling ports onboard the vehicle. A fueling port can be an electrical plug or a receptacle for liquid or gaseous fuel. For example, most plug-in hybrid electric vehicles use both electricity and gasoline as the fuel source and can be "refueled" using two separately distinct fueling ports.

((~~(104)~~)) (111) "Natural gas" means a mixture of gaseous hydrocarbons and other compounds with at least 80 percent methane by volume.

((~~(105)~~)) (112) "Ocean-going vessel" means a commercial, government, or military vessel meeting any one of the following criteria:

(a) A vessel greater than or equal to 400 feet in length overall;

(b) A vessel greater than or equal to 10,000 gross tons pursuant to the convention measurement (international system);

(c) A vessel propelled by a marine compression ignition engine with a per-cylinder displacement of greater than or equal to 30 liters.

((~~(106)~~)) (113) "Operating condition" is a specific requirement developed by CARB that dictates operational changes and conditions, and how operational data/other information must be gathered, kept, reported, or calculated for a fuel pathway or set of pathways.

(114) "Operational data period" is the date range for site-specific data in a given fuel pathway application or annual report.

(115) "OPGEE" or "OPGEE model" means the oil production greenhouse gas emissions estimator version 2.0 (June 20, 2018) posted at http://www.arb.ca.gov/fuels/lcfs/lcfs.htm, which is incorporated herein by reference.

((~~(107)~~)) (116) "Opt-in fuel reporting entity" means an entity that meets the requirements of WAC 173-424-120 and voluntarily opts in to be a fuel reporting entity and is therefore subject to the requirements set forth in this chapter.

((~~(108)~~)) (117) "Petroleum intermediate" means a petroleum product that can be further processed to produce gasoline, diesel, or other petroleum blendstocks.

((~~(109)~~)) (118) "Petroleum product" means all refined and semi-refined products that are produced at a refinery by processing crude oil and other petroleum-based feedstocks, including petroleum products derived from co-processing biomass and petroleum feedstock together. "Petroleum product" does not include plastics or plastic products.

((~~(110)~~)) (119) "Physical transport mode" means the applicable combination of actual fuel delivery methods, such as truck routes, rail lines, pipelines and any other fuel distribution methods through which the regulated party reasonably expects the fuel to be transported under contract from the entity that generated or produced the fuel, to any intermediate entities and ending in Washington. The fuel pathway holder and any entity reporting the fuel must demonstrate that the actual feedstock transport mode and distance conforms to the stated mode and distance in the certified pathway.

((~~(111)~~)) (120) "Plug-in hybrid electric vehicle" or "PHEV" means a hybrid electric vehicle with the capability to charge a battery from an off-vehicle electric energy source that cannot be connected or coupled to the vehicle in any manner while the vehicle is being driven.

((~~(112)~~)) (121) "Position holder" means any person that has an ownership interest in a specific amount of fuel in the inventory of a terminal operator. This does not include inventory held outside of a terminal, retail establishments, or other fuel suppliers not holding inventory at a fuel terminal.

((~~(113)~~)) (122) "Power purchase agreement" means a written agreement between an electricity service supplier and a customer that specifies the source or sources of electricity that will supply the customer.

((~~(114)~~)) (123) "Primary product" is a product that a system is optimized to produce, and typically represents the highest economic value of all system product outputs.

(124) "Private access fueling facility" means a fueling facility with access restricted to privately-distributed electronic cards (cardlock) or is located in a secure area not accessible to the public.

((~~(115)~~)) (125) "Producer" means:

(a) With respect to any liquid fuel and renewable propane, the person who makes the fuel; or

(b) With respect to any biomethane, the person who refines, treats, or otherwise processes biogas into biomethane.

((~~(116)~~)) (126) "Product transfer document" or "PTD" means a document that authenticates the transfer of ownership of fuel from a fuel reporting entity to the recipient of the fuel. A PTD is created by a fuel reporting entity to contain information collectively supplied by other fuel transaction documents, including bills of lading, invoices, contracts, meter tickets, rail inventory sheets, renewable fuels standard (RFS) product transfer documents, etc.

((~~(117)~~)) (127) "Public access fueling facility" means a fueling facility that is not a private-access fueling dispenser.

((~~(118)~~)) (128) "Public transit agency" means an entity that operates a public transportation system.

((~~(119)~~)) (129) "Public transportation" means regular, continuing shared passenger-transport services along set routes which are available for use by the general public.

((~~(120)~~)) (130) "Rack" means a mechanism for delivering motor vehicle fuel or diesel from a refinery or terminal into a truck, trailer, railroad car, or other means of nonbulk transfer.

((~~(121)~~)) (131) "Registered party" means a regulated party, credit generator, aggregator, or an out-of-state fuel producer that has an ecology-approved registration under WAC 173-424-300 to participate in the clean fuels program.

((~~(122)~~)) (132) "Regulated fuel" means a transportation fuel identified under WAC 173-424-120(2).

((~~(123)~~)) (133) "Regulated party" means a person responsible for compliance with requirements listed under WAC 173-424-140(1).

((~~(124)~~)) (134) "Renewable fuel standard" means the program administered by the United States Environmental Protection Agency, under 40 C.F.R. Part 80: Regulation of fuels and fuel additives, Subpart M.

((~~(125)~~)) (135) "Renewable gasoline" means a spark ignition engine fuel that substitutes for fossil gasoline and that is produced from renewable resources.

((~~(126)~~)) (136) "Renewable hydrocarbon diesel" or "renewable diesel" means a diesel fuel that is produced from nonpetroleum renewable resources, but is not ((~~a monoalkylester~~)) biodiesel, and which is registered as a motor vehicle fuel or fuel additive under 40 C.F.R. Part 79. This includes the renewable portion of a diesel fuel derived from co-processing biomass with a petroleum feedstock.

((~~(127)~~)) (137) "Renewable hydrocarbon diesel blend" or "renewable diesel blend" means a fuel comprised of a blend of renewable hydrocarbon diesel with petroleum-based diesel fuel, designated RXX. In the abbreviation RXX, the XX represents the volume percentage of renewable hydrocarbon diesel fuel in the blend.

((~~(128)~~)) (138) "Renewable hydrogen" means hydrogen produced using renewable resources both as the source for the hydrogen and the source for the energy input into the production process, as defined in RCW 19.405.020(32). It includes hydrogen derived from:

(a) Electrolysis of water or aqueous solutions using renewable electricity;

(b) Catalytic cracking or steam methane reforming of biomethane; or

(c) Thermochemical conversion of biomass, including the organic portion of municipal solid waste (MSW).

Renewable electricity, for the purpose of renewable hydrogen production by electrolysis, means electricity derived from sources that qualify as renewable energy resources as defined in RCW 19.405.020(34).

((~~(129)~~)) (139) "Renewable naphtha" means naphtha that is produced from ((~~nonpetroleum renewable resources~~)) hydroprocessing lipids and biocrudes, or from gasified biomass that is being converted to liquids using the Fischer-Tropsch process. This includes the renewable portion of a naphtha fuel derived from co-processing biomass with a petroleum feedstock.

((~~(130)~~)) (140) "Renewable propane" means liquefied petroleum gas (LPG or propane) that is produced from nonpetroleum renewable resources.

((~~(131)~~)) (141) "Residence" means a structure or facility established primarily to provide housing that provides less than four living units.

((~~(132)~~)) (142) "Shared MHD-HRI refueling station" means a hydrogen refueling station available for use for by at least two third-party heavy-duty FCEV fleets under different ownership and control. Site access and security controls are permitted provided there are no obstacles impeding authorized fleet vehicles from accessing the site, and any required equipment training must be accessible to users at no additional cost.

(143) "Shared MHD-FCI charging site" means an EV charging site available for by at least two third-party heavy-duty EV fleets under different ownership and control. Site security controls are permitted provided there are no obstacles impeding authorized fleet vehicles from accessing the site, and any required registered equipment training must be accessible to users at no additional cost.

(144) "Site-specific data" and "site-specific input" means an input value used in determination of fuel pathway carbon intensity value, or the raw operational data used to calculate an input value, which is required to be unique to the facility, pathway, and feedstock. All site-specific inputs must be measured, metered or otherwise documented, and verifiable, e.g., consumption of natural gas or grid electricity at a fuel production facility must be documented by invoices from the utility.

((~~(133) "Small importer of finished fuels" means any person who imports into Washington 500,000 gallons or less of finished fuels in a given calendar year. Any fuel imported by persons that are related, or share common ownership or control, shall be aggregated together to determine whether a person meets this definition.~~

~~(134)~~)) (145) "Specified source feedstocks" are feedstocks for fuel pathways that require chain of custody evidence to be eligible for a reduced CI associated with the use of a waste, residue, by-product, or similar material under the pathway certification process under WAC 173-424-600.

((~~(135)~~)) (146) "Station operational status system (SOSS)" means a software database tool developed and maintained by California fuel cell partnership to publicly monitor the operational status of hydrogen stations.

((~~(136)~~)) (147) "Substitute fuel pathway code" means a fuel pathway code that is used to report transactions that are sales or purchases without obligation, exports, loss of inventory, not for transportation use, and exempt fuel use when the seller of a fuel does not pass along the credits or deficits to the buyer and the buyer does not

have accurate information on the carbon intensity of the fuel or its blendstocks.

((~~(137)~~)) (148) "Technical corn oil" means inedible oil recovered from thin stillage or the distiller's grains and solubles produced by a dry mill corn ethanol plant, termed distiller's corn oil (DCO), or other nonfood grade corn oil from food processing operations.

((~~(138)~~)) (149) "Technical sorghum oil" means inedible oil recovered from thin stillage or the distiller's grains and solubles produced by a dry mill sorghum ethanol plant, termed distiller's sorghum oil (DSO), or other nonfood grade sorghum oil from food processing operations.

((~~(139)~~)) (150) "Therm" means a measure of the heat content of fuels or energy sources. One therm equals 100,000 Btu.

((~~(140)~~)) (151) "Tier 1 calculator," "simplified calculator," or "WA-GREET 3.0 Tier 1 calculator" means the tools used to calculate lifecycle emissions for commonly produced fuels, including the instruction manuals on how to use the calculators. Ecology will make available copies of these simplified calculators on its website (https://www.ecology.wa.gov). The simplified calculators used in the program are:

(a) Tier 1 simplified calculator for starch and corn fiber ethanol;

(b) Tier 1 simplified CI calculator for sugarcane-derived ethanol;

(c) Tier 1 simplified CI calculator for biodiesel and renewable diesel;

(d) Tier 1 simplified CI calculator for LNG and L-CNG from North American Natural Gas;

(e) Tier 1 simplified CI calculator for biomethane from North American landfills;

(f) Tier 1 simplified CI calculator for biomethane from anaerobic digestion of wastewater sludge;

(g) Tier 1 simplified CI calculator for biomethane from food, green, and other organic wastes; and

(h) Tier 1 simplified CI calculator for biomethane from AD of dairy and swine manure.

((~~(141)~~)) (152) "Tier 2 calculator" or "WA-GREET 3.0 model" means the tool used to calculate lifecycle emissions for next generation fuels, including the instruction manual on how to use the calculator. Next generation fuels include, but are not limited to, cellulosic alcohols, hydrogen, drop-in fuels, or first generation fuels produced using innovative production processes. Ecology will make available a copy of the Tier 2 calculator on its website (https://www.ecology.wa.gov).

((~~(142)~~)) (153) "Total amount (TA)" means the total quantity of fuel reported by a fuel reporting entity irrespective of whether the entity retained status as the credit or deficit generator for that specific fuel volume. TA is calculated as the difference between the fuel reported using transaction types that increase the net fuel quantity reported in the WFRS and fuel reported using transaction type that decrease the net fuel quantity reported in the WFRS. Transaction types that increase the TA include: Production in Washington, production for import, import, purchased with obligation, purchased without obligation, gain of inventory. Transaction types that decrease the TA include: Sold with obligation, sold without obligation, loss of inventory, export, not used for transportation.

((~~(143)~~)) (154) "Total obligated amount (TOA)" means the quantity of fuel for which the fuel reporting entity is the eligible credit or deficit generator. The WFRS-CBTS calculates the TOA for each fuel pathway code. TOA is calculated as the difference between the fuel reported using transaction types that increase the net quantity of fuel that generates credits or deficits in the WFRS-CBTS and the fuel reported using transaction types that decrease the net quantity of fuel that generates credits or deficits in the WFRS-CBTS. Transaction types for liquid fuels that increase the TOA include: Initial 2023 inventory, production in Washington, production for import, import within the bulk system, import outside of the bulk system, purchased with obligation transfer, gain of inventory, purchase below the rack for export. Transaction types that decrease the TOA include: Sold with obligation transfer, loss of inventory, export out of WA distribution system, position holder sale for export, not used for transportation, and all exempt use transaction types.

(155) "Transaction date" means the title transfer date as shown on the product transfer document.

((~~(144)~~)) (156) "Transaction quantity" means the amount of fuel reported in a transaction. A transaction quantity must be reported in units, provided in Table 3 in WAC 173-424-900 and in the WFRS.

((~~(145)~~)) (157) "Transaction type" means the nature of the fuel transaction as defined below:

(a) "((~~Produced~~)) Production in Washington" means the transportation fuel was produced at a facility in Washington;

(b) "Import within the bulk system" means the transportation fuel was produced outside of Washington and later imported into Washington and placed into the bulk system;

(c) "Import outside of the bulk system" means the transportation fuel was imported into Washington and delivered outside the bulk system;

(d) "Purchased with obligation transfer" means the transportation fuel was purchased with the compliance obligation passing to the purchaser;

(e) "Purchased without obligation transfer" means the transportation fuel was purchased with the compliance obligation retained by the seller;

(f) "Sold with obligation transfer" means the transportation fuel was sold with the compliance obligation passing to the purchaser;

(g) "Sold without obligation transfer" means the transportation fuel was sold with the compliance obligation retained by the seller;

(h) "Position holder sale without obligation" means the transportation fuel was sold below the rack without a transfer of the compliance obligation;

(i) ((~~"Position holder sale with obligation" means the transportation fuel was sold below the rack with a transfer of the compliance obligation;~~

~~(j)~~)) "Position holder sale for export" means the transportation fuel was sold below the rack to an entity who exported the fuel;

((~~(k)~~)) (j) "Purchase below the rack for export" means the transportation fuel was purchased below the rack and exported;

((~~(l)~~)) (k) "Export out of WA distribution system" means a transportation fuel that was reported under the clean fuels program but was later moved from a location inside of Washington to a location outside of Washington, and is not used for transportation in Washington;

((~~(m)~~)) (l) "Loss of inventory" means the fuel exited the Washington fuel pool due to volume loss, such as through evaporation or due to different temperatures or pressurization;

((~~(n)~~)) (m) "Gain of inventory" means the fuel entered the Washington fuel pool due to a volume gain, such as through different temperatures or pressurization;

((~~(o)~~)) (n) "Not used for transportation" means a transportation fuel was reported with compliance obligation under the CFP but was later used in an application unrelated to the movement of goods or people in Washington, such as process heat at an industrial facility, home or commercial building heating, or electric power generation;

((~~(p)~~)) (o) "EV charging" means providing electricity to recharge EVs including BEVs and PHEVs;

((~~(q)~~)) (p) "eCHE fueling," "eGSE (ground support equipment)," "eOGV fueling," "eTRU fueling" means that the fuel was delivered to one of these vehicle types, as defined in WAC subsections (63) through (66) of this section;

(q) "Fixed guideway electricity fueling" means fueling light rail, heavy rail, cable car, street car, and trolley bus, or exclusive right-of-way bus operations with electricity;

(r) "Forklift electricity fueling" means providing fuel to electric forklifts;

(s) "Forklift hydrogen fueling" means providing fuel to hydrogen forklifts;

(t) "H2/FCV fueling" means the dispensing of hydrogen at a fueling station designed for fueling hydrogen fuel cell electric vehicles;

(u) "((~~LPGV~~)) Propane/LPG fueling" means the dispensing of liquefied petroleum gas at a fueling station designed for fueling liquefied petroleum gas vehicles;

((~~(r)~~)) (v) "NGV fueling" means the dispensing of natural gas at a fueling station designed for fueling natural gas vehicles;

((~~(s)~~)) (w) "Exempt fuel use - aircraft," ((~~"exempt fuel use - racing activity vehicles,"~~)) "exempt fuel use - military tactical and support vehicle and equipment," "exempt fuel use - locomotives," "exempt fuel use - watercraft," "exempt fuel use - farm vehicles, tractors, implements of husbandry," "exempt fuel use - motor trucks primary used to transport logs," "exempt fuel use - off-highway construction vehicles," all of which must meet WAC 173-424-130((")), means that the fuel was delivered or sold into the category of vehicles or fuel users that are exempt under WAC 173-424-130; or

((~~(t)~~)) (x) "Production for import into Washington" means the transportation fuel was produced outside of Washington and imported into Washington for use in transportation.

((~~(146)~~)) (158) "Transportation fuel" means gasoline, diesel, any other flammable or combustible gas or liquid and electricity that can be used as a fuel for the operation of a motor vehicle. Transportation fuel does not mean unrefined petroleum products.

((~~(147)~~)) (159) "Unbundled renewable energy credit" means a renewable energy credit that is sold, delivered, or purchased separately from electricity.

((~~(148)~~)) (160) "Unit of fuel" means fuel quantities expressed to the largest whole unit of measure, with any remainder expressed in decimal fractions of the largest whole unit.

((~~(149)~~)) (161) "Unit of measure" means either:

(a) The International System of Units defined in NIST Special Publication 811 (2008) commonly called the metric system;

(b) U.S. customer units defined in terms of their metric conversion factors in NIST Special Publications 811 (2008); or

(c) Commodity specific units defined in either:

(i) The NIST Handbook 130 (2015), *Method of Sale Regulation*; or

(ii) Chapter 16-662 WAC.

((~~(150)~~)) (162) "Unspecified source of electricity" or "unspecified source" means a source of electricity that is not a specified source at the time of entry into the transaction to procure the electricity. The generation of such electricity will be assigned an emissions factor of 0.437 metric tons per megawatt-hour of electricity as measured by the utility at the first point of receipt in Washington, unless ecology assigns another number as directed by RCW 19.405.070(2). This includes the GHG emission factor 0.428 metric tons per megawatt-hour for electricity generation, and the two percent GHG emissions due to transmission losses between the point of generation and the first point of receipt in Washington.

((~~(151)~~)) (163) "Used cooking oil" or "UCO" means fats and oils originating from commercial or industrial food processing operations, including restaurants that have been used for cooking or frying. Feedstock characterized as UCO must contain only fats, oils, or greases that were previously used for cooking or frying operations. UCO must be characterized as "processed UCO" if it is known that processing has occurred prior to receipt by the fuel production facility or if evidence is not provided to the verifier or ecology to confirm that it is "unprocessed UCO."

((~~(152)~~)) (164) "Utility renewable electricity product" means a product where a utility customer has elected to purchase renewable electricity through a product that retires renewable energy certificates (RECs) or represents a bundled purchase of renewable electricity and its RECs.

((~~(153)~~)) (165) "Validation" means verification of a fuel pathway application.

((~~(154)~~)) (166) "Verification" means a systematic, independent, and documented process for evaluation of reported data against the requirements specified in this chapter.

((~~(155)~~)) (167) "Washington fuels reporting system" or "WFRS" means the interactive, secured, web-based, electronic data tracking, reporting, and compliance system that ecology develops, manages, and operates to support the clean fuels program.

((~~(156)~~)) (168) "WFRS reporting deadlines" means the quarterly and annual reporting dates in WAC 173-424-410 and 173-424-430.

((~~(157)~~)) (169) "WA-GREET" means the greenhouse gases, regulated emissions, and energy in transportation (GREET) model developed by Argonne National Laboratory that ecology modifies and maintains for use in the Washington clean fuels program. The model contains emission factors for calculating greenhouse gas emissions from site-specific inputs to fuel pathways and standard values for parts of the life cycle not included in applicant-specific data submission. The most current version, WA-GREET 3.0, is adapted from California's CA-GREET 3.0 (August 13, 2018). The model includes contributions from the oil production greenhouse gas estimator (OPGEE2.0) model (for emissions from crude extraction) and global trade analysis project (GTAP-BIO) together with the agro-ecological zone emissions factor (AEZ-EF) model for land use change (LUC). Ecology will make available a copy of WA-GREET 3.0 on its website (www.ecology.wa.gov). As used in this rule, WA-GREET refers to both the full model and the fuel-specific simplified calculators that the program has adopted.

((~~(158)~~)) (170) "Yard trucks" means an off-road mobile utility vehicle used to carry cargo containers with or without chassis; also known as utility tractor rig (UTR), yard tractor, yard goat, yard hostler, yard hustler, or prime mover. For the purpose of CFP crediting, an electric yard truck is considered a heavy-duty truck.

((~~(159)~~)) (171) "Yellow grease" means a commodity produced from a mixture of:

(a) Used cooking oil; and

(b) Rendered animal fats that were not used for cooking.

This mixture often is combined from multiple points of origin. Yellow grease must be characterized as "animal fat" if evidence is not provided to the verifier or ecology to confirm the quantity that is animal fat and the quantity that is used cooking oil.

**Abbreviations.** For the purposes of this chapter, the following acronyms apply.

"AEZ-EF" means agro-ecological zone emissions factor model.

"AFP" means alternative fuel portal.

"AJF" means alternative jet fuel.

"ASTM" means ASTM International (formerly American Society for Testing and Materials).

"BEV" means battery electric vehicles.

"WA-GREET" means Washington-modified greenhouse gases, regulated emissions, and energy use in transportation model.

"CARB" means California air resources board.

"CA-GREET" means the California air resources board adopted version of GREET model.

"CCM" means credit clearance market.

"CEC" means California energy commission.

((~~"CFP" means clean fuels program established under this chapter to implement chapter 70A.535 RCW.~~))

"((~~CFR~~)) C.F.R." means Code of Federal Regulations.

((~~"CFS" means clean fuel standard or carbon intensity standard.~~)) "CFS or CFP" means the clean fuels program established under this chapter to implement chapter 70A.535 RCW.

"CHAdeMO" means charge de move, a DC fast charging protocol.

"CI" means carbon intensity.

"CIS" means carbon intensity standard.

"CNG" means compressed natural gas.

"DC" means direct current.

"DCO" means distiller's corn oil or technical corn oil.

"DSO" means distiller's sorghum oil or technical sorghum oil.

"eCHE" means electric cargo handling equipment.

"EDU" means electrical distribution utility.

"EER" means energy economy ratio.

"eFV" means electrical power for a ferry vessel.

"eGSE" means electric ground support equipment.

"eTRU" means electric transport refrigeration unit.

"eOGV" means electric ocean-going vessel.

"EV" means electric vehicle.

"FCV" means fuel cell vehicle.

"FCI" means direct current fast charging infrastructure.

"FEIN" means federal employer identification number.

"FPC" means fuel pathway code.

"FSE" means fueling supply equipment.

"($gCO_2e/MJ$)" means grams of carbon dioxide equivalent per megajoule.

"GTAP" means the global trade analysis project model.
"GVWR" means gross vehicle weight rating.
"HySCapE" means hydrogen station capacity evaluator.
"$H_2$" means hydrogen.
"HDV" means heavy-duty vehicles.
"HDV-CIE" means a heavy-duty vehicle compression-ignition engine.
"HDV-SIE" means a heavy-duty vehicle spark-ignition engine.
"HEV" means hybrid electric vehicle.
"HRI" means hydrogen refueling infrastructure.
"ICEV" means internal combustion engine vehicle.
"LUC" means land use change.
"LCA" means life cycle analysis.
"L-CNG" means liquefied compressed natural gas.
"LDV" means light-duty vehicles.
"LNG" means liquefied natural gas.
"LPG" means liquefied petroleum gas.
"LPGV" means liquefied petroleum gas vehicle.
"MCON" means marketable crude oil name.
"MDV" means medium-duty vehicles.
"MMBtu" means million British thermal units.
"MT" means metric tons (of carbon dioxide equivalent).
"NG" means natural gas.
"NGV" means a natural gas vehicle.
"OPGEE" means oil production greenhouse gas emissions estimator model.
"OR-DEQ" means Oregon department of environmental quality.
"PHEV" means plug-in hybrid vehicles.
"PTD" means product transfer document.
"REC" means renewable energy certificate.
"RTC" means renewable thermal certificate.
"RNG" means renewable natural gas or biomethane.
"RFS" means the renewable fuel standard implemented by the U.S. Environmental Protection Agency.
"SAE CCS" means Society of Automotive Engineers combined charging system, a DC fast charging protocol.
"SMR" means steam methane reformation.
"SOSS" means station operational status system.
"UCO" means used cooking oil.
"U.S. EPA" means the United States Environmental Protection Agency.
"WFRS" means Washington fuels reporting system, the electronic reporting, trading, and compliance platform for the clean fuels program.
"WREGIS" means the western renewable energy generation information system run by the western electricity coordinating council.

AMENDATORY SECTION (Amending WSR 22-24-004, filed 11/28/22, effective 12/29/22)

**WAC 173-424-120 Applicability.** (1) Except as exempted in WAC 173-424-130, this rule applies to:
(a) Any transportation fuel, as defined in WAC 173-424-110, that is sold, supplied, or offered for sale in Washington; and

(b) Any fuel reporting entity, as defined in WAC 173-424-110 and specified in WAC 173-424-200 through 173-424-220 is responsible for reporting a transportation fuel in a calendar year.

(2) Regulated fuels. This rule applies to the following types of transportation fuels including, but not limited to:

(a) Gasoline;

(b) Diesel or diesel fuel;

(c) Fossil compressed natural gas (fossil CNG), fossil liquefied natural gas (fossil LNG), or fossil liquefied compressed natural gas (fossil L-CNG);

(d) Compressed or liquefied hydrogen (hydrogen);

(e) A fuel blend containing greater than 10 percent ethanol by volume;

(f) A fuel blend containing biomass-based diesel;

(g) Denatured fuel ethanol (E100);

(h) Neat biomass-based diesel (B100 or R100);

(i) Fossil LPG/propane; ((~~and~~))

(j) Renewable naphtha;

(k) Renewable gasoline; and

(l) Other liquid or nonliquid transportation fuels as determined by ecology.

(3) **Opt-in fuel.**

(a) Each fuel in (b) of this subsection is presumed to meet the carbon intensity standards (benchmarks) in WAC 173-424-900 Table 1 and 2 for a specific year.

(b) A fuel provider for the following alternative fuels may generate CFP credits for such fuels by electing to opt into the CFP as an opt-in fuel reporting entity under WAC 173-424-140(2) and meeting all applicable requirements of the CFP:

(i) Electricity;

(ii) Bio-CNG;

(iii) Bio-LNG;

(iv) Bio-L-CNG;

(v) Alternative jet fuel; ((~~and~~))

(vi) Alternative marine fuel; and

(vii) Renewable propane or renewable LPG.

(4) **Annual carbon intensity benchmarks for an alternative fuel intended for use in a single-fuel vehicle.**

(a) Gasoline and gasoline substitutes. A regulated party or credit generator must comply with the benchmarks for gasoline and gasoline substitutes in WAC 173-424-900 Table 1 for alternative fuel intended to be used in a single-fuel light-duty or medium-duty vehicle.

(b) Diesel and diesel substitute. A regulated party or credit generator must comply with the benchmarks for diesel fuel and diesel fuel substitutes in WAC 173-424-900 Table 2 for alternative fuel intended to be used in a single-fuel application other than a single-fuel light-duty or medium-duty vehicle.

(c) Carbon intensity benchmarks for transportation fuels intended for use in multifuel vehicles. Credit and deficit calculations for alternative fuel provided for use in a multifueled vehicle shall be established via:

(i) The benchmarks for gasoline set forth in WAC 173-424-900 Table 1 if one of the fuels used in the multifuel vehicle is gasoline; or

(ii) The benchmarks for diesel fuel set forth in WAC 173-424-900 Table 2 if one of the fuels used in the multifuel vehicle is diesel fuel.

(d) Hydrogen. Effective January 1, 2030, hydrogen dispensed as a vehicle fuel must be at least 80 percent renewable. Effective January 1, 2035, hydrogen produced using fossil gas as a feedstock is ineligible for CFS credit generation unless biomethane attributes are matched to hydrogen production as described in WAC 173-424-610(9)(g)(iii)(C)(II). Any volumes of hydrogen produced using fossil gas as a feedstock beginning January 1, 2035, must be assigned the ULSD carbon intensity found in WAC 173-424-900 Table 2 of the CFS regulation, as well as an EER of 1.

AMENDATORY SECTION (Amending WSR 22-24-004, filed 11/28/22, effective 12/29/22)

**WAC 173-424-130 Exemptions.** (1) **Exempt fuels.** The CFP rule does not apply to transportation fuels in which the aggregated quantity of the fuel supplied in Washington ((~~if an aggregated quantity of~~)), as measured by all providers of such fuel, is less than 360,000 gasoline gallon equivalent (42.6 million MJ) per year ((~~as measured by all providers of such fuel~~)). This threshold is determined by the annual amount supplied statewide, not the amount supplied by individual fuel producers and distributors.

(2) **Exempt fuel uses.**

(a) Transportation fuels supplied for use in any of the following motor vehicles are exempt from regulated fuels definition:

(i) Aircraft. This includes conventional jet fuel or aviation gasoline, and alternative jet fuel;

(ii) Vessels;

(iii) Railroad locomotive applications; and

(iv) Military tactical vehicles and tactical support equipment.

(b) The following transportation fuels are exempt from carbon intensity reduction requirements until January 1, 2028:

(i) Special fuel used in off-road vehicles used primarily to transport logs;

(ii) Dyed special fuel used in vehicles that are not designed primarily to transport persons or property, that are not designed to be primarily operated on highways, and that are used primarily for construction work including, but not limited to, mining and timber harvest operations; and

(iii) Dyed special fuel used for agricultural purposes exempt from chapter 82.38 RCW.

(c) Fuels listed under (a) and (b) of this subsection are eligible to generate credits.

(3) To claim exemption for regulated fuel under subsection (2) of this section, the regulated party must document that the fuel was supplied for use in motor vehicles listed in subsection (2) of this section.

(a) The method of documentation must include:

(i) Individual receipts or invoices for each fuel sale claimed as exempt that list the specific customer and exempt vehicle type;

(ii) If the fuel is sold through a dedicated tank for a single customer, electronic or paper records that document that the customer's vehicle(s) being fueled are in an exempt category under subsection (2) of this section, and that the tank is not used to fuel any other vehicles; or

(iii) Other comparable documentation, approved in writing by ecology and prior to exemptions being claimed. The documentation must, at a minimum:

(A) Establish that the fuel was sold through a dedicated source or single supplier to use in one of the specified motor vehicles listed in subsection (2) of this section; or

(B) For each fuel transaction if the fuel is not sold through a dedicated source.

(b) The person reporting the exempt use transaction in WFRS and asserting the exemption of fuel under subsection (2) of this section is responsible for the accuracy of the submitted information, even if they are not the fuel end user, and must maintain the records specified under subsection (2)(a) of this section for seven years((~~, and submit to ecology upon request, records demonstrating adherence to these conditions~~)). Records demonstrating adherence to these conditions must be submitted to ecology upon request.

AMENDATORY SECTION (Amending WSR 22-24-004, filed 11/28/22, effective 12/29/22)

**WAC 173-424-140 General requirements.** (1) **Regulated party.**

(a) Regulated fuel((~~s~~)) producers in Washington, or importers into Washington, must comply with the requirements of this rule.

(b) The regulated parties for regulated fuels are designated under WAC 173-424-200.

(c) The regulated parties for regulated fuels must:

(i) Register under WAC 173-424-300;

(ii) Keep records under WAC 173-424-400;

(iii) Report quarterly under WAC 173-424-410 and annually under WAC 173-424-430; and

(iv) Comply with the ((~~clean fuel~~)) carbon intensity standard for:

(A) Gasoline and gasoline substitutes in WAC 173-424-900 Table 1; or

(B) Diesel fuel and diesel fuel substitutes in WAC 173-424-900 Table 2.

(2) **Opt-in fuel reporting entity.**

(a) An out-of-state producer of ethanol, biodiesel, renewable diesel, alternative jet fuel, renewable natural gas, or renewable propane that is not an importer is not required to participate in the CFP. Any out-of-state producer that is not an importer who chooses voluntarily to participate in the CFP may retain the ability to generate credits or deficits for the specific volumes of their fuel that is imported into Washington, only if it opts in as a first fuel reporting entity and meets the requirements of WAC 173-424-200 and 173-424-210.

(b) Opting in procedure: Opting into the CFP becomes effective when the opt-in entity establishes an account in the WFRS, or designates an aggregator according to subsection (3)(b) of this section, pursuant to the voluntary participation requirements under subsection (4) of this section. The opt-in entity may not report and generate credits and deficits based on transactions that precede the quarter in which the entity opted in.

(c) A fuel supplier choosing to opt-in to the CFP under WAC 173-424-120 must:

(i) Register as required by WAC 173-424-300;

(ii) Keep records as required under WAC 173-424-400;

(iii) Report quarterly and annually under WAC 173-424-410 and 173-424-430.

(d) Opting out procedure. In order to opt-out of the CFP, an opt-in entity must complete the following:

(i) Provide ecology a 90-day notice of intent to opt-out and a proposed effective opt-out date;

(ii) Submit in the WFRS any outstanding quarterly fuel transactions up to the quarter in which the effective opt-out date falls and a final annual compliance report that covers the year through the opt-out date; and

(iii) Identify in the 90-day notice any actions to be taken to eliminate any remaining deficits by the effective opt-out date.

(3) **Credit aggregator requirements.**

(a) Aggregators must:

(i) Register according to WAC 173-424-300;

(ii) Keep records as required under WAC 173-424-400;

(iii) Report quarterly as required under WAC 173-424-410; and

(iv) Report annually as required under WAC 173-424-430.

(b) Designation of aggregator.

(i) A regulated party or an eligible credit generator may designate an aggregator to act on its behalf to facilitate credit generation and trade credits by submitting an aggregator designation form to ecology. Aggregators may register under WFRS only if a regulated party or an eligible credit generator has authorized an aggregator to act on its behalf by submitting a complete and valid aggregator designation form to ecology.

(ii) Aggregator designations may only take effect at the start of the next full calendar quarter after ecology receives such notice.

(iii) A regulated party or credit generator already registered with the program may also serve as an aggregator for others;

(iv) An aggregator must notify ecology, and receive ecology's confirmation, when a credit generator or regulated party has withdrawn designation of the aggregator. Aggregator withdrawals may only take effect at the end of the current full calendar quarter when ecology receives such notice. In order to be excluded from the annual fee for the current year, aggregators must notify ecology of the withdrawal by March 31st.

(4) **Voluntary participation.** Voluntary participation in the CFP shall conclusively establish consent to be subject to the jurisdiction of the state of Washington, its courts, and the administrative authority of ecology to implement the CFP. Failure to consent to such jurisdiction excludes participation in the CFP.

AMENDATORY SECTION (Amending WSR 22-24-004, filed 11/28/22, effective 12/29/22)

**WAC 173-424-200 Designation of fuel reporting entities for liquid fuels.** (1) **Applicability.** The purpose of this section is to identify the first fuel reporting entities, any subsequent fuel reporting entities, and the credit or deficit generator for liquid fuels. The first reporting entity is responsible for initiating reporting for a given amount of fuel within the online reporting system according to

WAC 173-424-400 and, by default, holds the status as the initial credit or deficit generator. This section so prescribes the transfer of fuel reporting, and credit and deficit generating status.

(2) **Designation.**

(a) Designation of first fuel reporting entities for liquid fuels.

(i) The first fuel reporting entity for liquid ((~~fossil~~)) fuels is the producer or importer of the liquid ((~~fossil~~)) fuel.

(ii) For liquid fuels that are a blend of liquid alternative fuel components and a fossil fuel component, the first fuel reporting entity is the following:

(A) The producer or importer of alternative fuels for the alternative fuel component; and

(B) The producer or importer of liquid fossil fuels for the fossil fuel component.

(iii) Conventional jet fuel is not subject to the CFP and need not be reported.

(b) Designation of fuel reporting entities in case of transfer of liquid fuel ownership. An entity transferring ownership of fuel is the "transferor," and an entity acquiring ownership of fuel is the "recipient."

(i) Transferring status as credit or deficit generator.

(A) An entity can voluntarily transfer its status as a credit or deficit generator for a given amount of liquid fuel simultaneously with the ownership of such fuel if the conditions in (b)(i)(A)(I) through (IV) of this subsection are met:

(I) The two entities agree by written contract that specifies the recipient accepts all the responsibilities of a fuel reporting entity and credit and/or deficit generator;

(II) In case of a deficit generating fuel, the two entities agree by written contract that specifies which party is responsible for accounting for the deficit in the annual credits and deficits balance calculation;

(III) The transferor provides the recipient a product transfer document that specifies the recipient is the credit or deficit generator; and

(IV) Transfer of credit or deficit generator status is not the result of a ((~~downstream entity acquiring~~)) regulated party above the rack transferring ownership of liquid fuel to a downstream entity below the rack, unless the fuel is destined for export. The downstream entity is required to report on WFRS-CBTS, if it exports the fuel.

(B) Upon transfer, the recipient also becomes the fuel reporting entity for the fuel, while the transferor remains still subject to reporting requirements and to any other requirement applicable to a fuel reporting entity.

(ii) Retaining status as credit or deficit generator.

(A) An entity can retain its status as a credit or deficit generator for a given amount of liquid fuel, while transferring ownership of that fuel, if the following conditions are met at the time ownership of fuel is transferred:

(I) The two entities agree by written contract that specifies the recipient accepts all the responsibilities of a fuel reporting entity, and the transferor retains the responsibilities as a fuel reporting entity and credit or deficit generator;

(II) In case of a deficit generating fuel, the two entities agree by written contract that specifies which party is responsible for ac-

counting for the deficit in the annual credits and deficits balance calculation; and

(III) The transferor must provide the recipient a product transfer document that specifies the transferor is the credit or deficit generator according to WAC 173-424-400.

(B) Upon transfer according to (b)(ii)(A) of this subsection, the recipient also becomes a fuel reporting entity for the fuel while the transferor is still subject to reporting requirements and any other requirements applicable to a fuel reporting entity under this chapter.

(iii) Transfer period.

((~~(A)~~)) For all liquid fuels, the maximum period in which credit or deficit generator status can be transferred to another entity, for a given amount of fuel, is limited to three calendar quarters starting from and including the quarter in which the entity received the title. After this period is over, the credit and deficit generator status for that amount of fuel cannot be transferred.

((~~(B) After this period is over, the credit and deficit generator status for that amount of fuel cannot be transferred.~~))

(iv) Designation of fuel exporter. ((~~Entities~~)) The entity responsible for reporting exports of fuel that has been previously reported in the WFRS ((~~are identified below:~~

~~(A) When the fuel is sold or delivered above the rack for export, the entity holding the ownership title to the fuel as it crosses the Washington border on its way toward the first point of sale/delivery out-of-state is responsible for reporting the export.~~

~~(B) When the fuel is sold across the rack for export, the entity holding title to the fuel as the fuel crosses the rack is responsible for reporting.~~

~~(C) When the fuel is diverted out-of-state below the rack, the entity holding title to the fuel, as it crosses the Washington border, is responsible for reporting the export~~)) is the entity holding the ownership title of the fuel as it crosses the Washington border.

AMENDATORY SECTION (Amending WSR 22-24-004, filed 11/28/22, effective 12/29/22)

**WAC 173-424-220 Designation of fuel reporting entity for electricity.** (1) **Applicability.** This section prescribes how credits are generated for electricity when used as a transportation fuel.

(2) **Responsibilities to generate credits.** To receive credits for electricity supplied as a transportation fuel, an entity subject to this section must:

(a) Establish an account in the online system;

(b) Comply with registration, recordkeeping, and reporting requirements.

(3) **Designating another entity as credit generator.** A person who is eligible to generate credits as described in subsections (4) through (11) of this section may elect to designate another entity to be the credit generator if the two entities agree by written contract that:

(a) The credit generator outlined in subsections (4) through (11) of this section will provide the electricity data to the designated entity.

(b) The designated entity accepts all CFP responsibilities as the fueling reporting entity and credit generator.

(c) Starting January 1, 2026, new contracts that designate another entity as the credit generator must use the following language: "Per WAC 173-424-220, <first fuel reporting entity> elects to waive credit generation under the CFS and allocate its credits to <designated entity>. <Designated entity> agrees to fulfill all CFS responsibilities as the fueling reporting entity and credit generator, and <first fuel reporting entity> agrees to provide electricity data to assist <designated entity> fulfill its reporting duties under the CFS."

(d) The credit generator must notify the first fuel reporting entity of the total credit revenue generated during the previous year from all FSE owned by the first fuel reporting entity.

(4) **Nonresidential electric vehicle charging.** For electricity used to charge an electric vehicle at nonresidential locations, such as in public for a fleet, at a workplace, or at multifamily housing sites, the eligible entities that generate credits are:

(a) The owner of the electric-charging equipment may generate credits from each piece of equipment.

(b) If the owner of the electric-charging equipment does not generate the credits, then an electric utility or its designated entity may generate the credit, if the two entities agree by written contract that:

(i) The owner of the charging equipment will provide the electricity data to the designated entity.

(ii) The designated entity accepts all CFP responsibilities as the fueling reporting entity and credit generator.

(5) **Public transit systems.** For electricity used to power transit buses, ferry vessels, or fixed guideway vehicles such as light rail systems, streetcars, or aerial tram, the transit agency operating the system is eligible to generate the credits for the electricity used to propel the system.

(6) **Electric forklifts.**

(a) For electricity used as transportation fuel supplied to electric forklifts, the fleet owner is the fuel reporting entity and the credit generator. The forklift owner must annually notify in writing to the forklift operator that:

(i) The owner is generating credit for the amount of electricity the operator uses for the electric forklifts.

(ii) The estimated annual credits and credit revenue the owner gets for the use of electricity in the forklift based on the credit price in the previous year. For the 2023 calendar year, the owner shall use the average of the annual average credit price in CARB and OR-DEQ clean fuel standard programs.

(b) If the fleet owner does not generate the credits, then the forklift operator may generate the credit if the two entities agree by written contract that:

(i) The fleet owner will not generate credits.

(ii) The forklift operator accepts all the CFP responsibilities as the fuel reporting entity and credit generator.

(c) If credit generation rights are passed to the forklift operator, the forklift operator must annually notify in writing to the forklift owner that:

(i) The operator is generating credit for the amount of electricity they use for the electric forklifts.

(ii) The estimated annual credits and credit revenue the operator gets for the use of electricity in the forklift based on the credit price in the previous year. For the 2023 calendar year, the operator shall use the average of the annual average credit price in CARB and OR-DEQ clean fuel standard programs.

(7) **Electric transport refrigeration units (eTRU).** For electricity supplied to the eTRU, the ((~~eTRU fleet~~)) FSE owner is the fuel reporting entity and the credit generator.

(8) **Electric cargo handling equipment (eCHE).**

(a) For electricity supplied to eCHE, the electric cargo handling equipment owner is the fuel reporting entity and the credit generator.

(b) The eCHE owner must annually notify in writing to the eCHE operator that:

(i) The owner is generating credit for the amount of electricity the operator uses for the cargo handling equipment.

(ii) The estimated annual credit revenue the owner gets for the use of electricity in the cargo handling equipment based on the credit price in the previous year. For the 2023 calendar year, the owner shall use the average of the annual average credit price in CARB and OR-DEQ clean fuel standard programs.

(c) If the eCHE owner does not generate the credits, then the eCHE operator may generate the credit if the two entities agree by written contract that:

(i) The eCHE owner will not generate credits.

(ii) The eCHE operator accepts all the CFP responsibilities as the fuel reporting entity and credit generator.

(d) If credit generation rights are passed to the eCHE operator, the operator must annually notify in writing to the eCHE owner that:

(i) The operator is generating credit for the amount of electricity they use for the electric cargo handling equipment.

(ii) The estimated annual credits and credit revenue the operator gets for the use of electricity in the eCHE based on the credit price in the previous year. For the 2023 calendar year, the operator shall use the average of the annual average credit price in CARB and OR-DEQ clean fuel standard programs.

(9) **Electric power for ocean-going vessel (eOGV).**

(a) For electricity supplied to the eOGV, the owner of the electric fuel supply equipment is the fuel reporting entity and the credit generator.

(b) If the owner of the electric fuel supply equipment does not generate the credits, then the operator of the electric fuel supply equipment may generate the credit if the two entities agree by written contract that:

(i) The owner of the electric fuel supply equipment will not generate credits.

(ii) The operator of the electric fuel supply equipment accepts all the CFP responsibilities as the fuel reporting entity and credit generator.

(10) **Electric ground support equipment.**

(a) The owner of the charging equipment for ground support equipment is eligible to generate credits.

(b) If the owner of the charging equipment does not generate the credits, then the owner of the electric ground support equipment may generate the credit if the two entities agree by written contract that:

(i) The owner of the charging equipment will not generate credits.

(ii) The owner of the electric ground support equipment accepts all the CFP responsibilities as the fuel reporting entity and credit generator.

(11) **Residential electric vehicle charging.**

(a) Base credit. For electricity used to charge an electric vehicle in a residence, the following entities are eligible to generate base credits:

(i) Electric utility. In order to generate residential vehicle charging credits for the following year, an electric utility must notify ecology by October 1st of the current year whether it will generate base credits or designate an aggregator to act on its behalf. For the 2023 reporting year, electric utilities must notify ecology by January 15, 2023. The utility or its aggregator must have an active registration approved by ecology under WAC 173-424-300. Once a utility has made an aggregator designation under this section, that designation will remain in effect unless the utility requests a change in writing to ecology. The notification to ecology must be submitted as an electronic copy, be on the utility's letterhead, and include the following information:

(A) The utility's physical and mailing address and point of contact information;

(B) The utility's stated intent to participate in the Washington CFS program by supplying electricity for residential vehicle charging and claiming residential base credits;

(C) Whether the utility will generate base credits or designate an aggregator to act on its behalf; and

(D) Signed authorization from the utility's chief executive officer, general manager, or other authorized officer.

(ii) Backstop aggregator. If an electric utility does not register or designate an aggregator under (a)(i) of this subsection, then the backstop aggregator is eligible to claim any base credits that the utility could have generated for the following year, as provided in subsection (11) of this section.

(iii) Electric vehicle manufacturer. If a backstop aggregator does not register under (a) of this subsection, then the electric vehicle manufacturer is eligible to claim the base credits associated with the electric vehicles that the backstop aggregator could have generated for the following year.

(b) Incremental credits. Any entity, including an electric utility, is eligible to generate incremental credits for improvements in carbon intensity of electricity used for residential EV charging. An entity that generates incremental credits must meet the requirements set forth in WAC 173-424-420 (3)(b), as applicable.

(i) For metered residential EV charging, incremental credits for each FSE may be generated for the low-CI electricity.

(ii) For nonmetered residential EV charging, the electric utility is eligible to generate incremental credits for supplying low-CI electricity to the EVs in its service territory.

(iii) Multiple claims for incremental credits for metered residential EV charging associated with a single FSE ID will be resolved pursuant to the following order of preference:

(A) The utility supplying electricity to the EV associated with the FSE ID and metered data has first priority to claim credits;

(B) The manufacturer of the EV associated with the FSE ID has second priority; and

(C) Any other entity has third priority.

(12) **Backstop aggregator.** The backstop aggregator serves as the credit generator of electricity credits that have not been claimed by an electric utility, an aggregator designated by an electric utility, or an owner of electric charging equipment under subsections (4) and (11) of this section.

(a) To qualify to submit an application to be a backstop aggregator, an organization must:

(i) Be an organization exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code; and

(ii) Complete annual independent financial audits.

(b) An entity that wishes to be the backstop aggregator must submit an application to ecology that includes:

(i) A description of the mission of the organization and how being a backstop aggregator fits into its mission;

(ii) A description of the experience and expertise of key individuals in the organization who would be assigned to work associated with being a backstop aggregator;

(iii) A plan describing:

(A) How the organization will promote transportation electrification statewide or in specific utility service territories, if applicable, prioritizing projects that directly benefit disproportionately impacted communities;

(B) Any entities that the organization might partner with to implement its plan;

(C) How the organization plans to use the revenue from the sale of credits, which may include, without limitation, programs that provide incentives to purchase electric vehicles or install electric vehicle chargers, opportunities to educate the public about electric vehicles, and anticipated costs to administer its plan; and

(D) The financial controls that are, or will be, put in place to segregate funds from the sale of credits from other moneys controlled by the organization.

(iv) Its last three years of independent financial audits and I.R.S. form 990s, and proof that the I.R.S. has certified the entity as qualifying as an exempt organization under 501 (c)(3);

(c) Initial applications to be a backstop aggregator are due to ecology no later than March 15, 2023, to be eligible to be the backstop aggregator beginning in 2023. If ecology does not designate a backstop aggregator out of the applicants under (e) of this subsection, then ecology may set a new deadline for another application if it decides to undertake a new selection process.

(d) Applications will be evaluated by ecology with the assistance of relevant experts ecology may select. Ecology will evaluate applications based on the likelihood that the applicant will maximize the benefits from the credits it receives to promote transportation electrification and reduce greenhouse gas emissions from the transportation sector in Washington while prioritizing projects that directly benefit disproportionately impacted communities.

(e) Ecology may designate the initial backstop aggregator out of the applying organizations by May 31, 2023. If ecology does not designate an organization to be the backstop aggregator, then ecology may undertake a new selection process at a later date under the same criteria in (b) and (d) of this subsection.

(f) Following ecology's designation of an organization to be the backstop aggregator, ecology and the organization may enter into a written agreement regarding its participation in the program. A written agreement must be in place prior to the backstop aggregator regis-

tering an account in the WFRS and receiving credits for the first time. The backstop aggregator must:

(i) By March 31st of each year, submit a report that summarizes the previous year's activity including:

(A) How much revenue was generated from the credits it received;

(B) A description of activities including the status of each activity, where each activity took place, and each activity's budget, including administrative costs, and an estimate of its outcomes including the extent to which it directly benefited disproportionately impacted communities; and

(C) The results of its most recent independent financial audit.

(ii) Maintain records and make them available upon request by ecology, including records required to be maintained under WAC 173-424-400 and, in addition, any records relating to its application, the programs it operates using the proceeds from the sale of credits under this program, and any of the organization's financial records.

(g) If ecology determines that a backstop aggregator is in violation of this chapter or the agreement that it enters into with ecology to be the backstop aggregator, ecology may rescind its designation and solicit applications to select a new backstop aggregator.

(h) If backstop aggregator wishes to terminate its agreement with ecology, then ecology may solicit applications to select a new backstop aggregator.

(i) After a backstop aggregator has been in place for three years, ecology may hold a new selection process to appoint a backstop aggregator for future years. Unless ecology has rescinded an organization as backstop aggregator under (g) of this subsection, the current backstop aggregator may apply to be redesignated as the backstop aggregator for future years.

AMENDATORY SECTION (Amending WSR 22-24-004, filed 11/28/22, effective 12/29/22)

**WAC 173-424-300 Registration.** (1) **Registration in Washington fuels reporting system.**

(a) **Eligibility.** The following entities must apply to register to participate in the Washington clean fuel program:

(i) Entities required to report under the CFP pursuant to WAC 173-424-200 through 173-424-220;

(ii) Entities opting into the CFP pursuant to WAC 173-424-140(2); and

(iii) Aggregators ((~~and credit aggregators~~)).

(b) **Required information.** To register in WFRS, entities must supply a written registration application to ecology by uploading a complete application to the WFRS. The application must be signed by the entity's owner, president, managing partner, or other authorized officer. At a minimum, the application must include:

(i) The identity of the entity submitting the application, including the entity's federal employer identification number (FEIN);

(ii) Entity's physical and mailing addresses;

(iii) The basis for qualifying for an account pursuant to (a) of this subsection;

(iv) The entity's primary account representative and alternative account representative, including their titles, relationship to the organization, phones, and email addresses;

(v) The category of each transportation fuel that the entity will be producing, importing, or dispensing for use in Washington;

(vi) Any other information requested by ecology related to registration.

(c) **Establishing an account in WFRS.**

(i) Accounts in the WFRS are only established following ecology's approval of the registration application.

(ii) Ecology may deny account registration based on, among other reasons, an entity's provision of false, misleading, or incomplete information.

(d) **Account management roles and duties.**

(i) The account representative is responsible for making any changes to the entity profile within WFRS.

(ii) The account representative in WFRS may designate users within the entity who can access and manage the account.

(iii) The account representative in WFRS is responsible for meeting the reporting requirements as set forth in WAC 173-424-420.

(e) **Modifications to the registration in WFRS.**

(i) Registered entities must submit an amended registration to ecology within 30 days of any change occurring to information described in subsection (2) of this section.

(ii) Ecology may require a registered entity to submit an amended registration based on any new information ecology receives.

(iii) If a registered entity amends its registration under this section, the registered entity must also update its account in the WFRS, as appropriate.

(f) **Change of ownership or control.**

(i) If a registered party undergoes a change of ownership or operational control, the following requirements apply:

(A) The previous owner or operator must notify ecology in writing within 30 days of the ownership or operational control change and provide the following information:

(I) Name of the previous owner or operator;

(II) Name of the new owner or operator;

(III) Date of the ownership or operational control change;

(IV) Name of the previous account representatives pursuant to this section for the affected entity's account in WFRS; and

(V) What the planned disposition of net credits in the previous owner's WFRS account and/or the certified fuel pathways associated with the previous owner's AFP account will be;

(B) The new owner or operator must notify ecology in writing within 30 days of the ownership or operational control change, including the following information:

(I) Name of the previous owner or operator;

(II) Name of the new owner or operator;

(III) Date of the ownership or operational control change; and

(IV) Name of the new account representatives pursuant to this section for the affected entity's account in WFRS;

(C) The previous owner or operator remains the owner or operator of record until complete notices under (f)(i)(A) and (B) of this subsection have been submitted;

(D) A single report must be submitted for an entire reporting period. Reporting data must not be split or subdivided for a reporting period, based on registered party ownership. Both the owner or opera-

tor of record at the time of a deadline specified in this section and the actual owner or operator at such time are responsible for complying with the reporting requirements of this section, if a required report is not submitted; and

(E) The new owner or operator is responsible for demonstrating compliance when filing the annual report under WAC 173-424-430.

(g) **Cancellation of the registration in WFRS.**

(i) An entity that was registered in WFRS must cancel its registration if:

(A) It no longer meets the applicability of the program under WAC 173-424-120(1); or

(B) It is a credit generator or aggregator who has voluntarily opted out of the CFP. The credit generator or aggregator must provide to ecology a 90-day notice of intent to opt out of the CFP and a proposed effective date for the completion of the opt-out process.

(ii) A registered entity that is canceling its registration from WFRS under this section must:

(A) Submit any outstanding quarterly reports and annual reports;

(B) Comply with any annual reporting requirements, as applicable; and

(C) Not have any outstanding deficits.

(iii) Any credits that remain in an account of a regulated entity, credit generator, or aggregator that is canceling its registrations under this section shall be forfeited and the account in the WFRS shall be closed.

(iv) Once ecology determines that the actions in ((~~(f)~~)) (g)(ii)(A) through (C) of this subsection are complete, it will notify the registrant in writing that the registration has been canceled.

(v) **Bankruptcy.** Deficits constitute regulatory obligations under Washington law.

(vi) **Inactivity.** If a registered party does not have any fuel transactions reported in four consecutive quarters:

(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.

((~~(g)~~)) (h) **Registration of fueling supply equipment (FSE).**

(i) After establishing an account in the WFRS, fuel reporting entities for natural gas, electricity, propane, and hydrogen must register all fueling supply equipment (FSE) in WFRS via the clean fuels program website. Upon FSE registration, the applicant will receive a unique FSE ID that must be used for reporting fuel transactions in WFRS pursuant to the CFP reporting requirements.

(ii) General requirements: All FSE registration must include:

(A) Federal employer identification number (FEIN) for the entity registering, name of the facility at which FSE is situated, street address, latitude, and longitude of the FSE location.

(B) Name and address of the entity that owns the FSE, if different from the entity registering the FSE.

(C) Date equipment became operational. All equipment being registered must be operational at the time of registration, meaning the FSE is fully constructed and available for refueling or recharging vehicles.

(iii) Specific requirements by fuel type:

(A) Registered entities that are dispensing natural gas, propane, or hydrogen must:

(I) Unless designated as first fuel reporting entity in WAC 173-424-210, provide a written contractual agreement demonstrating it acquired the designation of the first fuel reporting entity status;

(II) Provide the number of dispensing facilities located in Washington, their locations, and the unique identifier associated with the fuel dispensing equipment in the organization's fuel or financial accounting or utility meter.

(B) For CNG, FSE refers to a fueling station associated with a utility meter. A CNG station with multiple dispensers is considered a single FSE. Fuel reporting entities for CNG must provide the natural gas utility meter number at the FSE location, name of the utility company, and a copy of the most recent utility bill.

(C) For LNG and propane, FSE refers to a fueling station. An LNG or propane station with multiple dispensers is considered a single FSE. Fuel reporting entities for LNG and propane must provide a unique identifier associated with the FSE used for their own fuel accounting or financial accounting or other purposes and copy of invoice or bill of lading for the most recent fuel delivery.

(D) Unless designated as the first fuel reporting entity in WAC 173-424-220, registered entities that are charging electric vehicles must provide ecology with a copy of a written contractual agreement demonstrating the registered entity acquired the designation of the first fuel reporting entity status.

(E) For nonresidential EV charging, FSE refers to each piece of equipment capable of measuring the electricity dispensed for EV charging. Fuel reporting entities for nonresidential EV charging for on-road applications must provide the serial number assigned to the FSE by the original equipment manufacturer (OEM) and the name of OEM. If there are multiple FSEs at the same location, each unique piece of equipment must be registered separately.

(F) For residential metered EV charging, must provide the following information about the fuel-supplying equipment, which refers to a piece of equipment or on-vehicle telematics capable of measuring the electricity dispensed for EV charging:

(I) Fuel reporting entities using off-vehicle meters must provide the serial number assigned to the charging equipment by the OEM, the name of the equipment OEM, and the vehicle identification number (VIN) for the vehicle expected to be charged at the location.

(II) Fuel reporting entities using vehicle telematics must provide the VIN.

(III) EV charging equipment registration is optional when reporting metered electricity to generate base credits.

(IV) Location information and address is not required for residential charging.

(G) For registered entities that are also electric utilities, whether they want to:

(I) Aggregate the residential electric charging credits in their service territory under WAC 173-424-220 (3) or (10); or

(II) Designate an aggregator to act on their behalf under WAC 173-424-220 (3) or (10).

(H) Fuel reporting entities for fixed guideway systems are exempt from the general requirements in (h)(ii) of this subsection. The WFRS will assign FSE IDs for reporting purposes based on the information provided in the WFRS account registration form.

(I) For electric forklifts, eCHE, eOGV, eTRU, or eGSE, FSE refers to the facility or location where electricity is dispensed for fueling. If there are multiple FSEs capable of measuring the electricity dispensed at the facility or location, then an entity may provide the serial number assigned to each individual FSE by the OEM, along with the name of the OEM.

(J) ((~~For eTRU, FSE refers to each eTRU. Fuel reporting entities for eTRU fueling must provide the serial number assigned to the unit by the OEM and the name of the OEM.~~

~~(K)~~)) For hydrogen, FSE refers to a fueling station. A hydrogen station with multiple dispensers is considered a single FSE.

((~~(L)~~)) (K) For transportation applications not covered in ((~~(g)~~)) (h)(iii)(A) through ((~~(K)~~)) (J) of this subsection, FSE refers to a fuel dispenser or a transportation equipment with the capability to measure the dispensed fuel in that equipment.

(L) Ecology may request additional documentation or evidence prior to approving a registration of FSE, and ecology may deny the registration if the applicant fails to provide the requested documentation or evidence within seven calendar days or another deadline set by ecology.

(2) **Registration in the Washington alternative fuel portal (AFP).** AFP handles the registration of fuel production facilities. It also supports fuel pathway applications, certifications, and verifications.

(a) **Eligibility.** A fuel producer who intends to be a fuel pathway applicant can apply to establish an account in the AFP in the WFRS.

(b) **Required information.** To establish an account in AFP, an entity must submit account administrator designation application that includes the following information:

(i) Organization identification, including federal employer identification number (FEIN), EPA RFS identification number (if available), physical and mailing addresses, state, names of organizational representatives.

(ii) The applicant for registration must qualify for an account pursuant to (a) of this subsection. The application:

(A) Must be signed by the company owner, a president, a managing partner, or a corporate officer;

(B) Must designate the account administrator, including their title, phone number, and email address;

(C) Must be uploaded in the AFP to complete the registration application process;

(D) Must retain the original document for the duration of an account representative.

(c) **Account approval.** Ecology will review the registration application for completeness and validity.

(d) **Establishing an account in AFP.** Upon registration approval by ecology, the fuel producer must establish an account in the AFP portion of the WFRS and comply with the requirements of this chapter and any conditions placed upon the fuel pathway codes that it holds.

(e) **Account management roles and duties.**

(i) The account representative is responsible for making any changes to the company profile within AFP.

(ii) The account representative may designate users within the company who can access and manage the account.

(iii) If any information required in (b) of this subsection changes, the entity holding the account must update the account to reflect the changes within 30 calendar days.

AMENDATORY SECTION (Amending WSR 22-24-004, filed 11/28/22, effective 12/29/22)

**WAC 173-424-400 Recordkeeping.** (1) Fuel reporting entities, opt-in entities, and aggregators must retain the following records for at least 10 years, unless otherwise specified in this chapter:

(a) Product transfer documents as described in subsection (2) of this section;

(b) Copies of all data and reports submitted to ecology;

(c) Records related to each fuel transaction subject to the CFP;

(d) Records used for each credit transaction;

(e) Records used for compliance credit and deficit calculations;

(f) Records related to obtaining a carbon intensity described in WAC 173-424-610;

(g) Records used to establish that feedstocks are specified source feedstocks;

(h) Records related to third-party verification, if required under WAC 173-424-800 through 173-424-850;

(i) Records related to fuel supplying equipment registration including, but not limited to, datasets of monthly utility billing information, bills of lading, and other documents used as a proof at the time of fuel supplying equipment registration pursuant to this chapter;

(j) Chain of custody evidence for produced fuel imported into Washington;

(k) As applicable, attestations regarding environmental attributes associated with book-and-claim accounting for renewable electricity or biomethane used as transportation fuel or for hydrogen production.

(i) A registered party reporting any fuel claimed in the CFP using a book-and-claim accounting method as a fuel or feedstock in the CFP must retire renewable thermal certificates or renewable energy certificates that embody the full environmental attributes of that fuel in an electronic tracking system approved by ecology in order to claim that fuel. The environmental attributes embodied by that REC or RTC must not have been used or claimed in any other program or jurisdictions with the exception of the federal RFS and the Climate Commitment Act (chapter 173-446 WAC). To be validly used in compliance with this ((~~division~~)) chapter, any such claims under the federal RFS or Climate Commitment Act must be made for the same use and volume of biomethane or its derivatives as it is being claimed for in the CFP.

(ii) A fuel pathway holder using directly delivered renewable electricity, biogas, or biomethane, must obtain and keep attestations from each upstream party collectively demonstrating that they have exclusive right to use those environmental attributes.

(2) **Documenting fuel transfers reported in Washington's fuel reporting system.** A product transfer document must include the ((~~following~~)) information specified below.

(a) For transfers where a CFS obligation to act as a credit or deficit generator is being passed to the recipient:

((~~(a)~~)) (i) Transferor company name, address, and contact information;

((~~(b)~~)) (ii) Recipient company name, address, and contact information;

((~~(c)~~)) (iii) Transaction date: Date of title transfer for fuel;

((~~(d)~~)) (iv) Fuel pathway code (FPC). This does not apply to fossil gasoline, fossil diesel fuel, or fossil natural gas;

((~~(e)~~)) (v) Carbon intensity (CI). This does not apply to fossil gasoline, fossil diesel fuel, or fossil natural gas;

((~~(f)~~)) (vi) Fuel quantity and units;

((~~(g)~~)) (vii) A statement identifying whether the CFP obligation to act as a credit or deficit generator is passed to the recipient;

((~~(h)~~)) (viii) Fuel production company identification number and facility identification number as registered with RFS program. This does not apply to fossil gasoline, fossil diesel fuel, or fossil natural gas; and

((~~(i)~~)) (ix) Destination of the fuel. If the fuel destination is not known or the transfer is not changing the location of the fuel, the PTD shall reflect this.

(b) For transfers where the CFS obligation to act as a credit or deficit generator was retained by the transferor, the following is to be provided to the recipient and passed along to any subsequent owner or supplier:

(i) All information identified in (a)(i) through (ix) of this subsection; and

(ii) The following notice reading as follows: "This transportation fuel has been reported to the Washington Clean Fuels Program for intended use in Washington. If you export this fuel from Washington, you must contact the Washington state department of ecology via WFRSAdmin@ecy.wa.gov to report the transaction."

(3) ((~~For transactions of clear and blended gasoline and diesel below the rack where the fuel is not destined for export, only the records described in subsection (2)(a), (b), (c), (f), and (g) of this section are required to be retained.~~

~~(4)~~)) **Documenting credit transactions.** Regulated parties, credit generators, and aggregators must retain the following records related to all credit transactions for at least 10 years:

(a) The contract under which the credits were transferred;

(b) Documentation on any other commodity trades or contracts between the two parties conducting the transfer that are related to the credit transfer in any way; and

(c) Any other records relating to the credit transaction, including the records of all related financial transactions.

((~~(5)~~)) (4) **Review.** All data, records, and calculations used by a regulated party, a credit generator, or an aggregator to comply with this chapter are subject to inspection and verification by ecology. Regulated parties, credit generators, and aggregators must provide records retained under this rule within 15 business days after the date ecology requests a review of the records, unless a different schedule is agreed to by ecology.

((~~(6)~~)) (5) **Initial 2023 inventory.** All regulated fuels held in bulk storage in the state on January 1, 2023, are subject to the program and must be reported as the initial inventory of fuels by regulated parties. This requirement does not apply to fuels stored outside of the bulk system, as defined in WAC 173-424-110((~~(28)~~)) (31).

((~~(7)~~)) (6) **Information exempt from disclosure.** Pursuant to the provisions of the Washington Public Records Act (chapter 42.56 RCW), all information submitted to ecology is subject to inspection upon request by any person unless such information is determined to be exempt from disclosure under the Washington public records law or other applicable Washington law.

((~~(8)~~)) (7) **Monitoring plan for entities required to validate or verify under WAC 173-424-800 through 173-424-850.**

(a) Each entity responsible for obtaining third-party verification of their data under the CFP must complete and retain a written monitoring plan for review by a verifier or ecology;

(b) If a fuel production facility is required to complete and maintain a monitoring plan by the California LCFS or Oregon CFP, the same monitoring plan may be used to meet the requirements of this rule unless there are substantive differences between the two programs' treatment of the fuel production process;

(c) A monitoring plan must include the following general items and associated references to more detailed information, as applicable:

(i) Information to allow ecology and the verification team to develop a general understanding of boundaries and operations relevant to the entity, facility, or project, including participation in other markets and other third-party audit programs;

(ii) Reference to management policies or practices applicable to reporting pursuant to this chapter, including recordkeeping;

(iii) Explanation of the processes and methods used to collect necessary data for reporting pursuant to this chapter;

(iv) Explanations and queries of source data to compile summary reports of intermediate and final data necessary for reporting pursuant to this chapter;

(v) Reference to one or more simplified block diagrams that provide a clear visual representation of the relative locations and positions of measurement devices and sampling locations, as applicable, required for calculating reported data (e.g., temperature, total pressure, LHV or HHV, fuel consumption); the diagram(s) must include storage tanks for raw material, intermediate products, and finished products, fuel sources, combustion units, and production processes, as applicable;

(vi) Clear identification of all measurement devices supplying data necessary for reporting pursuant to this chapter, including identification of low flow cutoffs as applicable, with descriptions of how data from measurement devices are incorporated into the submitted report;

(vii) Descriptions of measurement devices used to report CFP data and how acceptable accuracy is demonstrated, e.g., installation, maintenance, and calibration method and frequency for internal meters and financial transaction meters; this provision does not apply to data reported in the WFRS for generating credits for EV charging;

(viii) Description of the procedures and methods that are used for quality assurance, maintenance, and repair of all continuous monitoring systems, flow meters, and other instrumentation used to provide data for CFP reports;

(ix) Original equipment manufacturer (OEM) documentation or other documentation that identifies instrument accuracy and required maintenance and calibration requirements for all measurement devices used to collect necessary data for reporting pursuant to this chapter;

(x) The dates of measurement device calibration or inspection, and the dates of the next required calibration or inspection;

(xi) Requests for postponement of calibrations or inspections of internal meters and subsequent approvals by ecology. The entity must demonstrate that the accuracy of the measured data will be maintained pursuant to the measurement accuracy requirements of WAC 173-424-610;

(xii) A listing of the equation(s) used to calculate flows in mass, volume, or energy units of measurement, and equations from which

any nonmeasured parameters are obtained, including meter software, and a description of the calculation of weighted average transport distance;

(xiii) Identification of job titles and training practices for key personnel involved in CFP data acquisition, monitoring, reporting, and report attestation, including reference to documented training procedures and training materials;

(xiv) Records of corrective and subsequent preventative actions taken to address verifier and ecology findings of past nonconformance and material misstatements;

(xv) Log of modifications to a fuel pathway report conducted after attestation in response to review by third-party verifier or ecology staff;

(xvi) Written description of an internal audit program that includes data report review and documents ongoing efforts to improve the entity's CFP reporting practices and procedures, if such an internal audit program exists; and

(xvii) Methodology used to allocate the produced fuel quantity to each certified fuel pathway code;

(d) The monitoring plan related to a fuel pathway carbon intensity or reporting quantities of fuels must also include the following elements specific to fuel pathway carbon intensity calculations and produced quantities of fuels per fuel pathway code:

(i) Explanation of the processes and methods used to collect necessary data for fuel pathway application and annual fuel pathway reports and all site-specific WA-GREET 3.0 inputs, as well as references to source data;

(ii) Description of steps taken and calculations made to aggregate data into reporting categories, for example aggregation of quarterly fuel transactions per fuel pathway code;

(iii) Methodology for assigning fuel volumes by fuel pathway code, if not using a method prescribed by ecology. If using ecology prescribed methodology, the methodology should be referenced;

(iv) Methodologies for testing conformance to specifications for feedstocks and produced fuels, particularly describing physical testing standards and processes;

(v) Description of procedure taken to ensure measurement devices are performing in accordance with the measurement accuracy requirements of WAC 173-424-610;

(vi) Methodology for monitoring and calculating weighted average feedstock transport distance and modes, including the specific documentation records that will be collected and retained on an ongoing basis;

(vii) Methodology for monitoring and calculating fuel transport distance and modes, including the specific documentation records that will be collected and retained on an ongoing basis;

(viii) References to contracts and accounting records that confirm fuel quantities were delivered into Washington for transportation use in carbon intensity determination, and confirm feedstock and finished fuel transportation distance; and

(ix) All documentation required pursuant to WAC 173-424-600(6) for fuel pathways utilizing a specified source feedstock to qualify for a reduced carbon intensity; and

(e) The monitoring plan must also include the following documentation that can be used to justify transaction types reported for fuel in the WFRS, including the production amount, sale/purchase agreements and final fuel dispensing records. Such documentation must be specific

to quarterly fuel transactions reports for importers of blendstocks, importers of finished fuels, Washington producers, credit generators, aggregators, and out-of-state producers.

AMENDATORY SECTION (Amending WSR 22-24-004, filed 11/28/22, effective 12/29/22)

**WAC 173-424-410 Quarterly reports.** (1) **Reporting frequency and deadlines.** Except for persons exempt from this requirement under WAC 173-424-130, regulated parties, credit generators, and aggregators must submit a quarterly report using the WFRS by:

(a) June 30th - for January through March of each year;

(b) September 30th - for April through June of each year;

(c) January 10th - for July through September of each year; and

(d) March 31st - for October through December of each previous year.

(e) If a reporting deadline occurs on a Saturday, Sunday, or a state holiday, the deadline is extended to the following business day.

(2) **General reporting requirements for quarterly reports.**

(a) Reporters must upload the data for the quarterly reports in the WFRS within the first 45 days after the end of the quarter.

(b) During the second 45 days, reporters must work with each other to resolve any fuel transaction discrepancies between different reporters' reported transactions.

(c) In order to allow for carry-back credits to have been generated only in the applicable years, the Q1 report may not be submitted prior to May 1st.

AMENDATORY SECTION (Amending WSR 22-24-004, filed 11/28/22, effective 12/29/22)

**WAC 173-424-420 Specific reporting requirements.** The following requirements are in addition to requirements contained in WAC 173-424-410 and 173-424-430.

(1) Quarterly reports must contain the information specified in Table 9 under WAC 173-424-900 for each transportation fuel subject to the CFP.

(2) **Specific (quarterly) reporting parameters for natural gas (including CNG, LNG, and L-CNG) used as transportation fuel.** Any registered party must report the following parameters for each fueling facility to which CNG, LNG, L-CNG, is supplied as a transportation fuel:

(a) The amount of fuel dispensed must be reported per fuel dispensing equipment, as required for registration in WFRS, with a certified fuel pathway code and with transaction type "NGV fueling."

(b) For CNG and L-CNG, the amount of fuel dispensed in therms at higher heating value per reporting period separately for all light/medium (LDV and MDV), heavy-duty vehicles with compression engines (HDV-CIE), and heavy-duty vehicles with spark ignition engines (HDV-SIE).

(c) For LNG, the amount of fuel dispensed in gallons per reporting period separately for all LDV/MDV, HDV-CIE, and HDV-SIE.

(d) For CNG, L-CNG, and LNG, the carbon intensity as listed in Table 6, Washington Carbon Intensity Lookup Fuel Pathway WAC 173-424-900.

(e) For biomethane-based CNG, LNG, and L-CNG, the carbon intensity as approved under WAC 173-424-610 and the EPA production company identification number and facility identification number. Additionally, if the biomethane-based volumes are being reported using a book-and-claim methodology, the registered party must submit records showing the retirement of renewable thermal certificates representing the biomethane environmental attributes from that facility in M-RETS renewable thermal system or another approved and recognized tracking system with the quarterly report. The retirement records must show enough renewable thermal certificates were retired to cover the volume of biomethane claimed as a fuel in the CFP and those certificates must be from the same biomethane production facility to which the fuel pathway code is assigned. If biogas or biomethane is being used that is directly delivered to a vehicle and not injected into a pipeline, the registered party must provide the following attestation when it files the quarterly report for the corresponding volume of biogas or biomethane claimed.

"I certify that to the extent that the gas used in the fuel pathway or supplied as transportation fuel is characterized as biomethane, _____ (registered party name) owns the exclusive rights to the corresponding environmental attributes.

_____ (registered party name) has not sold, transferred, or retired those environmental attributes in any program or jurisdiction other than the federal RFS.

Based on diligent inquiry and review of contracts and attestations from our business partners, I certify under penalty of perjury under the laws of the State of Washington that no other party has or will sell, transfer, or retire the environmental attributes corresponding to the biomethane for which _____ (registered party name) claims credit in the CFP program."

(f) The total quantity of fuel, summed across all fuel pathway codes, dispensed for transportation purpose through the fuel supplying equipment during the reporting period.

(g) When the vehicle application is unknown, for the purpose of reporting, a fueling event of less than 3,500 MJ (30 gasoline gallon equivalents) of fuel dispensed must be reported as NGV fueling of LDV/MDV. A fueling event of 3,500 MJ or more must be reported as NGV fueling of HDV.

(3) **Specific reporting parameters for electricity used as a transportation fuel.**

(a) For electricity, any registered party must report ((~~the following as applicable:~~

~~(a) To claim a carbon intensity other than a utility-specific mix (Table 10), or directly connected renewable electricity under the lookup table (Table 6) in WAC 173-424-900, a registered party must~~)) using:

(i) A utility-specific carbon intensity of electricity, using the lookup table in WAC 173-424-900 (Table 10); or

(ii) Directly connected renewable electricity, as specified under the lookup table located in WAC 173-424-900 (Table 6); or

(iii) Renewable electricity from indirectly supplied sources. For this option, a registered party must:

(A) Submit documentation that qualifying RECs were retired in the WREGIS or a recognized renewable electricity tracking system for the unique purpose of covering that specific charging at the same time as the submittal of the quarterly report; or

((~~(ii)~~)) (B) Submit documentation at least annually that the electric vehicle chargers are covered by a utility renewable electricity product or a power purchase agreement that has been approved by ecology for a carbon intensity. The carbon intensity assigned to the product or agreement can only be used for reporting if the electric vehicle chargers are covered by that same product or agreement for the time period which is being reported;

(b) For nonmetered residential EV charging:

(i) If an electric utility monitors electric energy use in EVs, the electric utility may provide to ecology the daily average EV electricity use data within the first 45 days after the end of the quarter. Ecology shall use the method established in WAC 173-424-540 to calculate any credits generated for the quarter and place them into the electric utility's account in WFRS;

(ii) For claiming incremental credit for nonmetered residential charging, the electric utility must be able to provide, upon ecology's request: The VIN for each electric vehicle claimed and evidence of EV vehicle registration and low-carbon electricity supply at the same location;

((~~(iii) A nonutility credit generator must use credit revenues from nonmetered residential EV charging to increase consumer EV resources to promote transportation electrification. The credit generator must include, in their annual compliance report, an itemized summary of efforts and costs associated with meeting these requirements;~~))

(c) For metered residential EV charging:

(i) For generating base credits, the amount of electricity (in kWh) used for residential EV charging per FSE;

(ii) For generating incremental credits for low-CI electricity, the amount of electricity (in kWh) used for residential EV charging per FSE using a certified FPC. The following requirements must also be met:

(A) Upon ecology's request, records must be provided that demonstrate an EV is owned or leased by an individual dwelling at the claimed residence; and

(B) Only a single entity can generate incremental credits using a low-CI pathway for the same FSE. Multiple claims will be resolved pursuant to WAC 173-424-220 (11)(b)(iii). If two or more entities other than utilities or electric vehicle manufacturers report for the same FSE to generate incremental credits, no incremental credits will be issued for that FSE; and

(iii) A nonutility credit generator must use credit revenues from ((~~nonmetered~~)) metered residential EV charging to increase consumer EV resources to promote transportation electrification. The credit generator must include, in their annual compliance report, an itemized summary of efforts and costs associated with meeting these requirements;

(d) For nonresidential EV charging. For each public access charging facility, fleet charging facility, workplace private access charging facility, or multifamily dwelling, the amount of electricity dispensed in kilowatt hours to vehicles per FSE;

(e) For each public transit agency, the amount of electricity dispensed to or consumed by vehicles used for public transportation in kilowatt-hours per FSE. The report must be:

(i) Separated by use for light rail, streetcars, aerial trams, or electric transit buses; and

(ii) Separated by electricity used in portions of their fixed guideway system placed in service before and after January 1, 2023;

(f) For entities reporting forklift charging, the amount of electricity dispensed to or consumed by forklifts per FSE. The report must be separated by electricity used to charge forklifts built in or before model year 2022 and electricity used to charge forklifts built in model year 2023 and after. The reporting entity must provide the number of electric forklifts in the above model year groups (in and pre-2022 versus in and post-2023)((~~. The quantity of electricity used in electric forklifts may be determined as follows:~~

~~(i) Quantity of electricity used during a reporting period, as measured per FSE.~~

~~(ii) If the quantity of electricity as measured per FSE is unavailable, the reporting entity may submit a written statement to ecology demonstrating the reasons they are unable to provide measured electricity data. Upon approval from ecology, they may use an ecology approved estimation method~~));

(g) For eTRU, eCHE, or eOGV, the amount of electricity dispensed to or consumed by the equipment per FSE;

(h) For other electric transportation applications, the amount of electricity dispensed to or consumed by the equipment per FSE with transaction type approved by ecology, as Tier-2 FPW.

(4) **Specific reporting parameters for hydrogen used as a transportation fuel.**

(a) The quantity (in kg) of hydrogen fuel dispensed per FSE, as required in WFRS, and by the vehicle station classes (based on tank type and size) as required in the hydrogen industry standard fueling protocol SAE J2601.

(b) For hydrogen fuel cell forklifts, the amount of hydrogen fuel dispensed (in kg) per FSE.

(5) **Specific reporting parameters for propane.**

(a) The quantity (in gallon) of propane dispensed per FSE.

(b) For renewable propane, the production company ID and facility ID.

(6) **Specific reporting parameters for liquid fuels including gasoline, diesel, diesel fuel blends, alternative fuels, and alternative jet fuel.**

(a) The right transaction type for each fuel. The transaction type "production for import" is to be reported by out-of-state producers who choose to be the first fuel reporting entity for fuel imported into Washington. The transaction type "import" is to be reported by nonproducers who choose to be the first fuel reporting entity for out-of-state fuel imported into Washington. The following information are to be reported:

(i) Except as provided in (a)(ii) of this subsection, the volume (in gallons) of each blendstock per reporting period aggregated for each distinct carbon intensity value (e.g., X gallons of blendstock with A $gCO_2e/MJ$, Y gallons of blendstock with B $gCO_2e/MJ$).

(ii) A producer of gasoline or diesel fuel must report, for each of its refineries, the MCON or other crude oil name designation, vol-

ume (in gallons), and country (or state) of origin for each crude supplied to the refinery during the quarter.

(b) For renewable hydrocarbon diesel or renewable gasoline coprocessed at a petroleum refinery, any registered party must report the following information as applicable:

(i) If the registered party is also the producer, then ecology may require the registered party to report the ongoing information required under WAC 173-424-610.

(ii) If the registered party is not the producer, and the producer has not met its obligations under WAC 173-424-610, then ecology may require the registered party to report the volume of fuel under a temporary fuel pathway code or the fuel pathway code for clear gasoline or diesel, as applicable.

(c) Temperature correction. All liquid fuel volumes reported in the WFRS must be adjusted to the standard temperature conditions of 60 degrees Fahrenheit as follows:

(i) For ethanol, using the formula:

Standardized volume = Actual volume * ((-0.0006301 * T) + 1.0378), where standardized volume refers to the volume of ethanol in gallons at 60°F, actual volume refers to the measured volume in gallons, and T refers to the actual temperature of the batch in °F.

(ii) For biodiesel, one of the following two methodologies must be used:

(A) Standardized volume = Actual volume * ((-0.00045767 * T) + 1.02746025), where standardized volume refers to the volume in gallons at 60°F, actual volume refers to the measured volume in gallons, and T refers to the actual temperature of the batch in °F; or

(B) The standardized volume in gallons of biodiesel at 60°F, as calculated using the American Petroleum Institute Refined Products Table 6B, as referenced in ASTM 1250-08.

(iii) For other liquid fuels, the volume correction to standard conditions must be calculated by the methods described in the American Petroleum Institute Manual of Petroleum Measurement Standards Chapter 11 – Physical Properties Data (May 2004), the ASTM Standard Guide for the Use of Petroleum Measurement Tables (ASTM D1250-08) (Reapproved 2013), or the API Technical Data Book, Petroleum Refining Chapter 6 – Density (April 1997).

(iv) If a registered party believes the methods in (c)(i) through (iii) of this subsection are inappropriate, they may request to use a different method and ecology may approve that method if it finds that it is at least as accurate as the methods in (c)(i) through (iii) of this subsection.

(d) Reporting gallons transferred in and out of commingled storage tank or that are commingled in production or in transport. The reporting entity may mass balance transfers out of a commingled tank or multiple commingled tanks at the same facility by fuel pathway code based on the gallons input into that tank or facility in the current or prior quarter. Liquid gallons reported under a specific fuel pathway code that were put into a tank two or more quarters prior may only be reported as transferred out of commingled storage if the reporting entity demonstrates to ecology that the tank has not fully turned over by the quarter it is reporting the volume being transferred out.

(e) Reporting exempt gallons. When a registered party is reporting that it sold gallons of fuel to exempt fuel users as defined in WAC 173-424-110, the registered party must ((~~designate in the transaction description field of the~~)) use the transaction type(s) in the WFRS that correspond to the categories of exempt fuel ((~~users~~)) to

which the registered party delivered fuel and the number of gallons delivered. For blended fuels, all components must be reported as exempt.

((~~(e)~~)) (f) Reporting "not for transportation" gallons. When reporting that fuel was sold as not for transportation in the WFRS, the registered party must report in the transaction description field of the WFRS which stationary source, or category of stationary fuel combustion, the fuel was sold to and the number of gallons sold. For blended fuels, all components must be reported as not being used for transportation.

((~~(f)~~)) (g) All reports of position holder transactions under this chapter must comply with the following:

(i) Registered parties that are position holders must report fuel sold below the rack;

(ii) Registered parties that are position holders that sell fuel to entities not registered in the CFP may aggregate and report those sales in a single transaction using the "undefined" business partner descriptor; and

(iii) Registered parties that are position holders that sell fuel below the rack for export must identify each recipient of such fuel ((~~that is registered in the CFP~~)).

((~~(g)~~)) (h) Reporting below the rack exports. Purchasers of fuel from a position holder that is directly exported without modification must report such fuel using the "purchase below the rack for export" transaction category. Such purchasers must also report a transaction for the same gallons using an "Export out of Washington distribution system" transaction.

(7) **Annual reporting of electric utility credit revenue.** All electric utilities that receive credits must annually report the following items to ecology no later than April 30th. Failure to file such a report will result in aggregator receiving credits for that utility until the utility files any past-due reports. Each utility must report the following information, for the prior calendar year:

(a) Total revenue from the sale of base and incremental credits attributable to residential vehicle charging, if applicable in the prior year;

(b) Description of spending of the credit revenue, including:

(i) A description of the programs or projects that were funded by CFP credit revenue;

(ii) The amount spent in each program or project in the prior year;

(iii) Description of the group of individuals or listing of organizations that benefited from the programs or projects;

(iv) Description of the areas that benefited from the programs or projects;

(v) Any other data elements that ecology may prescribe towards the implementation of RCW 70A.535.080.

(8) The registered party must maintain a nonnegative value for each "fuel pathway code obligated amount" as summed across all quarterly data in the online system.

(9) **Significant figures.** A regulated entity must report the following quantities as specific below:

(a) Carbon intensity, expressed to the same number of significant figures in Carbon Intensity of Lookup Table, Table 6 under WAC 173-424-900.

(b) Credits or deficits, expressed to the nearest whole metric ton $CO_2$ equivalent;

(c) Fuel amounts in units specified in quarterly and annual reports, expressed to the nearest whole unit applicable for that quantity; and

(d) Any other quantity must be expressed to the nearest whole unit applicable for that quantity.

(10) **Correcting a previously submitted report.** Upon discovery of an error, a fuel reporting entity may request to have previously submitted quarterly reports for the current compliance periods reopened for corrective edits and resubmittal by submitting a correction request form online in the WFRS. The fuel reporting entity is required to provide justification for the report corrections and indicate the specific corrections to be made to the report. The fuel reporting entity may only make the specific corrections detailed in the approved correction request letter while the report is reopened. If the fuel reporting entity discovers that there are additional corrections that should be made, it must make a separate request to ecology through WFRS after submitting the initial corrections requested. The separate request form must detail the additional corrections and must be approved by ecology prior to making the additional corrections. Registered parties must submit corrections within two business days of the corrections request being approved. Pursuant to WAC 173-424-510 (5)(c), no credits may be claimed, and no deficits may be eliminated, retroactively for a quarter for which the quarterly reporting deadline has passed. Each submitted request is subject to ecology review and approval. Permission to correct a report does not preclude enforcement based on misreporting.

AMENDATORY SECTION (Amending WSR 22-24-004, filed 11/28/22, effective 12/29/22)

**WAC 173-424-430 Annual compliance reports.** (1) **Annual compliance reporting deadline.**

(a) Except as provided in (b) of this subsection, regulated parties, credit generators, and aggregators must use the WFRS to submit an annual compliance report to ecology not later than April 30th for the compliance period ending on December 31st of the previous year.

(b) Each regulated party must submit an annual compliance report for 2023 notwithstanding that the initial compliance period is for 2023 and 2024.

((~~(c) Small importers of finished fuels may submit a supplemental annual report using the WFRS, not later than April 30th for the compliance period ending on December 31st of the previous year.~~))

(2) **General reporting requirements for annual compliance reports.** Regulated parties, credit generators, and aggregators must submit annual compliance reports that meet, at minimum, the general and specific requirements for quarterly reports and include the following information:

(a) The total credits and deficits generated by the regulated party, credit generator, or aggregator in the current compliance period, calculated in the WFRS as provided in the equations in WAC 173-424-540;

(b) Any credits carried over from the previous compliance period;

(c) Any deficits carried over from the previous compliance period;

(d) The total credits acquired from other regulated parties, credit generators, and aggregators;

(e) The total credits sold or transferred; and

(f) The total credits retired within the WFRS to meet the compliance obligation per WAC 173-424-540.

(3) All pending credit transfers must be completed prior to submittal of the annual compliance report.

(4) **Correcting a previously submitted report.** A regulated party, credit generator, or aggregator may ask ecology to reopen a previously submitted quarterly or annual compliance report for corrective edits and resubmittal. The requestor must submit an "unlock report request form" within the WFRS. The fuel reporting entity may only make the specific corrections detailed in the approved correction request letter while the report is reopened. If the fuel reporting entity discovers that there are additional corrections that should be made, it must make a separate request to ecology through WFRS after submitting the initial corrections requested. The separate request form must detail the additional corrections and must be approved by ecology prior to making the additional corrections. Registered parties must submit corrections within two days of the corrections request being approved. The requestor is required to provide justification for the report corrections and must indicate the specific corrections to be made to the report. Pursuant to WAC 173-424-510 (5)(c), no credits may be claimed, and no deficits may be eliminated, retroactively for a quarter for which the quarterly reporting deadline has passed. Each submitted request is subject to ecology review and approval. Ecology approval of a corrected report does not preclude enforcement based on misreporting.

AMENDATORY SECTION (Amending WSR 22-24-004, filed 11/28/22, effective 12/29/22)

**WAC 173-424-510 Credit and deficit basics.** (1) **Carbon intensities.**

(a) Except as provided in (b), (c), or (d) of this subsection, regulated parties, credit generators, and aggregators must use a carbon intensity approved by ecology under WAC 173-424-610 for calculating credits and/or deficits.

(b) If a regulated party, credit generator, or aggregator has an ecology-approved provisional carbon intensity under WAC 173-424-610(6), the regulated party, credit generator, or aggregator must use the provisional carbon intensity in calculating credits and/or deficits.

(c) If a regulated party, credit generator, or aggregator has ecology approved temporary carbon intensity under WAC 173-424-610(8), the regulated party, credit generator, or aggregator must use the temporary carbon intensity in calculating credits and/or deficits for the period which it has been approved, unless ecology has subsequently approved a permanent carbon intensity for that fuel.

(d) If a registered party purchases a blended finished fuel and the seller does not provide carbon intensity information, then the registered party must:

(i) Use the applicable substitute fuel pathway code in Table 7 under WAC 173-424-900 or otherwise ecology approved and posted on its website under WAC 173-424-610(11) if the fuel is:

(A) Exported;

(B) Not used for transportation; or

(C) Used in an exempt fuel use; and

(ii) Use the weighted average of the applicable substitute fuel pathway codes as described in (d)(i) of this subsection for the fossil fuel and biofuel or biofuels components, if the finished fuel blend is not listed.

(2) **Fuel quantities.** Regulated parties, credit generators, and aggregators must express fuel quantities in the unit of fuel for each fuel.

(3) **Compliance period.** The annual compliance period is January 1st through December 31st of each year, except the initial compliance period is January 1, 2023, through December 31, 2024. Registered entities can generate and transact credits during the initial compliance period.

(4) **Metric tons of $CO_2$ equivalent.** Regulated parties, credit generators, and aggregators must express credits and deficits to the nearest whole metric ton of carbon dioxide equivalent.

(5) **Deficit and credit generation.**

(a) Credit generation. A clean fuel credit is generated when:

(i) The fuel is produced, imported, or dispensed for use in Washington, as applicable, and the carbon intensity of the fuel approved for use under WAC 173-424-600 through 173-424-630 is less than the ((~~clean fuel~~)) carbon intensity standard for:

(A) Gasoline and gasoline substitutes in Table 1 under WAC 173-424-900; or

(B) Diesel fuel and diesel substitutes in Table 2 under WAC 173-424-900.

(ii) A valid and accurate quarterly report is issued in the WFRS.

(b) Deficit generation. A clean fuel deficit is generated when:

(i) Fuel is produced, imported, or dispensed for use in Washington, as applicable, and the carbon intensity of the fuel approved for use under WAC 173-424-600 through 173-424-630 is more than the ((~~clean fuel~~)) carbon intensity standard for:

(A) Gasoline and gasoline substitutes in Table 1 under WAC 173-424-900; or

(B) Diesel fuel and diesel substitutes in Table 2 under WAC 173-424-900.

(ii) Deficits are generated when a valid and accurate quarterly report is issued in the WFRS.

(c) No credits may be generated or claimed for any transactions or activities occurring in a quarter for which the quarterly reporting deadline has passed, unless the credits are being generated for residential charging of electric vehicles.

(6) **Mandatory retirement of credits.** When filing the annual report at the end of a compliance period, a registered party that possesses credits must retire a sufficient number of credits such that:

(a) Enough credits are retired to completely meet the registered party's compliance obligation for that compliance period; or

(b) If the total number of the registered party's credits is less than the total number of the regulated party's deficits, the registered party must retire all of its credits.

(7) **Credit retirement hierarchy.** The WFRS will use the following default hierarchy to retire credits for the purposes of meeting a compliance obligation according to the following sequence:

(a) Credits acquired or generated in a previous compliance period prior to credits generated or acquired in the current compliance period;

(b) Credits generated in an earlier quarter before credits generated in a later quarter; and

(c) Credits with an earlier completed transfer "recorded date" before credits with a later completed transfer "recorded date."

AMENDATORY SECTION (Amending WSR 22-24-004, filed 11/28/22, effective 12/29/22)

**WAC 173-424-520 Fuels to include in credit and deficit calculation.** (1) **Fuels included.** Credits and deficits must be calculated for all regulated fuels and clean fuels that are sold, supplied, or offered for sale in Washington.

(2) **Fuels exempted.** Except as provided in subsections (3), (4), and (5) of this section, credits and deficits may not be calculated for fuels exempted under WAC 173-424-130. Exempt fuel volumes must be claimed by the end of the regular reporting period for a given quarter, otherwise ecology will deem the fuel to have been voluntarily included under subsection (3) of this section.

(3) **Voluntary inclusion.** A regulated party, credit generator, or aggregator may choose to include in its credits and deficits calculations fuel that is sold to an exempt fuel user in Washington under WAC 173-424-130 (2)(b), provided that the credit and deficit calculation includes all fuels listed on the same invoice.

(4) **When fuels are exported from Washington:**

(a) Any bulk quantity of fuel that is exported must be reported by the person who holds title to the fuel when it is exported;

(b) If the exporter purchased the fuel with the compliance obligation, the exported fuels will not generate deficits or credits; and

(c) If credits or deficits were generated and separated from the fuel through a transfer without obligation, the exporter will incur credits or deficits, as appropriate, to balance out the deficits or credits detached from the fuel.

(5) **Alternative jet fuel.** Alternative jet fuel may be reported by the producer or importer of the fuel and any registered parties that hold title to it, so long as the fuel is loaded into airplanes in Washington. If a gallon of alternative jet fuel that has been reported to the clean fuels program as imported or produced is later exported, lost, or otherwise not used for transportation it must be reported as such.

AMENDATORY SECTION (Amending WSR 22-24-004, filed 11/28/22, effective 12/29/22)

**WAC 173-424-530 Transacting credits.** (1) **General.**

(a) Credits are a regulatory instrument and do not constitute personal property, instruments, securities, or any other form of property.

(b) Regulated parties, credit generators, and aggregators may:

(i) Retain credits without expiration within the CFP in compliance with this ((~~division~~)) chapter; and

(ii) Acquire or transfer credits from or to other regulated parties, credit generators, and aggregators that are registered under WAC 173-424-300.

(c) Regulated parties, credit generators, and aggregators may not:

(i) Use credits that have not been generated in compliance with this chapter; ((~~or~~))

(ii) Borrow or use anticipated credits from future projected or planned carbon intensity reductions, except as approved by ecology under WAC 173-424-550; or

(iii) Accept credit transfers before generating any credits or deficits under this chapter.

(2) **Credit transfers between registered parties.**

(a) "Credit seller," as used in this rule, means a registered party that wishes to sell or transfer credits.

(b) "Credit buyer," as used in this rule, means a registered party that wishes to acquire credits.

(c) A credit seller and a credit buyer may enter into an agreement to transfer credits.

(d) A credit seller may only transfer credits up to the number of credits in the credit seller's WFRS account on the date of the transfer.

(e) "Type 1 credit transfer." Over-the-counter agreement for the sale or transfer of CFS credits for which delivery will take place no more than 10 days from the date the parties enter into the transaction agreement.

(f) "Type 2 credit transfer." Over-the-counter agreement for the sale or transfer of CFS credits for which delivery is to take place more than 10 days from the date the parties enter into the transaction agreement or that involve multiple transfers of CFS credits over time.

(3) **Credit seller requirements.** When parties wish to transfer credits, the credit seller must initiate an online "credit transfer form" provided in the WFRS and must include the following:

(a) The date on which the credit buyer and credit seller reached their agreement;

(b) The names and FEINs of the credit seller and credit buyer;

(c) The first and last names and contact information of the persons who performed the transaction on behalf of the credit seller and credit buyer;

(d) The number of credits proposed to be transferred; and

(e) The price or equivalent value of the consideration (in U.S. dollars) to be paid per credit proposed for transfer, excluding any fees. If no clear dollar value can be easily arrived at for the transfer, a price of zero must be entered and a qualitative description of the transaction's valuation must be entered in the seller's notes field.

(4) **Credit buyer requirements.** Within 10 days of receiving the "credit transfer form" from the credit seller in the WFRS, the credit buyer must confirm the accuracy of the information therein and may accept the credit transfer by signing and dating the form using the WFRS.

(5) **Voiding credit((s)) transfers.** If the credit buyer and credit seller have not fulfilled the requirements of subsections (3) and (4) of this section within ((~~20~~)) 10 days of the seller initiating the credit transfer, the transaction will be voided. If a transaction has been voided, the credit buyer and credit seller may initiate a new credit transfer.

(6) **Aggregator.** An aggregator may only act as a credit seller or credit buyer if that aggregator:

(a) Has an approved and active registration under WAC 173-424-300;

(b) Has an account in the WFRS; and

(c) Has an approved aggregator designation form from a regulated party or credit generator for whom the aggregator is acting in any given transaction.

(7) **Illegitimate credits.**

(a) A registered party must report accurately when it submits information into the WFRS. If inaccurate information is submitted that results in the generation of one or more credits when such an assertion is inconsistent with the requirements of WAC 173-424-510 through 173-424-540, or a party's submission otherwise causes credits to be generated in violation of the requirements of this chapter, those credits are illegitimate and invalid. If ecology determines that one or more credits that a party has generated are illegitimate credits, then:

(i) If the registered party that generated the illegitimate credits still holds them in its account, ecology will cancel those credits;

(ii) If the registered party that generated the illegitimate credits has retired those credits to meet its own compliance requirement or if it has transferred them to another party, the party that generated the illegitimate credits must retire an approved credit to replace each illegitimate credit; and

(iii) The party that generated the illegitimate credits is also subject to enforcement for the violation, as deemed appropriate in ecology's discretion.

(b) A registered party that has acquired one or more illegitimate credits, but was not the party that generated the illegitimate credits:

(i) When the initial generator of the illegitimate credits has not retired approved credits in place of the illegitimate credits and ecology determines that initial generator is unlikely to be able to do so, then the party that has acquired such credits may have those credits canceled by ecology if the party still holds the credits in its account, or if the party has used such illegitimate credits to meet its own compliance requirement, then ecology may require the party to retire an approved credit to replace each such illegitimate credit that it retired to meet its compliance obligation;

(ii) May be subject to enforcement at ecology's discretion, unless ecology determines that the party from whom the credits were acquired engaged in false, fraudulent, or deceptive trading practices.

(8) **Prohibited credit transfers.** A credit transfer involving, related to, in service of, or associated with any of the following is prohibited:

(a) Fraud, or an attempt to defraud or deceive using any device, scheme, or artifice;

(b) Either party employed any unconscionable tactic in connection with the transfer;

(c) Any false report, record, or untrue statement of material fact or omission of a material fact related to the transfer or conditions that would relate to the price of the credits being transferred. A fact is material if it is reasonably likely to influence a decision by another party or by the agency;

(d) Where the intended effect of the activity is to lessen competition or tend to create a monopoly, or to injure, destroy, or prevent competition;

(e) A conspiracy in restraint of trade or commerce; or

(f) An attempt to monopolize, or combine or conspire with any other person or persons to monopolize.

AMENDATORY SECTION (Amending WSR 22-24-004, filed 11/28/22, effective 12/29/22)

**WAC 173-424-540 Calculating credits and deficits.** (1) **General credit or deficit calculation method.** Except as provided in subsections (2) and (3) of this section, credit and deficit generation must be calculated for all fuels included in WAC 173-424-520:

(a) Using credit and deficit basics as directed in WAC 173-424-510;

(b) Calculating energy in mega joules by multiplying the amount of fuel by the energy density of the fuel in Table 3 under WAC 173-424-900;

(c) Calculating the adjusted energy in mega joules by multiplying the energy in mega joules from (b) of this subsection by the energy economy ratio of the fuel listed in Table 4 under WAC 173-424-900 or as approved by ecology under WAC 173-424-620, as applicable;

(d) Calculating the carbon intensity difference by subtracting the value in (d)(i) from (ii) of this subsection:

(i) The fuel's carbon intensity as approved under WAC 173-424-600 through 173-424-630, adjusted for the fuel application's energy economy ratio as listed in Table 4 under WAC 173-424-900 or as approved under WAC 173-424-620 as applicable;

(ii) The ((~~clean fuel~~)) carbon intensity standard for gasoline or gasoline substitutes listed in Table 1 under WAC 173-424-900 or diesel fuel and diesel substitutes listed in Table 2 under WAC 173-424-900, as applicable;

(e) Calculating the grams of carbon dioxide equivalent by multiplying the adjusted energy in mega joules in (c) of this subsection by the carbon intensity difference in (d) of this subsection;

(f) Calculating the metric tons of carbon dioxide equivalent by dividing the grams of carbon dioxide equivalent calculated in (e) of this subsection by 1,000,000; and

(g) Determining under WAC 173-424-510(5) whether credits or deficits are generated.

(2) **Calculation method for fixed guideway vehicles and electric forklifts.** For electricity used to power fixed guideway vehicles on track placed in service prior to 2023 and forklifts from model year 2022 and earlier, credit and deficit generation must be calculated by:

(a) Using credit and deficit basics as directed in WAC 173-424-510;

(b) Calculating energy in mega joules by multiplying the amount of fuel by the energy density of the fuel in Table 3 under WAC 173-424-900;

(c) Calculating the carbon intensity difference by subtracting (c)(i) from (ii) of this subsection:

(i) The fuel's carbon intensity as approved under WAC 173-424-600 through 173-424-630, adjusted for the fuel application's energy economy ratio listed in Table 4 under WAC 173-424-900 as applicable;

(ii) The ((~~clean fuel~~)) carbon intensity standard for gasoline or gasoline substitutes listed in Table 1 under WAC 173-424-900 or diesel fuel and diesel substitutes listed in Table 2 under WAC 173-424-900, as applicable;

(d) Calculating the grams of carbon dioxide equivalent by multiplying the adjusted energy in mega joules in (b) of this subsection by the carbon intensity difference in (c) of this subsection;

(e) Calculating the metric tons of carbon dioxide equivalent by dividing the grams of carbon dioxide equivalent calculated in (d) of this subsection by 1,000,000; and

(f) Determining under WAC 173-424-600(5) whether credits or deficits are generated.

(3) **Residential electric vehicle charging.** For electricity used in residential charging of electric vehicles, credit calculations must be based on the total electricity dispensed (in kilowatt hours) to vehicles, measured by:

(a) The use of direct metering (either submetering or separate metering) to measure the electricity directly dispensed to all vehicles at each residence; or

(b) For residences where direct metering has not been installed, ecology will calculate the total electricity dispensed as a transportation fuel based on analysis of the total number of BEVs and PHEVs in a utility's service territory based on Washington state department of licensing records. Ecology will perform this analysis at least twice a year and issue credits based on it. Ecology will select one of the following methods for estimating the amount of electricity charged based on its analysis of which is more accurate and feasible at the time it is performing the analysis:

(i) An average amount of electricity consumed by BEVs and PHEVs at residential chargers, based on regional or national data; or

(ii) An analysis of the average electric vehicles miles traveled by vehicle type or make and model, which compares the total amount of estimated charging for those electric vehicle miles traveled with the total reported charging in those territories in order to determine the amount of unreported charging that can be attributed to residential charging. The analysis may be done on a utility territory specific basis.

(iii) Using government published information on average miles per gallon equivalent data by vehicle type or make and model, average annual vehicle miles traveled, and electric energy consumed by BEVs and PHEVs.

(c) If ecology determines after the issuance of residential electric vehicle credits that the estimate under (b) of this subsection contained a significant error that led to one or more credits being incorrectly generated, the error will be corrected by withholding an equal number of credits to the erroneous amount from the next generation of residential electric vehicle credits.

(d) A credit generator or aggregator may propose an alternative method, subject to the approval of ecology upon its determination that

the alternative method is more accurate than either of the methods described in (b) of this subsection.

(e) Credits generated under this subsection will be calculated by ecology under subsection (1) of this section using the estimated amount of electricity under (b) of this subsection and issues at least twice per year into the WFRS account of the utility, its designated aggregator, or the backstop aggregator within three months of the close of that year.

(4) **Incremental credits.** In calculating incremental credits for actions that lower the carbon intensity of electricity, the credit calculations must be performed based on subsection (1) of this section, except that the carbon intensity difference is calculated based on the carbon intensity of the renewable electricity and the carbon intensity used to calculate the base credits for that electric vehicle or charging equipment, and consistent with the following requirements, as applicable:

(a) Incremental credits for **nonresidential charging** are generated upon the retirement of RECs that qualify under WAC 173-424-630(5) by the credit generator, or its aggregator, or by another entity on their behalf. For credit generators and their aggregators, RECs must be retired prior to or at the same time as the submittal as the quarterly report where the charging is being reported and REC retirement records must be submitted with the quarterly report as supplemental documentation. RECs may be retired by another entity on behalf of the credit generator or aggregator for their electric vehicle charging so long as it is clearly documented and that documentation is submitted with the quarterly report.

(b) For incremental credits generated using a utility renewable electricity product or power purchase agreement, evidence that the chargers were covered by such a product must be submitted at least annually along with a quarterly report. Upon request by ecology, any entity using a power purchase agreement or a utility renewable electricity product must produce evidence that the charging equipment was covered by that agreement or product for all time periods when the entity was claiming incremental credits.

(c) Incremental credits are generated when the registered entity retires RECs on behalf of nonresidential electric vehicle charging.

(d) Incremental credits for residential charging are generated by a utility or its aggregator when RECs are retired on behalf of that charging, or when a utility demonstrates to ecology that EVs are being charged by customers enrolled in its utility renewable electricity products.

AMENDATORY SECTION (Amending WSR 22-24-004, filed 11/28/22, effective 12/29/22)

**WAC 173-424-550 Advance crediting.** (1) **General provisions.**

(a) Advance credits are used to decarbonize the transportation sector pursuant to RCW 70A.535.050(3).

(b) All advance credits represent actual reductions of greenhouse gas emissions against the ((~~clean fuel~~)) carbon intensity standards.

(c) Vehicles must be registered in Washington to be eligible to earn advance credits.

(2) **Eligibility to generate advance credits.**

(a) Washington state department of transportation or other public entities that are implementing state transportation investment projects and programs to be funded through an omnibus transportation appropriations act may apply for advance credit, provided that:

(i) The projects and programs reduce greenhouse gas emissions and decarbonize the transportation sector.

(ii) The projects and programs that are eligible to generate credits may apply for advance credits.

(b) For the purposes of this subsection, public entities include, but are not limited to:

(i) Public transit agencies;

(ii) Political subdivisions or municipal corporations of the state of Washington;

(iii) Tribal governments;

(iv) School districts;

(v) Companies under contract to provide services to a political subdivision of the state of Washington or a Washington school district may apply if the political subdivision endorses the application, and the vehicles covered by the application are intended to provide contracted services to the public.

(c) The entities identified in this subsection may apply to earn advance credits for the purchase and use of the following types of investments:

(i) Medium and heavy-duty vehicles and infrastructure; and

(ii) Light-duty vehicles and infrastructure if they are part of an organization's plan to fully electrify its light-duty fleet within a 15-year time period.

(iii) Electrification of the state ferry fleet;

(iv) Public transit infrastructure; and

(v) Other types of investments that ecology may identify to incentivize effective GHG emissions reduction activities that can normally generate credit through the clean fuels program.

(3) **Applications for advance credits.** All of the following requirements apply to applications for advance credits:

(a) Applications for advance crediting will be accepted by ecology at least once per year from entities eligible to apply under subsection (2) of this section. Ecology will notify stakeholders when applications will be accepted and will provide application materials and guidance about how it will process and consider applications.

(b) Applicants must supply the following information to ecology:

(i) A letter describing the activities or purchases that they want to receive advance crediting for, and the estimated time frames for when those projects and programs will be put into useful service;

(ii) A detailed estimate of the potential credit generation from the investment projects or programs that they want to receive advance crediting for;

(iii) A detailed monitoring mechanism to ensure the accuracy of the credit generation from the investment projects or programs until it has exited the payback period;

(iv) Information on the location of the investment projects and programs and all materials and energy inputs and emissions that is used to estimate the potential credit generation;

(v) A proposed number of credits to be advanced for each vehicle; and

(vi) An attestation that the applicant will remain the owner or lessee of the credit generating units through the implementation of the investment projects and programs until the vehicle has paid back

the advance credits, or that, if the credit generating unit is sold prior to the end of the payback period, that the applicant will buy and retire credits against the remaining unearned amount.

(c) Ecology may request additional documentation from an applicant prior to making a decision on the application. Not submitting the requested documentation can be reason to deny the application without prejudice.

(4) **Approval of advance credits.** If ecology determines that an application for advance credits meets the requirements of subsections (2) and (3) of this section, then ecology will negotiate an agreement with the applicant to issue advance credits consistent with this rule and based on all of the following considerations and requirements:

(a) A clear and objective milestone for issuing advance credits that represents when the credit generating unit implemented through the investment projects and programs covered by the application are placed into useful service to generate credits;

(b) The total number of credits being advanced;

(c) The length of the payback period, which must be at least one year longer than the number of years of credits that will be advanced;

(d) An attestation from the applicant that it understands that the advanced credits must represent real reductions and that if the activity covered by the agreement does not generate sufficient credits within the payback period that it is responsible for retiring a sufficient number of credits to make up the difference. The attestation must also include a statement that the applicant understands that it is responsible for making up the difference in credits if it sells or relocates covered credit generating units outside of Washington; and

(e) An attestation from the applicant that it will ensure that actual credits from the investment project or program are not generated from other credit generating units until the credits have been paid back.

(5) **Issuance of advance credits.** If ecology approves an application and has executed an agreement with the applicant under subsection (4) of this section, then:

(a) Ecology will issue advance credits to the applicant only after the vehicles or equipment are placed into useful service as agreed to under subsection (4) of this section;

(b) Credits will only be issued to the applicant named in the agreement; and

(c) Ecology may advance no more than six years of credits for any single investment project or program.

(6) **Payback period.** Advance credits issued under this rule are subject to the following requirements:

(a) The payback period for the investment project or program will be specified in the agreement between ecology and the applicant, except that the payback period may not exceed nine years. The payback period must be at least one year longer than the number of years of credits advanced to the applicant.

(b) In the event that the number of advance credits was not realized during the payback period, the recipient is responsible for acquiring and retiring sufficient credits to ensure the environmental integrity of the program.

(c) If the ownership of an investment project or program is transferred to another entity prior to the close of the payback period, the applicant is responsible for retiring credits against the volume of advanced credits that has not yet been covered by actual credit generation.

(7) **Reporting requirements.** An applicant that has received advance credits under this rule:

(a) Must file quarterly reports to ecology showing the amount of credit generating activities into the investment project or program covered by the agreement; and

(b) May not generate additional credits for that project until the advance credits are paid back using credits generated from that project or other banked credits. Ecology and the applicant will monitor the amount of credits that would have been generated to determine when an equal number of credits has been generated to the number of credits advanced.

(8) **Overall limitation on advance credits.** Ecology may not issue more advance credits in any one calendar year than an amount equal to five percent of the total number of deficits generated in the prior compliance year. In considering applications under this section, ecology will process applications based on the criteria ecology develops in consultation with the Washington state department of transportation towards meeting the goals of the clean fuels program.

AMENDATORY SECTION (Amending WSR 22-24-004, filed 11/28/22, effective 12/29/22)

**WAC 173-424-560 Generating and calculating capacity credits for ZEV fueling infrastructure pathways.** (1) **Heavy-duty hydrogen refueling infrastructure (HD-HRI) pathways.**

(a) HRI pathway eligibility. A hydrogen station owner may submit an application to certify an HD-HRI pathway subject to the following eligibility conditions:

(i) The proposed HRI must be located in Washington and built to primarily service heavy-duty FCEVs; and

(ii) The station must be either:

(A) Open to the public, meaning that no obstructions or obstacles exist to preclude vehicle operators from entering the station premises, no access cards or personal identification (PIN) codes are required for the station to dispense fuel, and no formal or registered station training shall be required for individuals to use the hydrogen refueling station; or

(B) A shared HD-HRI refueling station, as defined in WAC 173-424-110(143);

((~~(ii)~~)) (iii) The HRI pathway application must be received on or before December 31, 2030; and

((~~(iii)~~)) (iv) The following stations are not eligible for HRI crediting:

(A) Any station receiving or spending funds pursuant to any settlement related to any Washington or federal regulation enforcement; or

(B) Any station built as a required mitigation measure pursuant to the State Environmental Policy Act.

(b) HRI application requirements. For each hydrogen refueling station, the station owner must submit an application in the WFRS containing the following information:

(i) Name and address of the owner of the proposed station.

(ii) Contact person for the owner entity.

(A) Name;

(B) Title or position;
(C) Phone number;
(D) Mobile phone number;
(E) Email address.

(iii) Name, street address, latitude, longitude, and a location description for the proposed station.

(iv) Expected daily permitted hours of operation for the station. If the daily permitted hours are less than 24 hours, the applicant must provide documentation from a permitting authority demonstrating that daily permitted hours for the station are limited.

(v) The station nameplate refueling capacity for the permitted hours of operation calculated using the HySCapE 1.0 model or an equivalent model or capacity estimation methodology approved by ecology. The applicant must submit a completed model with the application. The application for ((~~medium and~~)) heavy-duty vehicles shall not be accepted until HySCapE model or equivalent model or capacity estimation methodology is approved by ecology for ((~~these~~)) this vehicle size ((~~categories~~)) category.

(vi) The HRI refueling capacity for the station is the nameplate refueling capacity determined in (b)(v) of this subsection or ((~~the following~~)) 3,000 kg/day, whichever is less((~~:~~

~~(A) For light-duty vehicle stations: 800 kg/day, out of which 250 kg/day is eligible for capacity crediting; or~~

~~(B) For medium and heavy-duty vehicles station: 3000 kg/day, out of which 1500 kg/day is eligible for capacity crediting~~)).

(vii) The number of dispensing units at the station.

(viii) Expected source(s) of hydrogen, CI value(s), and method(s) used for delivery.

(ix) Expected date that the station will be operational.

(x) Justification for the station location and how the proposed location contributes in developing a hydrogen refueling station network to support ZEV adoption. The justification must include:

(A) The role(s) the station location will play in the developing hydrogen station network;

(B) The means by which the station contributes to robust growth of the statewide hydrogen fueling network;

(C) Demonstration of potential for consistent and calculable hydrogen demand;

(D) Demonstration that the proposed station capacity is an appropriate capacity based on documented, verifiable, and reproducible projections of daily hydrogen demand at the proposed location;

(E) Calculation of the projected trajectory of annualized average station utilization (calculated as annual throughput divided by annual station capacity) at the proposed location; and

(F) Demonstration that the proposed station location has been discussed with local authorities having jurisdiction and no early roadblocks have been identified.

(xi) A signed attestation letter from the applicant attesting to the veracity of the information in the application packet. The attestation letter must be submitted as an electronic copy, be on company letterhead, be signed by an officer of the applicant with authority to attest to the veracity of the information in the application and to sign on behalf of the applicant, be from the applicant and not from an entity representing the applicant (such as a consultant or legal counsel), and include the following attestation:

I, an authorized representative of _____ (applicant entity), attest to the veracity of the information submitted as part of the Heavy-Duty Hydrogen Refueling Infrastructure (HD-HRI) application, attest that the proposed FSE is not receiving funds pursuant to any enforcement settlement related to any Washington or Federal regulation, and declare that the information submitted accurately represents the anticipated and intended design and operation of the hydrogen refueling station. Further, I understand and agree to each of the statements in the attached application. I am a duly authorized officer with authority to attest to the veracity of the information in the application and to sign on behalf of the respective applicant.

I understand that the following information in the HD-HRI application will be made available on the Washington CFP website: Name of the Applicant Entity, Station Name, Station Address, Number of Dispensing Units, HD-HRI Refueling Capacity, and Effective Date Range for HD-HRI Crediting.

By submitting this application, _____ (applicant entity) accepts responsibility for the information herein provided to Ecology. I certify under penalty of perjury under the laws of the Washington State that I have personally examined, and am familiar with, the statements and information submitted in this document. I certify that the statements and information submitted to Ecology are true, accurate, and complete.

| Signature | Print Name & Title | Date |
|---|---|---|

(xii) CBI must be designated and a redacted version of any submitted documents designated to include CBI must be provided according to the ecology process consistent with the Washington state Public Records Act (chapter 42.56 RCW).

(xiii) An application and supporting documents must be submitted electronically via WFRS unless ecology has approved or requested in writing another format.

(c) Application approval process.

(i) The HD-HRI application must be approved by ecology before the station owner may generate hydrogen refueling infrastructure credits. If estimated potential ((~~HRI~~)) HD-ZEV credits from all approved stations exceed two and one-half percent of deficits in the most recent quarter, ecology will not approve additional HD-HRI pathways and will not accept additional applications until estimated potential ((~~HRI~~)) HD-ZEV capacity credits are less than two and one-half percent of deficits. ((~~HRI~~)) All HD-ZEV applications will be evaluated for approval on a first-come first-served basis.

Estimated potential HRI credits will be calculated using the following equation:

((

$$Credits_{HRI}^{Potential} = Credits_{HRI}^{Prior\ Qtr} \times \frac{Cap_{HRI}^{Approved}}{Cap_{HRI}^{Operational}}$$

~~Where:~~

~~$Credits_{HRI}^{Potential}$ means the estimated potential HRI credits from all approved HRI stations;~~

| | |
|---|---|
| ~~$Credits_{HRI}^{Prior\ qtr}$~~ | ~~means the total HRI credits generated by operational stations in the prior quarter;~~ |
| ~~$Cap_{HRI}^{Operational}$~~ | ~~means the total HRI capacity of stations that were operational in the prior quarter; and~~ |
| ~~$Cap_{HRI}^{Approved}$~~ | ~~means the total HRI capacity of all approved stations, both operational and nonoperational.~~)) |

$$Credits_{HD-HRI}^{Potential} = Credits_{HD-HRI}^{Prior\ Qtr} \times \frac{Cap_{HD-HRI}^{Approved}}{Cap_{HD-HRI}^{Operational}}$$

Where:

| | |
|---|---|
| $Credits_{HD-HRI}^{Potential}$ | means the estimated potential HD-HRI credits from all approved HD-HRI stations; |
| $Credits_{HD-HRI}^{Prior\ Qtr}$ | means the total HD-HRI credits generated by operational stations in the prior quarter; |
| $Cap_{HD-HRI}^{Operational}$ | means the total HD-HRI capacity of stations that were operational in the prior quarter; and |
| $Cap_{HD-HRI}^{Approved}$ | means the total HD-HRI capacity of all approved stations, both operational and nonoperational. |

(ii) After receipt of an application designated by the applicant as ready for formal evaluation, ecology will advise the applicant in writing either that:

(A) The application is complete; or

(B) The application is incomplete, in which case ecology will identify which requirements of (b) of this subsection have not been met.

(I) The applicant may submit additional information to correct deficiencies identified by ecology.

(II) If the applicant is unable to achieve a complete application ((~~within 180 days~~)) during the quarter of ecology's receipt of the original application, the application will be denied on that basis, and the applicant will be informed in writing. Following the denial, the applicant may submit a new application for the site.

(C) At any point during the application evaluation process, ecology may request in writing additional information or clarification from the applicant.

(iii) Ecology will not approve an application if it determines, based upon the information submitted in the application and any other available information, that the application does not meet requirements in (a) and (b) of this subsection. Ecology may reject an application if satisfactory justification is not provided for station location pursuant to (b)(x) of this subsection. If ecology does not approve the application, the applicant will be notified in writing and the basis for the disapproval shall be identified.

(iv) If ecology determines that the applicant and application have met all requirements for approval pursuant to (a) and (b) of this subsection, ecology will approve the application and provide an approval summary on ecology's CFP website including the station location and assigned identifier, number of dispensing units, HD-HRI refueling capacity, and effective date range for HD-HRI pathway crediting.

(v) Crediting period. HRI crediting is limited to 15 consecutive years, starting with the quarter ((~~following~~)) ecology ((~~approval of~~)) approved the application.

(d) Requirements to generate HD-HRI credits. To generate credits using HRI pathways the station must meet the following conditions. The station owner must maintain, and submit to ecology upon request, records demonstrating adherence to these conditions.

(i) The station owner must update the HD-HRI refueling capacity if different from the design HD-HRI refueling capacity provided in the application. Any station design or operational information that deviates from the original application must be declared to ecology, and a new attestation must be submitted pursuant to (b) of this subsection.

(ii) ((~~The station must be open to the public, meaning that no obstructions or obstacles exist to preclude vehicle operators from entering the station premises, no access cards or personal identification (PIN) codes are required for the station to dispense fuel, and no formal or registered station training shall be required for individuals to use the hydrogen refueling station.~~

~~(iii)~~)) The station uses a public point of sale terminal that accepts major credit and debit cards.

((~~(iv)~~)) (iii) The station uses a system that verifies the availability of the station for refueling, similar to being connected with the station operational status system (SOSS), and:

(A) The station passed final inspection by the appropriate authority having jurisdiction and has a permit to operate.

(B) The station owner has fully commissioned the station, and has declared it fit to service retail FCV drivers. This includes the station owner's declaration that the station meets an appropriate SAE fueling protocol.

(C) At least three OEMs have confirmed that the station meets protocol expectations, and their customers can fuel at the station.

(D) All dispensers installed in the hydrogen refueling station have undergone a review for suitability of the type of station by the Washington state department of agriculture weights and measures program and have either a temporary use permit or a certificate of approval issued by the Washington state department of agriculture.

((~~(v)~~)) (iv) The FSE registration must be completed pursuant to WAC 173-424-300 (1)((~~(g)~~)) (h) and the quantity of dispensed hydrogen must be reported as required in WAC 173-424-420.

((~~(vi)~~)) (v) Dispensed hydrogen meets the following CI and renewable content requirements on a company-wide, weighted average basis. Ecology will consider all the stations registered by an entity with a unique FEIN in the WFRS for calculating the company-wide weighted average CI and renewable content.

(A) CI of 120 $gCO_2e/MJ$ or less; and

(B) Renewable content of 50 percent or greater; and

(C) Starting January 1, 2030, the renewable hydrogen requirements specified in WAC 173-424-120 (4)(d).

((~~(vii)~~)) (vi) The station must be operational within 24 months of application approval. If the applicant fails to demonstrate the operability within 24 months of approval, and estimated potential HD-ZEV credits exceed two and one-half percent of deficits in the most recent quarter deficit data is available, then the application will be canceled. The applicant can reapply in the following quarter for the same station eligible only for nine years of crediting.

((~~(viii)~~)) (vii) The estimated cumulative value of HRI credits generated for the FSE in the prior quarter must be less than the difference between ((~~the total~~)) one and one-half times the initial capital expenditure reported pursuant to (f)(iii)(A) of this subsection and the total grant revenue or other ((~~funding reported pursuant to (f)(iii)(E) of this subsection~~)) external funding received towards capital, operational, and maintenance expenditures in the prior quarter.

(A) The estimated value of ((~~FCI~~)) HD-HRI credits, for the purpose of this determination, shall be calculated using the number of ((~~FCI~~)) HD-HRI credits generated for the FSE in the quarter and the average CFP credit price for that quarter published on ecology's CFP website.

(B) The cumulative credit value generated for each FSE will be tracked as the sum of all quarterly credit values in constant-dollar for the year in which the HD-HRI application was approved using an annual discount rate of 10 percent.

(C) The estimated value calculated under this provision will be made available only to the respective reporting entity in WFRS and will not be published on ecology's CFP website.

(D) This will not affect the reporting entity's ability to generate ((~~non-FCI~~)) non-HD-HRI CFP credits for the ((~~electricity~~)) hydrogen dispensed at the FSE.

(e) Calculation of HRI credits. HRI credits will be calculated using the following equation:

((~~$Credits_{HRI}(MT) = (CI^{XD}_{standard} \times EER - CI_{HRI}) \times E_{H2} \times (Cap_{HRI} \times N \times UT - H2_{disp}) \times C$~~))

$$Credits_{HD-HRI}(MT) = (CI^{XD}_{standard} \times EER - CI_{HD-HRI}) \times E_{H2} \times (Cap_{HD-HRI} \times N \times UT - H2_{disp}) \times C$$

Where:

| | |
|---|---|
| $CI^{XD}_{standard}$ | is the average carbon intensity standard of ((~~gasoline (XD = "gasoline") or~~)) diesel (XD = "diesel") for a given year as provided in Table 1 of WAC 173-424-900((~~, depending on the fuel it replaces;~~)) |
| $EER$ | is the dimensionless Energy Economy Ratio for H2/FCV relative to ((~~gasoline or~~)) diesel as listed in Table 4 of WAC 173-424-900((~~, depending on the fuel it replaces;~~)) |
| $CI_{HRI}$ | is the carbon intensity used for HRI crediting. Company-wide weighted average CI for dispensed hydrogen during the quarter or 0 g/MJ, whichever is greater; |
| $E_{H2}$ | is the energy density for hydrogen in MJ/kg as listed in Table 4 of WAC 173-424-900; |
| $Cap_{HRI}$ | is the HRI refueling capacity for the station (kg/day); |
| $UT$ | is the uptime multiplier which is the percentage of time that the station is available to refuel a vehicle up to 90 percent of state of charge during the quarter, in a similar manner as reported in SOSS; |
| $H2_{disp}$ | is the quantity of hydrogen dispensed during the quarter (kg); |
| $N$ | is the number of days during the quarter; |
| $C$ | is a factor used to convert credits to units of metric tons from $gCO_2e$ and has the value of: |

$$C = 1.0 \times 10^{-6} \quad \frac{(MT)}{(gCO_2e)}$$

(f) Reporting and recordkeeping requirements. The following must be reported to ecology each quarter as set forth in WAC 173-424-420 before credits will be issued to the WFRS account associated with an approved HD-HRI pathway.

(i) Station availability. This is the percentage of hours the station is available for fueling during the quarter relative to the permitted hours of operation for the station. Any period of time that a portion of the station capacity is not available will count as a prorated amount of station availability, proportional to the percentage of the station capacity that remains available for fueling for this period of time.

(ii) Company-wide, weighted average renewable content (percent) for dispensed hydrogen.

(iii) Cost and revenue data. Provide ((~~a quarterly~~)) an initial account of the following costs borne and revenues received by the station owner up through the ((~~most recent~~)) first reporting quarter per station. Following the initial report, provide an account once per year of the costs borne and revenues received by the station owner, per station, through the most recent reporting quarter.

(A) Total capital expenditures ($)

(B) Total delivered cost ($) of hydrogen and average delivered cost ($/kg) for hydrogen

(C) Total maintenance costs ($)

(D) Total land rental cost ($)

(E) Total grant revenue or other external funding received towards capital expenditures ($)

(F) Total grant revenue or other external funding received towards operational and maintenance expenditures ($)

(G) Total revenue ($) received from sale of hydrogen and average retail price ($/kg) for hydrogen sold

(H) Other operational expenditures ($)

(I) If the site is registered as shared, the names of the fleet owners and number of vehicles that refueled at the site at least once in the most recent reporting quarter.

(g) Applications for expanded HD-HRI refueling capacity. Station owners who expand the capacity of a station and that is already generating HD-HRI credits under the CFP must submit an application to ecology to generate additional credits based on the updated capacity. Applications for expanded station capacity must be received before December 31, 2030, and do not extend the effective date range for the HD-HRI crediting specified upon initial project approval in (c)(iv) of this subsection. The application must include the following elements:

(i) In order to be eligible to generate HD-HRI credits for expanded capacity, the station owner must demonstrate that station throughput in a reporting quarter is greater than or equal to 50 percent of the original approved HD-HRI refueling capacity multiplied by the number of days in the quarter, assuming 100 percent uptime.

(ii) Updated nameplate refueling capacity and updated HD-HRI refueling capacity.

(iii) If the sources of hydrogen and delivery methods stated in the original HRI application will change as a result of the added capacity, the station owner must disclose the new hydrogen sources and delivery methods.

(iv) The station owner must maintain records demonstrating that any new equipment added as a result of the expansion in capacity, including storage and fueling dispensers, meet the requirements in WAC 173-424-560(1).

(2) **Heavy-duty DC fast charging infrastructure (HD-FCI) pathways.**

(a) FCI pathway eligibility. An FSE owner may submit an application to receive an HD-FCI pathway subject to the following eligibility conditions:

(i) The proposed FSE is located in Washington and serves heavy-duty electric vehicles.

(ii) The proposed FSE is either:

(A) Open to the public, meaning that no obstructions or obstacles exist to preclude vehicle operators from entering the FSE premises, no access cards or personal identification (PIN) codes are required for the FSE to dispense fuel, and no formal or registered equipment training shall be required for individuals to use the FSE; or

(B) A shared HD-FCI charging site, as defined in WAC 173-424-110(144).

(iii) The HD-FCI application must be received on or before December 31, 2030.

(iv) Upon an individual applicant's estimated potential HD-ZEV credits, calculated pursuant to (c)(ii) of this subsection, exceeding 0.5 percent of the deficits in the prior quarter, ecology will not approve additional HD-FCI pathways or sites for that applicant until their estimated potential HD-ZEV credits are less than 0.5 percent of deficits.

(v) The following FSE are not eligible for HD-FCI crediting:

(A) Any FSE that is permitted to operate prior to January 1, 2023; or

(B) Any FSE built as a required mitigation pursuant to the State Environmental Policy Act (SEPA).

(b) HD-FCI application requirements. The applicant must submit an application in the WFRS containing the following information:

(i) Name and address of the owner of the proposed FSE.

(ii) Contact person for the owner entity.

(A) Name;

(B) Title or position;

(C) Phone number;

(D) Mobile phone number;

(E) Email address.

(iii) Name, street address, latitude, longitude, electric utility, and a location description for each proposed FSE site.

(iv) The number of FSEs.

(v) The nameplate power rating (kW), connector type(s), and model for each FSE.

(vi) The HD-FCI charging capacity for each FSE calculated using the following equation:

$$Cap^{i}_{HD-FCI} = 0.2 \times P^{i}_{HD-FCI} \times 24$$

Where:

$Cap^{i}_{HD-FCI}$ is the HD-FCI charging capacity (kWh/day) for the FSE; and

$P^{i}_{HD-FCI}$ is the lesser of the nameplate power rating for the FSE or 2,000 kW.

24 is the number of hours in a day (hr/day).

(vii) Expected date that the FSE will be operational, meaning fully constructed and available to charge heavy-duty electric vehicles.

(viii) Expected daily permitted hours of operation for the site. If the daily permitted hours are less than 24 hours, the applicant must provide documentation from a permitting authority demonstrating that daily permitted hours for the FSE are limited.

(ix) For shared HD-FCI charging sites, a declaration from the applicant that the site will be available on a continual basis to at least two third-party heavy-duty EV fleets under separate ownership and control.

(x) A signed attestation letter from the applicant attesting to the veracity of the information in the application packet. The attestation letter must be submitted as an electronic copy, be on company letterhead, be signed by an officer of the applicant with authority to attest to the veracity of the information in the application and to sign on behalf of the applicant, be from the applicant and not from an entity representing the applicant (such as a consultant or legal counsel), and include the following attestation:

I, an authorized representative of _____ (proposed FSE owner entity), attest to the veracity of the information submitted as part of the Heavy-Duty DC Fast Charging Infrastructure (HD-FCI) application, and declare that the information submitted accurately represents the anticipated and intended design and operation of the charging infrastructure. Further, I understand and agree to each of the statements in the attached application. I am a duly authorized officer with authority to attest to the veracity of the information in the application and to sign on behalf of the respective applicant.

I understand that the following information in the FCI application will be made available on the Washington CFP website: Name of the Applicant Entity, Site Name, Site Address, Number and Type of Charging Units, Nameplate and Effective Simultaneous Power Rating for Each Unit, and Effective Date Range for HD-FCI Crediting.

By submitting this application, _____ (applicant entity) accepts responsibility for the information herein provided to Ecology. I certify under penalty of perjury under the laws of the State of Washington that I have personally examined, and am familiar with, the statements and information submitted in this document. I certify that the statements and information submitted to Ecology are true, accurate, and complete.

| Signature | Print Name & Title | Date |
|---|---|---|

(xi) CBI must be designated and a redacted version of any submitted documents designated to include CBI must be provided according to the ecology process consistent with the Washington state Public Records Act.

(xii) An application and supporting documents must be submitted electronically via the WFRS unless ecology has approved or requested in writing another format.

(c) Application approval process.

(i) The HD-FCI application must be approved by ecology before the applicant may generate FCI credits. If estimated potential HD-ZEV capacity credits from all approved FSEs exceed two and one-half percent of deficits in the most recent quarter, ecology will not approve additional HD-FCI pathways and will not accept additional applications until HD-ZEV credits are less than two and one-half percent of deficits. Estimated potential HD-ZEV credits will be calculated using the following equation:

$$Credits_{HD-ZEV}^{Potential} = Credits_{HD-HRI}^{Potential} + Credits_{HD-FCI}^{Potential}$$

HD-FCI and HD-HRI applications will be evaluated for approval on a first-come first-served basis.

Estimated potential HD-FCI credits will be calculated using the following equation:

$$Credits_{HD-FCI}^{Potential} = Credits_{HD-FCI}^{Prior\ Qtr} \times \frac{Cap_{HD-FCI}^{Approved}}{Cap_{HD-FCI}^{Operational}}$$

Where:

| | |
|---|---|
| $Credits_{HD-FCI}^{Potential}$ | means the estimated potential HD-FCI credits from all approved FSEs; |
| $Credits_{HD-FCI}^{Prior\ Qtr}$ | means the total HD-FCI credits generated by operational FSEs in the prior quarter; |
| $Cap_{HD-FCI}^{Operational}$ | means the total HD-FCI charging capacity of FSEs that were operational in the prior quarter; and |
| $Cap_{HD-FCI}^{Approved}$ | means the total HD-FCI charging capacity of all approved FSEs, both operational and nonoperational. |

(ii) The estimated potential FCI credits for an individual applicant will be calculated using the same equation as above, where:

| | |
|---|---|
| $Credits_{HD-FCI}^{Potential}$ | means the estimated potential HD-FCI credits from applicant's approved FSEs; |
| $Credits_{HD-FCI}^{Prior\ Qtr}$ | means the total HD-FCI credits generated by the applicant for operational FSEs in the prior quarter; |
| $Cap_{HD-FCI}^{Operational}$ | means the total HD-FCI charging capacity of the applicant's approved FSEs that were operational in the prior quarter; and |
| $Cap_{HD-FCI}^{Approved}$ | means the total HD-FCI charging capacity of all the applicant's approved FSEs, both operational and nonoperational. |

(iii) After receipt of an application designated by the applicant as ready for formal evaluation, ecology shall advise the applicant in writing either that:

(A) The application is complete; or

(B) The application is incomplete, in which case ecology will identify which requirements of (b) of this subsection have not been met.

(I) The applicant may submit additional information to correct deficiencies identified by ecology.

(II) If the applicant is unable to achieve a complete application during the quarter of ecology's receipt of the original application, the application will be denied on that basis, and the applicant will be informed in writing. Following the denial, the applicant may submit a new application for the site.

(C) At any point during the application evaluation process, ecology may request in writing additional information or clarification from the applicant.

(iv) Ecology shall not approve an application if it determines that the application does not meet requirements in (a) and (b) of this subsection, based upon the information submitted in the application and any other available information. If ecology does not approve the application, the applicant will be notified in writing and the basis for the disapproval shall be identified.

(v) If ecology determines the application has met all requirements for approval pursuant to (a) and (b) of this subsection, ecology will approve the application and provide an approval summary on ecology's CFP website including the site location and FSE ID, number and type of FSE, nameplate and effective simultaneous power rating for each FSE, and effective date range for HD-FCI pathway crediting.

(vi) Crediting period. HD-FCI crediting is limited to five years starting with the quarter of ecology approval of the application.

(d) Requirements to generate HD-FCI credits. To generate credits using HD-FCI pathways the following conditions must be met. The applicant must maintain, and submit to ecology upon request, records demonstrating adherence to these conditions.

(i) The applicant must update the nameplate and effective simultaneous power rating of FSE if different from the power rating provided in the application. Any FSE design or operational information that deviates from the original application must be declared to ecology, and a new attestation must be submitted using the language in (b) in this subsection.

(ii) For sites that are open to the public, the FSE that charges a fee for service must be capable of supporting a public point-of-sale method that accepts all major credit or debit cards. This requirement does not apply to shared charging sites that do not utilize point-of-sale payment terminals.

(iii) The FSE passed final inspection by the appropriate authority having jurisdiction and has a permit to operate.

(iv) The FSE owner has fully commissioned the FSE declared it fit to service heavy-duty EV drivers.

(v) The FSE registration must be completed pursuant to WAC 173-424-300 (1)(h) and the quantity of dispensed electricity must be reported as required in WAC 173-424-420.

(vi) The FSE must be operational within 24 months of application approval. If the applicant fails to demonstrate the operability within 24 months of approval and estimated potential HD-ZEV credits exceed two and one-half percent of deficits in the most recent quarter deficit data is available, then the application will be canceled. The applicant can reapply the following quarter for the same FSE site eligible only for two years of crediting.

(vii) The estimated cumulative value of HD-FCI credits generated for the FSE in the prior quarter must be less than the difference between one and one-half times the initial capital expenditure, not including on-site generation, reported pursuant to (f)(ii)(A) of this subsection, and the total grant revenue or other external funding received towards capital, operational and maintenance expenditures in

the prior quarter, reported pursuant to (f)(ii)(E) of this subsection in the prior quarter.

(A) The estimated value of HD-FCI credits, for the purpose of this determination, shall be calculated using the number of HD-FCI credits generated for the FSE in the quarter and the average CFP credit price for that quarter published on ecology's CFP website.

(B) The cumulative credit value generated for each FSE will be tracked as the sum of all quarterly credit values in constant-dollar for the year in which the FCI application was approved using an annual discount rate of 10 percent.

(C) The estimated value calculated under this provision will be made available only to the respective reporting entity in WFRS and will not be published on ecology's CFP website.

(D) This will not affect the reporting entity's ability to generate non-FCI CFP credits for the electricity dispensed at the FSE.

(e) Calculation of HD-FCI credits. HD-FCI credits will be calculated using the following equation for each FSE approved under this provision:

$$Credits_{HD-FCI}(MT) = (CI^{XD}_{standard} \times EER - CI_{HD-FCI)\times C_{Elect}\times(Cap_{HD-FCI} \times N \times UT - Elec_{disp})\times C}$$

Where:

| | |
|---|---|
| $CI^{XD}_{standard}$ | is the average carbon intensity standard of diesel (XD = "diesel") for a given year as provided in Table 1 of WAC 173-424-900; |
| $EER$ | is the dimensionless Energy Economy Ratio for H2/FCV relative to diesel as listed in Table 4 of WAC 173-424-900; |
| $CI_{HRI}$ | is the carbon intensity used for HRI crediting. Company-wide weighted average CI for dispensed hydrogen during the quarter or 0 g/MJ, whichever is greater; |
| $E_{H2}$ | is the energy density for hydrogen in MJ/kg as listed in Table 4 of WAC 173-424-900; |
| $Cap_{HRI}$ | is the HRI refueling capacity for the station (kg/day); |
| $UT$ | is the uptime multiplier which is the percentage of time that the station is available to refuel a vehicle up to 90 percent of state of charge during the quarter, in a similar manner as reported in SOSS; |
| $H2_{disp}$ | is the quantity of hydrogen dispensed during the quarter (kg); |
| $N$ | is the number of days during the quarter; |
| $C$ | is a factor used to convert credits to units of metric tons from $gCO_2e$ and has the value of: |

$$C = 1.0 \times 10^{-6} \quad \frac{(MT)}{(gCO_2e)}$$

(f) Reporting and recordkeeping requirements. The following must be reported to ecology each quarter as set forth in WAC 173-424-420 before credits will be issued to the WFRS account associated with an approved HD-FCI pathway.

(i) FSE availability. This is the percentage of hours the FSE is available for charging during the quarter relative to the permitted hours of operation for the site.

(ii) Cost and revenue data. Provide an initial account of the following costs borne and revenues received by the FSE owner up through the first reporting quarter per site. Following the initial

report, provide an account once per year of the costs borne and revenues received by the FSE owner, per charging site, up through the most recent reporting quarter.

(A) Total capital expenditures ($)

(B) Total delivered cost ($) of electricity, including demand charges, and average delivered cost ($/kWh) for electricity.

(C) Total maintenance costs ($)

(D) Total land rental cost ($)

(E) Total grant revenue or other external funding received towards capital expenditures ($)

(F) Total grant revenue or other external funding received towards operational and maintenance expenditures ($)

(G) Total revenue ($) received from sale of electricity and average retail price ($/kWh) for electricity sold.

(H) Other operational expenditures ($)

(I) If the site is registered as shared, the names of the fleet owners and number of vehicles that charged at the site at least once in the most recent reporting quarter.

(g) Applications for expanded HD-FCI capacity. Applicants who increase the power rating of an FSE or add an FSE to a site that is already generating FCI credits under the CFP must submit an application to ecology to generate additional credits based on the increased power or number of FSEs. Applications must be received before December 31, 2030, and do not extend the end date for the HD-FCI crediting specified upon initial project approval in (c) of this subsection. The application must include the following elements:

(i) Updated number and type of FSE at the site.

(ii) Updated HD-FCI charging capacity, nameplate power rating and effective simultaneous power rating for each FSE at the site.

(iii) The applicant must maintain records demonstrating that any new equipment added as a result of the expansion in capacity meet the requirements listed in this subsection.

(g) Applications for expanded HD-FCI capacity. Applicants who increase the power rating of an FSE or add an FSE to a site that is already generating FCI credits under the CFP must submit an application to ecology to generate additional credits based on the increased power or number of FSEs. Applications must be received before December 31, 2030, and do not extend the end date for the HD-FCI crediting specified upon initial project approval in (c) of this subsection. The application must include the following elements:

(i) Updated number and type of FSE at the site.

(ii) Updated HD-FCI charging capacity, nameplate power rating and effective simultaneous power rating for each FSE at the site.

(iii) The applicant must maintain records demonstrating that any new equipment added as a result of the expansion in capacity meet the requirements listed in this subsection.

(3) **Light- and medium-duty DC fast charging infrastructure (FCI) pathways.**

(a) FCI pathway eligibility. An FSE owner may submit an application to receive an FCI pathway subject to the following eligibility conditions:

(i) The proposed FSE must be located in Washington and ((~~open to the public for charging.~~

~~(ii) Upon an individual applicant's estimated potential FCI credits, calculated pursuant to (d)(ii) of this subsection, exceeding 0.5 percent of the deficits in the prior quarter, each additional site applied for by the applicant must meet the following requirements:~~

~~(A) Charging equipment at the site must support at least two of the following three fast charging connectors: CHAdeMO, SAE CCS, and Tesla;~~

~~(B) The site must have at least three quarters of all FSE subject to this provision with SAE CCS connector protocol; and~~

~~(C) The charging equipment owner must have at least one adaptor for all three charging connector types, if the adaptor technology is available.~~

~~(iii)~~)) constructed to charge light- and medium-duty electric vehicles.

(ii) The FCI pathway application must be received on or before December 31, 2029.

((~~(iv)~~)) (iii) The proposed FSE must be open to the public for charging, meaning that no obstructions or obstacles exist to preclude vehicle operators from entering the FSE premises, no access cards or personal identification (PIN) codes are required for the FSE to dispense fuel, and no formal or registered equipment training shall be required for individuals to use the FSE.

(iv) Upon an individual applicant's estimated potential LMD-FCI credits, calculated pursuant to (c)(ii) of this subsection, exceeding 0.5 percent of the deficits in the prior quarter, ecology will not approve additional LMD-FCI pathways or sites for that applicant until their estimated potential LMD-FCI credits are less than 0.5 percent of deficits.

(v) The following FSE are not eligible for FCI crediting:

(A) Any FSE that is permitted to operate prior to January 1, 2023; or

(B) Any FSE built as a required mitigation measure pursuant to the State Environmental Policy Act (SEPA).

((~~(v)~~)) (vi) Each FSE must have a minimum nameplate power rating of 50 kW.

((~~(vi)~~)) (vii) Each FSE must be networked and capable of monitoring and reporting its availability for charging.

(b) FCI application requirements. The applicant must submit an application in the WFRS containing the following information:

(i) Name and address of the owner of the proposed FSE.

(ii) Contact person for the owner entity.

(A) Name;

(B) Title or position;

(C) Phone number;

(D) Mobile phone number;

(E) Email address.

(iii) Name, street address, latitude, longitude, electric utility, and a location description for each proposed FSE site.

(iv) The number of FSEs, including all on-site FSEs that draw from the same power source and are not eligible for LMD-FCI credits, such as Level 2 chargers.

(v) The nameplate power rating (kW), connector type(s), and model for each FSE.

(A) The total nameplate power rating for all FSE at a single site claiming LMD-FCI credits under this provision cannot exceed 1,500 kW. This limit applies to LMD-FCI capacity credits only and does not preclude additional FSE from generating other CFS credits under this chapter.

(B) Notwithstanding (b)(v)(A) of this subsection, upon request, ecology may approve an LMD-FCI application with total nameplate power rating for all FSE at a single site up to 3,600 kW. The total number

of FSE at sites with total nameplate power rating greater than 1,500 kW cannot exceed 10 percent of total FSE approved under LMD-FCI pathways. The applicant must provide justification for requesting a total power rating greater than 1,500 kW at the given site.

(vi) The effective simultaneous power rating (kW) for each FSE calculated using the equation below. The effective simultaneous power rating must be at least 50 percent of the nameplate power rating for each FSE.

$$P_{Sim}^{i} = P_{NP}^{i} \, x \, \frac{P_{Sim}^{Tot}}{\sum_{i=1}^{n} P_{NP}^{i}}$$

Where:

| | |
|---|---|
| $P_{Sim}^{i}$ | is the simultaneous power rating (kW) for FSE i; |
| $P_{NP}^{i}$ | is the nameplate power rating (kW) for FSE i; |
| $P_{Sim}^{Tot}$ | is the maximum total power (kW) that can be delivered to all FSEs at a single site when they are operated simultaneously; and |
| $n$ | is the number of FSEs at a single site. |

(vii) The FCI charging capacity for each FSE calculated using the following equation:

$$Cap_{FCI}^{i} = 43 \, x \, (P_{FCI}^{i})^{0.45}$$

Where:

| | |
|---|---|
| $Cap_{FCI}^{i}$ | is the FCI charging capacity (kWh/day) for the FSE i; and |
| $P_{FCI}^{i}$ | is the nameplate power rating for the FSE or 350kW. |

(viii) Expected date that the FSE will be operational.

(ix) Expected daily permitted hours of operation for the site. If the daily permitted hours are less than 24 hours, the applicant must provide documentation from a permitting authority demonstrating that daily permitted hours for the FSE are limited.

(x) A signed attestation letter from the applicant attesting to the veracity of the information in the application packet. The attestation letter must be submitted as an electronic copy, be on company letterhead, be signed by an officer of the applicant with authority to attest to the veracity of the information in the application and to sign on behalf of the applicant, be from the applicant and not from an entity representing the applicant (such as a consultant or legal counsel), and include the following attestation:

I, an authorized representative of _____ (proposed FSE owner entity), attest to the veracity of the information submitted as part of the Light- and Medium-Duty DC Fast Charging Infrastructure (LMD-FCI) application, and declare that the information submitted accurately represents the anticipated and intended design and operation of the charging infrastructure. Further, I understand and agree to each of the statements in the attached application. I am a duly authorized officer with authority to attest to the veracity of the information in the application and to sign on behalf of the respective applicant.

I understand that the following information in the LMD-FCI application will be made available on the Washington CFP website: Name of the Applicant Entity, Site Name, Site Address, Number and Type of Charging Units, Nameplate and Effective Simultaneous Power Rating for Each Unit, and Effective Date Range for LMD-FCI Crediting.

By submitting this application, _____ (applicant entity) accepts responsibility for the information herein provided to Ecology. I certify under penalty of perjury under the laws of the State of Washington that I have personally examined, and am familiar with, the statements and information submitted in this document. I certify that the statements and information submitted to Ecology are true, accurate, and complete.

(xi) CBI must be designated and a redacted version of any submitted documents designated to include CBI must be provided according to the ecology process consistent with the Washington state Public Records Act.

(xii) An application and supporting documents must be submitted electronically via the WFRS unless ecology has approved or requested in writing another format.

(c) Application approval process.

(i) The LMD-FCI application must be approved by ecology before the applicant may generate LMD-FCI credits. If estimated potential LMD-FCI credits from all approved FSEs exceed two and one-half percent of deficits in the most recent quarter, ecology will not approve additional LMD-FCI pathways and will not accept additional applications until LMD-FCI credits are less than two and one-half percent of deficits. LMD-FCI applications will be evaluated for approval on a first-come first-served basis.

Estimated potential FCI credits will be calculated using the following equation:

$$Credits_{FCI}^{Potential} = Credits_{FCI}^{Prior\ Qtr} x \frac{Cap_{FCI}^{Approved}}{Cap_{FCI}^{Operational}}$$

Where:

| | |
|---|---|
| $Credits_{FCI}^{Potential}$ | means the estimated potential LMD-FCI credits from all approved FSEs; |
| $Credits_{FCI}^{Prior\ qtr}$ | means the total LMD-FCI credits generated by operational FSEs in the prior quarter; |
| $Cap_{FCI}^{Operational}$ | means the total LMD-FCI charging capacity of FSEs that were operational in the prior quarter; and |
| $Cap_{FCI}^{Approved}$ | means the total LMD-FCI charging capacity of all approved FSEs, both operational and nonoperational. |

(ii) The estimated potential LMD-FCI credits for an individual applicant will be calculated using the same equation as above, where:

Where:

| | |
|---|---|
| $Credits_{FCI}^{Potential}$ | means the estimated potential LMD-FCI credits from applicant's approved FSEs; |
| $Credits_{FCI}^{Prior\ qtr}$ | means the total LMD-FCI credits generated by the applicant for operational FSEs in the prior quarter; |
| $Cap_{FCI}^{Operational}$ | means the total LMD-FCI charging capacity of the applicant's approved FSEs that were operational in the prior quarter; and |
| $Cap_{FCI}^{Approved}$ | means the total LMD-FCI charging capacity of all the applicant's approved FSEs, both operational and nonoperational. |

(iii) After receipt of an application designated by the applicant as ready for formal evaluation, ecology shall advise the applicant in writing either that:

(A) The application is complete; or

(B) The application is incomplete, in which case ecology will identify which requirements of (b) of this subsection have not been met.

(I) The applicant may submit additional information to correct deficiencies identified by ecology.

(II) If the applicant is unable to achieve a complete application ((~~within 180 days~~)) during the quarter of ecology's receipt of the original application, the application will be denied on that basis, and the applicant will be informed in writing. Following this notice, the applicant may subsequently submit a new application for the site.

(C) At any point during the application evaluation process, ecology may request in writing additional information or clarification from the applicant.

(iv) Ecology shall not approve an application if it determines that the application does not meet requirements in (a) and (b) of this subsection, based upon the information submitted in the application and any other available information. If ecology does not approve the application, the applicant will be notified in writing and the basis for the disapproval shall be identified.

(v) If ecology determines the application has met all requirements for approval pursuant to (a) and (b) of this subsection, ecology will approve the application and provide an approval summary on ecology's CFP website including the site location and FSE ID, number and type of FSE, nameplate and effective simultaneous power rating for each FSE, and effective date range for LMD-FCI pathway crediting.

(vi) Crediting period. LMD-FCI crediting is limited to five years, starting with the quarter ((~~following~~)) ecology ((~~approval~~)) approved of the application.

(d) Requirements to generate LMD-FCI credits. To generate credits using LMD-FCI pathways the following conditions must be met. The applicant must maintain, and submit to ecology upon request, records demonstrating adherence to these conditions.

(i) The applicant must update the nameplate and effective simultaneous power rating of FSE if different from the power rating provided in the application. Any FSE design or operational information that deviates from the original application must be declared to ecology, and a new attestation must be submitted using the language in (b) in this subsection.

(ii) ((~~The FSE must be open to the public, meaning that no obstructions or obstacles exist to preclude vehicle operators from entering the FSE premises, no access cards or personal identification (PIN) codes are required for the FSE to dispense fuel, and no formal or registered equipment training shall be required for individuals to use the FSE.~~

~~(iii)~~)) The FSE that charges a fee for service must be capable of supporting a public point-of-sale method that accepts all major credit or debit cards.

((~~(iv)~~)) (iii) The FSE passed final inspection by the appropriate authority having jurisdiction and has a permit to operate.

((~~(v)~~)) (iv) The FSE owner has fully commissioned the FSE, and has declared it fit to service retail EV drivers.

((~~(vi)~~)) (v) The FSE registration must be completed pursuant to WAC 173-424-300 (1)((~~(g)~~)) (h) and the quantity of dispensed electricity must be reported as required in WAC 173-424-420.

((~~(vii)~~)) (vi) The FSE must be operational within 12 months of application approval. If the applicant fails to demonstrate ((~~the~~)) operability within 12 months ((~~of approval~~)) and the estimated potential FCI credits exceed two and one-half percent of deficits in the most recent quarter deficit data is available, then the application will be canceled. The applicant can reapply the following quarterfor the same FSE site, eligible only for two years of crediting.

((~~(viii)~~)) (vii) The estimated cumulative value of FCI credits generated for the FSE in the prior quarter must be less than the difference between ((~~the total~~)) one and one-half times the initial capital expenditure, not including on-site generation capital expenditure reported pursuant to subsection ((~~(1)(f)(iii)(A)~~)) (3)(f)(ii)(A) of this section and the total grant revenue ((~~or other funding~~)) or other external funding received towards capital, operational and maintenance expenditures in the prior quarter, reported pursuant to subsection ((~~(1)(f)(iii)(E)~~)) (3)(f)(ii)(E) of this section in the prior quarter.

(A) The estimated value of LMD-FCI credits, for the purpose of this determination, shall be calculated using the number of LMD-FCI credits generated for the FSE in the quarter and the average CFP credit price for that quarter published on ecology's CFP website.

(B) The cumulative credit value generated for each FSE will be tracked as the sum of all quarterly credit values in constant-dollar for the year in which the LMD-FCI application was approved using an annual discount rate of 10 percent.

(C) The estimated value calculated under this provision will be made available only to the respective reporting entity in WFRS and will not be published on ecology's CFP website.

(D) This will not affect the reporting entity's ability to generate non-FCI CFP credits for the electricity dispensed at the FSE.

(e) Calculation of LMD-FCI credits. LMD-FCI credits will be calculated using the following equation for each FSE approved under this provision:

$$Credits_{FCI}(MT) = \left(CI_{standard}^{XD}\ x\ EER - \ CI_{FCI}\right) x\ C_{Elec}\ x\ \left(Cap_{FCI}\ x\ N\ X\ UT - \ Elec_{disp}\right) x\ C$$

Where:

| | |
|---|---|
| $CI_{standard}^{XD}$ | is the average carbon intensity standard of gasoline (XD = "gasoline") ((~~or diesel (XD = "diesel")~~)) for a given year as provided in Table 1 of WAC 173-424-900((~~, depending on the fuel it replaces~~)); |
| $EER$ | is the dimensionless Energy Economy Ratio for Electricity/BEV or PHEV relative to gasoline ((~~or diesel~~)) as listed in Table 5 of WAC 173-424-900((~~, depending on the fuel it replaces~~)); |
| $CI_{FCI}$ | is the Washington annual utility-specific carbon intensity as listed in Table 10; |
| $C_{Elec}$ | is the conversion factor for electricity as listed in Table 3 of WAC 173-424-900; |
| $Cap_{FCI}$ | is the FC charging capacity (kWh/day) for the FSE; |
| $N$ | is the number of days during the quarter; |
| $UT$ | is the uptime multiplier which is the fraction of time that the FSE is available for charging a vehicle up to 90 percent of state of charge during the quarter; |
| $Elec_{disp}$ | is the quantity of electricity dispensed during the quarter (kWh); |

$C$ is a factor used to convert credits to units of metric tons from $gCO_2e$ and has the value of:

$$C = 1.0 \times 10^{-6} \quad \frac{(MT)}{(gCO_2e)}$$

(f) Reporting and recordkeeping requirements. The following must be reported to ecology each quarter as set forth in WAC 173-424-420 before credits will be issued to the WFRS account associated with an approved LMD-FCI pathway.

(i) FSE availability. This is the percentage of hours the FSE is available for charging during the quarter relative to the permitted hours of operation for the site.

(ii) Cost and revenue data. Provide ((~~a quarterly~~)) an initial account of the following costs borne and revenues received by the FSE owner up through the ((~~most recent~~)) first reporting quarter per site. Following the initial report, provide an account once per year of the costs borne and revenues received by the FSE owner, per charging site, up through the most recent reporting quarter.

(A) Total capital expenditures ($)

(B) Total delivered cost ($) of electricity, including demand charges, and average delivered cost ($/kWh) for electricity

(C) Total maintenance costs ($)

(D) Total land rental cost ($)

(E) Total grant revenue or other external funding received towards capital expenditures ($)

(F) Total grant revenue or other external funding received towards operational and maintenance expenditures ($)

(G) Total revenue ($) received from sale of electricity and average retail price ($/kWh) for electricity sold

(H) Other operational expenditures ($)

(g) Applications for expanded LMD-FCI capacity. Applicants who increase the power rating of an FSE or add an FSE to a site that is already generating LMD-FCI credits under the CFP must submit an application to ecology to generate additional credits based on the increased power or number of FSEs. Applications must be received before December 31, 2029, and do not extend the end date for the LMD-FCI crediting specified upon initial project approval in (c) of this subsection. The application must include the following elements.

(i) Updated number and type of FSE at the site.

(ii) Updated FCI charging capacity, nameplate power rating and effective simultaneous power rating for each FSE at the site.

(iii) The applicant must maintain records demonstrating that any new equipment added as a result of the expansion in capacity meet the requirements listed in this subsection.

AMENDATORY SECTION (Amending WSR 22-24-004, filed 11/28/22, effective 12/29/22)

**WAC 173-424-600 Carbon intensities.** (1) **WA-GREET.** Carbon intensities for fuels must be calculated using:

(a) WA-GREET 3.0 (November 28, 2022) or another model that ecology determines to be equivalent or superior to WA-GREET 3.0. WA-GREET 3.0 was derived from CA-GREET 3.0 model (August 13, 2018), and is pos-

ted on ecology's website https://www.ecology.wa.gov. CA-GREET 3.0 includes contributions from the oil production greenhouse gas estimator (OPGEE2.0) model (for emissions from crude extraction) and global trade analysis project (GTAP-BIO) model together with the agro-ecological zone emissions factor (AEZ-EF) model for land use change (LUC) (December 31, 2014).

(b) If a reporting entity wishes to use a modified or different life cycle carbon intensity model, it must be approved by ecology in advance of an application under WAC 173-424-610.

(2) **Ecology review of carbon intensities.** ((~~Every three years, or sooner if ecology determines that new information becomes available that warrants an earlier review,~~)) Ecology will regularly review the carbon intensities used in the CFP and must consider, at a minimum, changes to:

(a) The sources of crude and associated factors that affect emissions such as flaring rates, extraction technologies, capture of fugitive emissions, and energy sources;

(b) The sources of natural gas and associated factors that affect emissions such as extraction technologies, capture of fugitive emissions, and energy sources;

(c) Fuel economy standards and energy economy ratios;

(d) Methods to calculate lifecycle greenhouse gas emissions of transportation fuels including changes in:

(i) GREET, WA-GREET, CA-GREET; or

(ii) Methods to quantify indirect land use change including CCLUB; or

(iii) Methods to quantify other indirect effects.

(3) **Established carbon intensities.**

(a) Regulated parties, credit generators, and aggregators must use the statewide average carbon intensities listed in Table 6 under WAC 173-424-900 for the following fuels:

(i) Clear gasoline or the gasoline blendstock of a blended gasoline fuel;

(ii) Clear diesel or the diesel blendstock of a blended diesel fuel;

(iii) Fossil CNG;

(iv) Fossil LNG; and

(v) Fossil LPG.

(b) A hydrogen supplier may apply to temporarily use the applicable CI value in Table ((~~6~~)) 8 under WAC 173-424-900, or apply for a specific carbon intensity under WAC 173-424-610.

(c) For electricity suppliers:

(i) The utility-specific electricity carbon intensity is calculated annually under WAC 173-424-630 and posted on ecology's website.

(ii) Credit generators or aggregators may use a carbon intensity different from the utility-specific average under (c)(i) of this subsection if:

(A) The party generates lower carbon electricity at the same location as it is dispensed into a motor vehicle consistent with the conditions of the approved fuel pathway code under WAC 173-424-630((~~(3)~~)) (4); or

(B) The utility has applied to use lookup table pathway in Table 6 to lower the carbon intensity of its electricity using renewable energy certificates (RECs) under WAC 173-424-630(5).

(4) **Carbon intensities for established fuel pathways.** Except as provided in subsection (3) of this section, regulated parties, credit generators, and aggregators can use a carbon intensity that CARB or

OR-DEQ certified for use in the California LCFS or Oregon CFP programs provided that:

(a) The carbon intensity value for the fuel pathway is adjusted for consistency with WA-GREET 3.0 including the adjustment for fuel transportation distances and indirect land use change, as applicable. The adjusted carbon intensity for the established fuel pathway can be used after ecology has reviewed and approved it for consistency with WA-GREET; or

(b) The value matches the description of a fuel pathway ((~~listed in Table 6 under WAC 173-424-900~~)). For hydrogen produced using biomethane or renewable electricity, the producer of the hydrogen must:

(i) Demonstrate to ecology that the carbon intensity value in Table 6 is appropriate for its production facility; and

(ii) Submit retirement records from an electronic tracking system recognized by ecology on an annual basis that the renewable electricity and biomethane attributes, as applicable, were not claimed in any other program except for the federal RFS and Climate Commitment Act (chapter 173-446 WAC). Any such claims under the federal RFS or the Climate Commitment Act must be made for the same use and volume of biomethane or its derivatives as it is being claimed for in the CFP, or the claim under the CFP is invalid.

(5) **Primary alternative fuel pathway classifications.** If it is not possible to identify an applicable carbon intensity under either subsection (3) or (4) of this section, then the regulated party, credit generator, or aggregator has the option to develop its own fuel pathway and apply for it to be certified under WAC 173-424-610. Fuel pathway applications fall into one of two tiers:

(a) **Tier 1.** Conventionally-produced alternative fuels of a type that have been well-evaluated for carbon intensity determinations in the California, Oregon, or Washington clean fuel programs. Tier 1 fuels include:

(i) Starch-based and sugar-based ethanol, and ethanol from corn kernel fiber cellulose;

(ii) Biodiesel produced from conventional feedstocks (plant oils, tallow, and related animal wastes and used cooking oil);

(iii) Renewable diesel, propane, naphtha, or alternative jet fuel produced from conventional feedstocks (plant oils, tallow, and related animal wastes and used cooking oil) using hydrotreatment processes;

(iv) Natural gas; and

(v) Biomethane from landfills; anaerobic digestion of dairy and swine manure or wastewater sludge; and food, vegetative, or other organic waste.

(b) **Tier 2.** ((~~Except CARB or OR-DEQ certified fuel pathways as provided in subsection (4) of this section, ecology will start accepting Tier 2 applications no later than October 1, 2024, and only after providing a 30 calendar day advance notice. Low carbon fuel production facilities with already-certified fuel pathways may also use it temporarily for the production capacity expanded facility.~~)) Tier 2 includes all fuels not included in Tier 1 including, but not limited to:

(i) Cellulosic alcohols;

(ii) Biomethane from ((~~other~~)) sources other than those listed as Tier 1 in (a)(v) of this subsection;

(iii) Hydrogen;

(iv) Renewable hydrocarbons other than renewable diesel produced from conventional feedstocks using hydrotreatment processes as described in (a)(iii) of this subsection;

(v) Biogenic feedstocks co-processed at a petroleum refinery;

(vi) ((~~Alternative jet fuel;~~
~~(vii) Renewable propane; and~~
~~(viii)~~)) Tier 1 fuels using innovative methods including, but not limited to, carbon capture and sequestration or a process that cannot be accurately modeled using the simplified calculators; and

(vii) Any other fuel not listed as a Tier 1 fuel.

(6) **Specified source feedstocks.** Except as specified in subsection (4) of this section, fuels that are produced from a specified source feedstock may be eligible for a reduced carbon intensity value when applying under WAC 173-424-610 so long as they meet all of the following requirements:

(a) Specified source feedstocks are nonprimary products of commercial or industrial processes for food, fuel, or other consumer products and include, but are not limited to((~~,~~)):

(i) Used cooking oil, animal fats, fish oil, yellow grease, distiller's corn oil, distiller's sorghum oil, brown grease, and other fats, oils, and greases;

(ii) Small-diameter, nonmerchantable forestry residues removed for the purpose of forest fire fuel reduction, or forest stand improvement, and from a treatment where nonclear cutting occurred;

(iii) Organic portion of municipal solid waste that is diverted from landfill disposal;

(iv) Corn stover;

(v) Other feedstocks designated as specified-source at the time of pathway review and prior to certification.

(b) The specified source feedstocks are used in pathways for biodiesel; renewable diesel; alternative jet fuel; co-processed refinery products; biomethane supplied using book-and-claim accounting and claimed as a feedstock for CNG, LNG, L-CNG, or hydrogen produced using steam-methane reformation;

(c) Under WAC 173-424-610 (9)(d), any feedstock can be designated as a specified source feedstock if requested by a supplier using site-specific carbon intensity data or if it is specified in a pathway approval condition; and

(d) Chain-of-custody evidence must be used to demonstrate the proper characterization and accuracy of the quantity of the specified source feedstocks going into a fuel production facility or claimed as biomethane, subject to all of the following provisions:

(i) Chain-of-custody evidence must be provided to the verifier and to ecology upon request;

(ii) Joint applicants may assume responsibility for different portions of the chain-of-custody evidence, but each joint applicant must meet the requirements in (d)(i) and (iii) of this subsection to be eligible for a pathway that utilizes a specified source feedstock;

(iii) Fuel pathway applicants using specified source feedstocks must maintain either:

(A) Delivery records that show shipments of feedstock type and quantity directly from the point of origin to the fuel production facility; or

(B) Information from material balance or energy balance systems that control and record the assignment of input characteristics to output quantities at relevant points along the feedstock supply chain between the point of origin and the fuel production facility;

(e) In order to maintain the pathway, the fuel production and any joint applicant must meet the following requirements:

(i) Maintain records of the type and quantity of feedstock obtained from each supplier, including feedstock transaction records,

feedstock transfer documents pursuant to (f) of this subsection, weighbridge tickets, bills of lading or other documentation for all incoming and outgoing feedstocks;

(ii) Maintain records used for material balance and energy balance calculations; and

(iii) Ensure ecology staff and verifier access to audit feedstock suppliers to demonstrate proper accounting of attributes and conformance with certified CI data; and

(f) A feedstock transfer document for specified source feedstocks must prominently state the following information:

(i) Transferor company name, address, and contact information;

(ii) Recipient company name, address, and contact information;

(iii) Type and amount of feedstock, including units; and

(iv) Transaction date.

((~~(7)~~)) (g) Requirements for feedstock attestation letter. Each entity in the supply chain for a specified source feedstock must maintain a specified source feedstock attestation letter. This applies to both pathways that are originally certified by ecology and those that are recertifications of pathways approved by CARB or OR-DEQ. The specified source feedstock attestation must make the following specific attestations:

(i) The specified source feedstocks have not undergone additional processing, such as drying or cleanup, except as explicitly included by the fuel producer in their lifecycle analysis and pathway carbon intensity;

(ii) All data and information supplied to the fuel producer and ecology are true and accurate in all areas including, but not limited to:

(A) Specified source feedstocks meet the applicable definitions of this chapter or as defined in the pathway conditions approved by ecology during the certification of this producer's fuel pathway application;

(B) Deliveries of the specified source feedstock(s) consist entirely of what is documented on the feedstock transfer documents and are not mixed or altered with any materials that do not meet the definition of that specified source feedstock; and

(C) The specified source feedstocks were not intentionally produced, modified, or contaminated to meet the definition; and

(iii) The signed specified source feedstock supplier attestation letter must:

(A) Be maintained by that feedstock supplier, and submitted as an electronic copy upon request by a verifier, verification body, or ecology;

(B) Be on company letterhead;

(C) Be maintained separately for each specified source feedstock;

(D) Be signed by an authorized representative employee of the specified source feedstock supplier; and

(E) Include the following attestation that has been signed and dated:

"I certify that the (insert name of specified source feedstock in question) supplied by (insert name of facility or company) meets all of the following requirements: 1) the specified source feedstock meets the definition under WAC 173-424-110, or the specified source feedstock definition included in the operating conditions of the fuel producer's pathway application this feedstock is being supplied to; 2) the specified source feedstock has not undergone additional process-

ing, such as drying or clean-up, except as explicitly included in the pathway lifecycle analysis and carbon intensity; 3) deliveries of the specified source feedstock consist entirely of what is documented on the feedstock transfer documents and are not mixed with any other materials that do not meet the definition of specified source feedstock; and 4) the specified source feedstock was not intentionally modified or contaminated to meet this definition.

By signing this letter, (insert name of feedstock supplier) accepts responsibility for the information herein. I certify under penalty of perjury under the laws of the Washington State that I have personally examined, and am familiar with, the statements and information in this document. I certify that the statements and information are true, accurate, and complete."

(7) **Book-and-claim accounting for pipeline-injected biomethane.** Indirect accounting may be applied to biomethane used as transportation fuel, to produce electricity using a fuel cell for EV charging, to produce alternative jet fuel, alternative marine fuel, renewable diesel, and for hydrogen used in fuel cell vehicles. All biomethane reported using book-and-claim accounting must also meet the following traceability and documentation requirements:

(a) Temporal matching. Entities may report natural gas as biomethane within only a three-quarter time span. If a quantity of biomethane and all associated environmental attributes (including a beneficial CI) is pipeline-injected in the first calendar quarter, the quantity claimed for CFS reporting must be matched to natural gas sold in Washington as biomethane no later than the end of the third calendar quarter. After that period is over, any unmatched biomethane quantities expire for the purpose of CFS reporting.

(b) Sourcing requirements – All use cases except alternative jet fuel. Except for biomethane used for the production of alternative jet fuel as provided in this subsection, biomethane reported using book-and-claim accounting must meet the sourcing requirements specified in the timeline in (i) and (ii) below:

(i) Through December 31, 2029, biomethane injected into the common carrier pipeline in North America (and thus comingled with fossil natural gas) can be reported without regards to physical traceability.

(ii) Beginning January 1, 2030, pipeline-injected biomethane, except for biomethane used for the production of alternative jet fuel as provided in this subsection, must demonstrate compliance with one or more of the following conditions:

(A) The biomethane is produced in Washington and injected into any pipeline located in Washington, including intrastate pipelines; or

(B) The biomethane is injected directly into an interstate pipeline that flows into Washington, including the Williams Northwest pipeline and the Gas Transmission Northwest pipeline. The injection point must be upstream of or within Washington. The biomethane may also be injected into a feeder pipeline that directly connects the biomethane production facility to one of the interstate pipelines specified in this subsection; or

(C) The biomethane is injected directly into an international pipeline that flows into Washington or interconnects with a Washington pipeline via a border crossing, including the Enbridge BC pipeline or the portion of Gas Transmission Northwest pipeline network located in Canada. The injection point must be upstream of or within Washington. The biomethane may also be injected into a feeder pipeline that di-

rectly connects the biomethane production facility to one of the international pipelines specified in this subsection.

(c) Sourcing requirements - Alternative jet fuel. Through December 31, 2045, biomethane injected into the common carrier pipeline in North America (and thus comingled with fossil natural gas) can be reported as a feedstock to produce alternative jet fuel without regards to physical traceability. Beginning January 1, 2046, the biomethane must meet at least one of the conditions specified in (b)(ii)(A) through (C) of this subsection if reported under a fuel pathway associated with a project that broke ground on or after January 1, 2030. Biomethane reported under fuel pathways associated with alternative jet fuel projects that broke ground on or before December 31, 2029, are exempt from this requirement and may continue to be reported without regard to physical traceability.

(d) Documentation requirements. To substantiate the environmental attributes of pipeline-injected biomethane, the pathway application and subsequent annual fuel pathway reports for all biomethane reported using book-and-claim accounting must include the following documents:

(i) Unredacted monthly invoices showing the quantities of RNG (in MMBtu) sourced and the contracted price per unit.

(ii) Unredacted contract(s) by which the fuel pathway holder obtained the environmental attributes.

(iii) Any maps, charts, or other documents showing the initial injection point of the biomethane and the pipeline(s) used to transport the biomethane to demonstrate the biomethane meets the sourcing requirements in (b) or (c) of this subsection.

(e) A registered party reporting biomethane as a fuel or feedstock using book-and-claim accounting shall meet the recordkeeping requirements under WAC 173-424-400 (1)(k) and the reporting requirements under WAC 173-424-420.

(8) The carbon intensity value certified under WAC 173-424-610, including any margin of safety requested by the fuel producer or imposed as a condition of approving a pathway, is the maximum carbon intensity value that can be claimed for a fuel reported in the CFP. The actual operational carbon intensity of a fuel will be calculated from the most recent production data covering 24 months of the fuel production facility's operation. A fuel pathway applicant may add a conservative margin of safety, of a magnitude determined by the applicant, to increase the certified CI above the operational CI calculated based on the data submitted in the initial fuel pathway application, to account for potential process variability and diminish the risk of noncompliance with the certified CI. Registered parties shall not report fuel sales under any CFP carbon intensity unless the actual operational carbon intensity is equal to or less than the certified CI.

(8) Fuel producers labeling fuel sold in Washington with a carbon intensity under the CFP and registered entities using those labeled carbon intensities to report in the WFRS, must ensure that the fuel so labeled and reported will be found to have an actual operational lifecycle carbon intensity equal to or below its certified carbon intensity.

(9) Fuel pathways for 2023 and 2024. A registered entity that supplies a fuel to Washington state and has an active fuel pathway approved by CARB or OR-DEQ:

(a) May use the fuel pathway temporarily to participate in the CFS program until ecology approves the fuel pathway under this chapter. The fuel pathway holder may also use a CARB or DEQ approved fuel pathway temporarily for a facility that has undergone capacity expan-

sion, provided that the fuel pathway holder demonstrates that the expected carbon intensity of the expanded capacity fuel pathway does not exceed the CARB or OR-DEQ approved CI based on the energy sources, feedstocks, process technology, product and co-products mix, etc. of the expanded production facility.

(b) Must submit the revised fuel pathway application by April 30, 2023, according to WAC 173-424-610, if the entity plans to participate in the program in 2023.

(c) Must submit the 2023 temporary annual compliance reports using the CARB or OR-DEQ approved fuel pathway, unless ecology approves the revised fuel pathway before December 31, 2023, according to WAC 173-424-430. The registered entity must submit the 2023 revised annual compliance report together with the 2024 annual compliance report using an ecology-approved fuel pathway carbon intensity.

(d) Must use an ecology-approved fuel pathway to participate in the program in the next quarter after ecology approves it.

AMENDATORY SECTION (Amending WSR 22-24-004, filed 11/28/22, effective 12/29/22)

**WAC 173-424-610 Obtaining a carbon intensity.** (1) Fuel producers can apply to obtain a carbon intensity for their transportation fuels by following the process under this section.

(2) Applicants seeking approval to use a carbon intensity that is currently approved by CARB or OR-DEQ must provide:

(a) The application package submitted to CARB or OR-DEQ;

(b) The Tier 1 or Tier 2 CA-GREET or OR-GREET calculator approved by CARB or OR-DEQ, and the WA-GREET 3.0 equivalent with the fuel transportation and distribution cells modified for that fuel's pathway to Washington;

(c) The CARB or OR-DEQ pathway review report or staff summary for the approved fuel pathway;

(d) Verified annual fuel pathway report or validated pathway application, if applicable and submitted to CARB or OR-DEQ;

(e) A positive or qualified positive validation or verification statement for the pathway issued under CARB LCFS verification program required by California Code of Regulations, Title 17, § 95500, or the OR-DEQ CFP verification program under Division 272 of the Oregon Administrative Rules;

(f) Any other supporting materials relating to the pathway, as requested by ecology; and

((~~(f)~~)) (g) If the applicant is seeking to use a provisional pathway approved by CARB or OR-DEQ, then the applicant must submit to ecology the ongoing documentation it provides to CARB or OR-DEQ, and as required in subsection (6) of this section. The applicant must provide to ecology within 14 days:

(i) Any additional documentation it has submitted to CARB or DEQ; and

(ii) A notification of any changes to the status of its provisional pathway approved by CARB or OR-DEQ.

(3) **General requirements.** Applicants seeking to obtain a carbon intensity using either the Tier 1 or Tier 2 calculator must submit the following information:

(a) Company name and full mailing address.

(b) Company contact person's contact information including the name, title or position, phone number, mobile phone number, facsimile number, email address, and website address.

(c) Facility name (or names if more than one facility is covered by the application).

(d) Facility address (or addresses if more than one facility is covered by the application).

(e) EPA-assigned facility ID for facilities covered by the RFS program.

(f) Facility geographical coordinates (for each facility covered by the application).

(g) Facility contact person's contact information including the name, title or position, phone number, mobile phone number, facsimile number, and email address.

(h) Facility nameplate production capacity in million gallons per year ((~~(~~))for each facility covered by the application((~~)~~)), or an equivalent figure for facilities that do not produce liquid fuels.

(i) If applicable, consultant's contact information including the name, title or position, phone number, mobile phone number, facsimile number, email address, and website URL.

(j) Declaration whether the applicant is applying for a carbon intensity for a Tier 1 or Tier 2 fuel.

(4) **Tier 1.** In addition to the items in subsection (3) of this section, applicants seeking to obtain a carbon intensity for a Tier 1 fuel using one of the simplified calculators must submit the following:

(a) The applicable simplified calculator with all necessary inputs completed, following the instructions in the applicable manual (dated November 2022) for that calculator. The period covered shall be the most recent 24-month period of operation, or at least three months of operation for provision fuel pathway applications. All applicants using grid electricity must choose electrical generation mixes from among the subregions specified in the Simplified Tier 1 CI calculators, if applicable;

(b) All documentation related to the approval and verification of the fuel pathway application from the jurisdiction and from the third-party verifier. This includes a positive verification statement from CARB or OR-DEQ approved verification body, stating that it has reviewed and validated all of the data used to form the inputs for the Tier 1 calculator submitted under (a) of this subsection, or the invoices and receipts for all forms of energy consumed in the production process, all fuel sales, all feedstock purchases, and all coproducts sold for the most recent 24 months of full commercial production, along with a summary of those invoices and receipts; and

(c) The most recent RFS third-party engineering report, if one has been conducted for the facility.

(5) **Tier 2.** In addition to the items in subsection (3) of this section, applicants seeking to obtain a carbon intensity for a Tier 2 fuel using the full WA-GREET 3.0 model ((~~must submit~~)) first submit the information required in (b) through (h) of this subsection to ecology and request approval of their proposed approach for modeling the carbon intensity of their pathway or pathways. In response to such a submission, ecology may either approve it, deny it, or approve it with draft operating conditions that a verifier can use to determine the scope of the verification services they must provide. If ecology denies the submission, ecology must provide the applicant with an explanation why it was denied, and the applicant may resubmit informa-

tion to seek an approval. Once the applicant gains ecology's initial approval, they may then seek verification of their application under the following:

(a) A positive or qualified positive validation or verification statement from CARB or OR-DEQ approved verification body, stating that it has reviewed and validated all of the data used to form the inputs for the Tier 2 calculator submitted under (c) of this subsection, or the invoices and receipts for all forms of energy consumed in the production process, all fuel sales, all feedstock purchases, and all coproducts sold for the most recent 24 months of full commercial production, and a summary of those invoices and receipts;

(b) The geographical coordinates of the fuel production facility;

(c) A completed Tier 2 model;

(d) Process flow diagrams that depict the complete fuel production process;

(e) Applicable air permits issued for the facility;

(f) A copy of the latest RFS third-party engineering report, if available;

(g) A copy of the RFS fuel producer coproducts report; and

(h) A life cycle analysis report that describes the fuel pathway and describes in detail the calculation of carbon intensity for the fuel. The report shall contain sufficient detail to allow staff to replicate the carbon intensity the applicant calculated. The applicant must describe all inputs to, and outputs from, the fuel production process that are part of the fuel pathway.

(6) **Applicants seeking a provisional carbon intensity.** If a fuel production facility has been in full commercial production for at least 90 days but less than 24 months, it can apply for a provisional carbon intensity.

(a) The applicant shall submit operating records covering all periods of full commercial operation in accordance with subsections (2) through (5) of this section.

(b) Ecology may approve the provisional carbon intensity under subsection (9) of this section.

(c) At any time before the plant reaches a full 24 months of full commercial production, ecology may revise as appropriate the operational carbon intensity based on the required ongoing submittals or other information it learns.

(d) If, after a plant has been in full commercial production for more than 24 months, the facility's operational carbon intensity is higher than the provisionally-certified carbon intensity, ecology will replace the certified carbon intensity with the operational carbon intensity in the WFRS and adjust the credit balance accordingly.

(e) If the facility's operational carbon intensity appears to be lower than the certified carbon intensity, ecology will take no action. The applicant may((~~; however,~~)) petition ecology for a new carbon intensity that reflects the operational data. In support of such a petition, the applicant must submit a revised application packet that fully documents the requested reduction.

(7) **Applicants employing co-processing at a petroleum refinery.**

(a) Applicants employing co-processing of biogenic feedstocks at a petroleum refinery must submit all information required under subsections (3) and (5) of this section.

(b) For the renewable diesel or other renewable refinery product of the fuel, the applicant must also submit:

(i) The planned proportions of biogenic feedstocks to be processed;

(ii) A detailed methodology for the allocation of biogenic feedstocks to the renewable products; and

(iii) The corresponding carbon intensities from each biogenic feedstock.

(c) The allocation methodology for associating amount of the biogenic feedstocks to the production a unit of fuel shall be equivalent to allocation methodologies accepted in the federal and other states' similar programs, and will be subject to ecology approval and may be modified at ecology's discretion based on ongoing ((~~quarterly~~)) reporting of production data at the refinery.

(d) Ecology may adjust the carbon intensities applied for under this section as it determines is appropriate.

(8) **Temporary fuel pathway codes for fuels with indeterminate carbon intensities.**

(a) A registered party that has purchased a fuel without a carbon intensity must submit a request to ecology for permission to use a temporary fuel pathway code in (a)(i) or (ii) of this subsection((~~. A fuel producer may also apply to ecology for approval to have a temporary fuel pathway code assigned to its facility. Temporary fuel pathway code~~)) that:

(i) Already exists in Table 8 under WAC 173-424-900; or

(ii) A fuel producer may also apply to ecology for approval to have a temporary fuel pathway code assigned to its facility. Ecology ((~~newly approved~~)) will review the request and ((~~posted~~)) post on its website the newly approved temporary pathway under subsection (11) of this section.

(b) The request must:

(i) Be submitted within 45 days after the end of the calendar quarter for which the applicant is seeking to use a temporary fuel pathway code; and

(ii) Explain and document that the production facility is unknown or that the production facility is known but there is no approved fuel pathway code.

(c) Temporary fuel pathway codes may be used for up to two calendar quarters. If more time is needed to obtain a carbon intensity, the party that obtained the temporary fuel pathway must submit an additional request to ecology for an extension of the authorization to use a temporary fuel pathway code.

(d) If ecology grants a request to use a temporary fuel pathway code, credits and deficits may be generated subject to the quarterly reporting provisions in WAC 173-424-410.

(9) **Review and approval process to use carbon intensities for fuels other than utility-specific electricity and renewable electricity with a deemed CI of zero under WAC 173-424-630.**

(a) For applications proposing to use fuel pathways approved by CARB or OR-DEQ, including provisional pathways, ecology will:

(i) Confirm that the proposed fuel pathway is consistent with WA-GREET 3.0; and

(ii) Review the materials submitted under subsection (2) of this section and request additional materials if necessary.

(b) For applications proposing to use the Tier 1 or Tier 2 calculators, ecology may approve the application if it can:

(i) Verify the energy consumption and other inputs.

(ii) Replicate the calculator outputs; and

(iii) Agree with the following in the application:

(A) Its classification of its feedstock(s);

(B) The scope of its lifecycle and, for Tier 2 applications, how the process has been modeled and if the carbon intensity values are scientifically defensible in the ecology's engineering and scientific judgement;

(C) Any modifications to emissions factors, for Tier 2 fuels;

(D) Any other aspects of the pathway(s) in the application that affect the carbon intensity value.

(iv) For Tier 2 pathway applications, if ecology intends to approve an application, it first must:

(A) Present a review report with a proposed carbon intensity value or values and operating conditions to the applicant or applicants. If the applicant or applicants accept the proposed review report, carbon intensity value(s) and operating conditions, ecology will post the review report and application on its website for a 14-day public comment period. Ecology staff will work with the applicant to aggregate and summarize any submitted data in order to ameliorate concerns regarding trade secrets included in the application. The aggregated data must still allow external stakeholders to understand the pathway(s) and carbon intensity value(s) that DEQ is proposing to approve; and

(B) Based on comments received during that public comment period, ecology may move forward with approving the application as provided in this section, deny the application, request additional information from the applicant or applicants, or modify the review report. If ecology modifies the review report or receives additional information that has a material bearing on the proposed EER value, it will issue the modified review report and any affected supplemental materials for another round of public comment.

(c) If ecology has approved or denied the application for a carbon intensity, ecology will notify the applicant of its determination.

(d) Ecology may impose conditions in its approval of the carbon intensity. Conditions may include specific limitations, recordkeeping or reporting requirements, adherence to protocols to assure carbon reduction or sequestration claims, or operational conditions that ecology determines should apply to assure the ongoing accuracy of the approved carbon intensity. Failure to meet those conditions may result in the carbon intensity approval being revoked.

(e) For applicants seeking a provisional pathway, ecology will specify the conditions used to establish the pathway.

(i) In order to maintain an active provisional pathway eligible to generate credits, the applicant must file the annual fuel pathway report and seek third-party verification ((~~if~~)) as required under WAC ((~~173-424-800~~)) 173-424-820.

(ii) At any point during the 24 months following the certification of a provisional pathway, ecology may revise as appropriate the CI score for the provisional pathway, and adjust any credits in the fuel reporting entity based on new information or a better understanding of the pathway.

(iii) Ecology may remove the provisional status of the pathway after the applicant provides 24 months of operational data with a positive or qualified positive verification status, ((~~if verification is~~)) as required under WAC 173-424-800 through 173-424-850.

(iv) For pathways that are not subject to verification, ecology may remove the provisional status upon review of 24 months of operational data demonstrating that the pathway data supports the provisional CI.

(f) For a fuel pathway approved by CARB or OR-DEQ that ecology has approved for use in Washington, if at any time the pathway's approval is revoked by CARB or OR-DEQ then:

(i) The fuel pathway holder must inform ecology within 14 days of the revocation and provide ecology with the documentation related to that decision.

(ii) Upon ecology request, the fuel pathway holder must provide to ecology additional documentation.

(iii) Ecology may at its discretion revoke its approval of the pathway's use in Washington at any time.

(iv) If CARB or OR-DEQ modifies its approval of the pathway, then the fuel pathway holder must notify ecology of the modification not later than 14 days after CARB's or OR-DEQ modification and must provide to ecology any accompanying documentation the fuel pathway holder received from CARB or OR-DEQ.

(v) Based on the underlying facts that led to CARB's and OR-DEQ's modification of the pathway's status, within 30 days ecology may modify its approval, take no action, or revoke its approval and will provide the fuel pathway holder with written notice of its decision.

(g) In order to receive and maintain an active fuel pathway code, the producer of any fuel must:

(i) Maintain an active registration with the AFP;

(ii) Provide proof of delivery to Washington through a physical pathway demonstration in the quarter in which the fuel is first reported in the WFRS;

(iii) Each fuel pathway holder must submit an annual fuel pathway report into the AFP no later than March 31st of each calendar year, and verification statements for fuel pathways no later than August 31st of each year. The annual fuel pathway report must include:

(A) The certified version of the simplified WA-GREET or full WA-GREET calculator, as applicable, updated to include the most recent two calendar years of operational data;

(B) The annual fuel pathway report for renewable electricity and hydrogen lookup table pathways, in lieu of the CI calculator, must include invoices or metering records substantiating the quantity of renewable or low-CI inputs procured from a qualifying source;

(C) If the fuel or fuel production process involves biomethane or renewable electricity, the fuel producer must:

(I) Provide the attestation regarding environmental attributes or proof of nongeneration or retirement of any RECs and RTCs as required by WAC 173-424-420 or 173-424-630 (4)(d); and

(II) For biomethane injected into a natural gas common carrier pipeline, RTCs from ((~~an~~)) the midwest renewable energy tracking systems (M-RETS) or another ecology-recognized renewable thermal tracking system are required to be retired and used instead of an attestation and the specific volume of biomethane claimed as being used in the fuel production process must have been injected into the pipeline in the current or prior quarter as the fuel is being produced. Biomethane can only be claimed in this manner in a fuel pathway application as the feedstock for CNG, LNG, L-CNG or hydrogen production, and cannot be claimed as an energy source for another fuel production process.

(D) Any fuel pathway holder, including a joint applicant, who is not subject to site visits by a third-party verifier, whose fuel pathway involves the use of renewable or low-CI process energy, must submit invoices for that energy to the AFP. Additionally, for any on-site or directly connected renewable electricity that is used to reduce the carbon intensity of electricity used as a transportation fuel or hy-

drogen production via electrolysis, the pathway holder must upload records demonstrating that any renewable energy certificates generated were retired in WREGIS or another comparable, recognized REC tracking system for the purpose of lowering the certified CI, or for credit generation. Any offsite source of renewable electricity must meet the requirements under WAC 173-424-630(5);

(E) Any temporally variable information that was requested or required by ecology to be included in the initial application as supplemental information, or any required data or documentation listed in the pathway's operating conditions. The information required to be submitted under this subsection must cover the same time period as the updated WA-GREET model required under (g)(iii)(A) of this subsection;

(F) If the verified operational CI as calculated from the operational data covering the prior two calendar years of production is found to be lower than the certified CI, and a positive verification statement is issued for this period, the fuel pathway holder may elect to keep the original certified CI, or may request to replace the certified CI with the verified operational CI. The new certified CI will take effect for the following reporting year. The fuel pathway holder may elect to add a margin of safety to the new certified CI, and must submit an attestation that the new CI can be maintained through the next reporting period with the acknowledgment that exceeding the newly certified CI in subsequent annual reports or verifications is a violation of the requirements of this ((~~division~~)) chapter; and

(iv) Comply with the requirements of this chapter. Failure to timely submit an annual fuel pathway report or a required verification statement for a facility's pathways will result in the deactivation of those pathways; and

(v) If a pathway employs carbon capture and sequestration, the fuel pathway holder or joint applicant must submit annual reports of greenhouse gas emissions reductions, project operations, and ongoing monitoring results. Reports must include measurements of relevant parameters sufficient to ensure that the quantification and documentation of $CO_2$ sequestered is replicable and verifiable. Ecology may specify a protocol for measuring and reporting such information in its approval of such an application.

(h) If ecology determines the proposal for the carbon intensity has not met the criteria in (b) of this subsection, ecology will notify the applicant that the proposal is denied and identify the basis for the denial.

(i) Ecology may modify an approved fuel pathway's CI or approval conditions upon receipt of a verification statement that shows that the verified operational CI is higher than the certified CI.

(j) Any applicant may include a margin of safety in its application which will increase its certified CI in order to account for potential process variability and to reduce the risk that it will violate this ((~~division~~)) chapter by having its operational CI exceed its certified CI.

(k) Ecology may prioritize the review of fuel pathway applications according to the date the application is submitted, the application deemed complete date, and the potential GHG emission reduction potential.

(l) If the verified operational CI is found to be greater than the certified CI (including provisionally certified and/or an associated temporary pathway CI) for the same feedstock-fuel combination processed at the same facility:

(i) Ecology will invalidate the excess credits generated from the CI exceedance for the applicable compliance year in WFRS account of the associated fuel reporting entities.

(ii) The fuel pathway holder generates a deficit obligation following the verified CI exceedance, which is calculated as specified below in (l)(iii) of this subsection.

(iii) The deficit obligation or quantity of deficits generated due to the CI exceedance is calculated as four times the difference between the verified operational fuel pathway CI and the reported CI, multiplied by the quantity of fuel reporting using that fuel pathway during the applicable year. Deficits will be calculated using the following equation:

$$Deficis\ (MT) = \left(CI_{\ operational} - CI_{reported}\right) x\ E\ x\ C\ x\ 4$$

Where:

$Deficis\ (MT)$ is the number of calculated deficits from CI exceedance;

$CI_{operational}$ is the verified operational fuel pathway CI for a given compliance period;

$CI_{reported}$ is the certified CI in WFRS under which the fuel was reported;

$E$ is the reported fuel under a given certified fuel pathway in Megajoules;

$C$ is a factor used to convert credits/deficits to units of metric tons from $gCO_2e$ and has the value of:

$$C = 1 \times 10^6 \quad \frac{(MT)}{(gCO_2e)}$$

(iv) Any pathway holder generating deficits following a verified CI exceedance must satisfy the compliance demonstration requirements in WAC 173-424-500.

(v) Fuel pathway holders who demonstrate that the verified operational CI exceedances are solely due to calculator updates (for CI calculators using CA-GREET 4.0 or OR-GREET 4.0 and the updated Tier 1 calculators) are exempt from the deficit obligation specified in (l)(iii) of this subsection. To make this demonstration, fuel pathway holders must submit both CA-GREET 3.0 and CA-GREET 4.0 or OR-GREET 3.0 and OR-GREET 4.0 modeling tools populated with the operational data for the same reporting period for annual verification in the AFP.

(vi) Notwithstanding (l)(v) of this subsection, the fuel pathway holder of a pathway with 24 months of operational data is out of compliance, and ecology may take additional enforcement action.

(m) Credit true up after annual verification. Beginning with the 2025 annual fuel pathway report data reporting year, ecology may perform credit true up for a fuel pathway, including a temporary pathway used by an entity that subsequently receives fuel pathway certification for the associated production facility, that has a lower verified operational CI upon receiving a positive or qualified positive verification statement for the associated annual fuel pathway report and

quarterly fuel transactions reports, notwithstanding the prohibition on retroactive credit generation in WAC 173-424-430(4).

(i) To implement this true up, ecology will calculate an equivalent number of credits representing the difference between the reported CI and the verified operational CI from annual fuel pathway reports for each fuel pathway code reported with nonliquid transaction types and with the following liquid fuel transaction types "production in Washington," "production for import," and "import" during a compliance year, and place those credits in the account of each appropriate fuel reporting entity after September 15th for the prior compliance year. Only reporting quarters for which complete operational data are reported in the applicable AFPR are eligible for credit true up of a temporary fuel pathway.

(ii) The credits will be calculated according to the following equation:

$$Credits^{FPC}_{CI\ difference}(MT) = (Credits\ ^{FPC}_{Verified\ operational\ CI} - Credits\ ^{FPC}_{reported\ CI}\ (MT))$$

Where:

$Credits^{FPC}_{CI\ difference}$ is the number of credits representing the difference between the reported CI and verified operational CI for each fuel pathway code;

$Credits\ ^{FPC}_{Verified\ operational\ CI}$ is the number of credits calculated in the verified operational CI, instead of the reported CI; and

$Credits\ ^{FPC}_{reported\ CI}\ (MT))$ is the number of credits calculated using the reported CI.

(n) Utility-specific carbon intensities for alternative jet fuel and alternative marine fuel.

(i) Producers of alternative jet fuel, sustainable aviation fuel, or alternative marine fuel may use a utility-specific carbon intensity for electrolysis process energy in their pathway applications or annual fuel pathway reports through December 31, 2033. After that date, producers must use the statewide grid average or directly-connected renewable electricity.

(ii) To claim a utility-specific carbon intensity, a registered party must:

(A) Provide any rate schedule documentation or agreement between the reporting party and the relevant electric utility upon request.

(B) Obtain written approval from ecology before submitting the fuel pathway application or annual fuel pathway report to claim a utility-specific carbon intensity.

(C) RECs for low-CI or zero-CI utility-specific carbon intensity claim shall be registered in WREGIS and retired in the CFS program account each quarter or demonstrate it is retired in Washington utilities and transportation commission or Washington department of commerce program account.

(10) **Completeness determination process.**

(a) Within one month after receiving a ((~~registration~~)) fuel pathway application using the Tier 1 or Tier 2 calculator, ecology will advise in writing whether:

(i) The proposal is complete; or

(ii) The application is incomplete, in which case ecology identifies the deficiencies.

(b) The applicant may submit supplemental information to correct the ecology identified deficiencies. Ecology has 30 calendar days to determine if the supplemental submittal is complete, or to notify the party and identify the continued deficiencies. If the applicant is unable to achieve a complete application within 180 days of ecology's receipt of the original application, the application will be denied on that basis, and the applicant will be informed in writing.

(c) Ecology releases the completed Tier 2 pathway applications for validation.

(11) **Issuing additional substitute and temporary fuel pathway codes.**

(a) For new fuels or new fuel blends being used in Washington state, registered parties may request ecology for an additional fuel pathway code((s)) that can be used in the same manner as those in Table 7 or 8 (substitute or temporary pathway codes) under WAC 173-424-900.

(b) Ecology may approve such substitute or temporary pathway codes if it concludes they are technically sound and supported by appropriate evidence. If any are approved, ecology will post these additional pathway codes in the WFRS and on its public website for the clean fuels program.

(c) All of the following requirements apply to such requests:

(i) Requests must be made in writing to ecology.

(ii) If ecology concludes the proposed pathway may be technically sound and supported by appropriate evidence, then it will post the proposed new substitute or temporary pathway codes on its website and take comments for:

(A) Fourteen calendar days in the case of a substitute fuel pathway code; or

(B) Forty-five calendar days in the case of a temporary fuel pathway code.

(iii) Ecology will consider any comments received, make any modifications, if necessary, and make a final decision on the proposed pathway.

(iv) Ecology may approve the fuel pathway and publish it on its website, if ecology concludes the proposed pathway is technically sound and supported by appropriate evidence.

(d) Any newly approved substitute or temporary fuel pathway code will be effective for use in the quarter in which it is approved.

(12) **Measurement accuracy.**

(a) **Calibration requirement.** All measurement devices that log or record data for use in a fuel pathway application must comply with the manufacturer-recommended calibration frequency and precision requirements. If manufacturer recommendations are not provided, the measurement devices must be calibrated at least every six years.

(b) **Requests to postpone calibration.** For units and processes that operate continuously with infrequent outages, it may not be possible to meet manufacturer-recommended calibration deadlines for measurement devices. In such cases, the owner or operator may submit a written request to ecology to postpone calibration or inspection until the next scheduled maintenance outage. Such postponements are subject to the procedures of (b)(ii)(A) and (B) of this subsection and must be documented in the monitoring plan required under WAC 173-424-400.

(i) A written request for postponement must be submitted to ecology not less than 30 days before the required calibration, recalibration or inspection date. Ecology may request additional documentation to validate the operator's claim that the device meets the accuracy

requirements of this section. The operator shall provide any additional documentation to ecology within 10 business days of a request for documentation.

(ii) The request must include:

(A) The date of the required calibration, recalibration, or inspection;

(B) The date of the last calibration or inspection;

(C) The date of the most recent field accuracy assessment, if applicable;

(D) The results of the most recent field accuracy assessment, if applicable, clearly indicating a pass/fail status;

(E) The proposed date for the next field accuracy assessment, if applicable;

(F) The proposed date for calibration, recalibration, or inspection which must be during the time period of the next scheduled shutdown. If the next shutdown will not occur within three years, this must be noted and a new request must be received every three years until the shutdown occurs and the calibration, recalibration or inspection is completed; and

(G) A description of the meter or other device including, at a minimum, the:

(I) Make and model;

(II) Installation date;

(III) Location;

(IV) Parameter measured by the meter or other device, including the rate of data capture;

(V) Description of how data from the meter or other device is used in a fuel pathway;

(VI) Calibration or inspection procedure;

(VII) Reason for delaying the calibration or inspection;

(VIII) Proposed method to ensure that the precision requirements listed by the manufacturer are upheld; and

(IX) The contact details for an individual at the fuel production facility who can answer questions about the meter or other device.

(iii) Ecology will approve or deny the request at its discretion based on whether or not it concludes that the device's calibration is reasonably reliable.

(13) **Missing data provisions.**

(a) **Meter record, accuracy, or calibration requirements not met.** If a measurement device is not functional, not calibrated within the time period recommended by the manufacturer, or fails a field accuracy assessment, the fuel production facility operator must otherwise demonstrate to a verifier or ecology that the reported data are accurate within +/- five percent. The following requirements apply to such demonstration:

(i) If the operator can demonstrate to the verifier or ecology staff that reported data are accurate, the data are acceptable. The entity must then provide a detailed plan describing when the measurement device will be brought into calibration. This plan is subject to ecology approval; and

(ii) If the operator cannot demonstrate to the verifier or ecology that reported data are accurate, the data is not acceptable and the missing data provisions in (b) of this subsection apply.

(b) **Missing data provisions.** If missing data exists, the entity must submit for ecology approval an alternate method of reporting the missing data. Alternate methods shall be evaluated on a case-by-case basis for reasonableness and continuity with the rest of the dataset.

Ecology may choose to require a more conservative approach to the missing data if it is concerned that the alternative method may understate actual life cycle emissions associated with the fuel or fuels produced by the facility.

(c) **Force majeure events.** In the event of a facility shutdown or disruption drastically affecting production attributable to a force majeure event, the fuel pathway applicant or holder must notify ecology. Ecology may require the reporting entity to provide documentation to support the force majeure event timeline.

(14) **Biomethane applications.** In addition to the other requirements of this rule, for any fuel pathway where biomethane is being injected into a natural gas common carrier pipeline to be reported in the CFP using book and claim accounting, the fuel pathway holder, fuel producer, or both must ensure that no other party can make a claim on the specific biomethane attributes that are being used in the CFP. If the biomethane is being injected into the pipe of a local distribution company, the fuel producer must have an agreement with that company along with any other purchaser of the physical gas that they will not make any claims on the biomethane reported through book and claim in this program. That agreement must be submitted at the time of the fuel pathway application or in the next annual fuel pathway report if the fuel pathway is currently certified.

(15) **For nonprovisional pathways.** If a fuel pathway's operational CI is found to be greater than its certified CI, the fuel pathway holder is out of compliance with this chapter and may be subject to investigation and enforcement by ecology.

(16) **Avoided methane crediting.**

(a) A fuel pathway that utilizes biomethane from dairy cattle or swine manure digestion may be certified with a CI that reflects the reduction of greenhouse gas emissions achieved by the voluntary capture of methane, provided that:

(i) A biogas control system, or digester, is used to capture biomethane from manure management on dairy cattle and swine farms that would otherwise be vented to the atmosphere as a result of livestock operations from those farms.

(ii) The baseline quantity of avoided methane reflected in the CI calculation is additional to any regulatory requirement for the capture and destruction of biomethane.

(iii) The dairy cattle or swine farm has historically used an anaerobic lagoon to manage and treat waste from livestock operations and has not introduced liquid or slurry manure management in the five years preceding the fuel pathway application.

(b) A fuel pathway that utilizes an organic material may be certified with a CI that reflects the reduction of greenhouse gas emissions achieved by the voluntary diversion from decomposition in a landfill and the associated fugitive methane emissions, provided that:

(i) The organic material that is used as a feedstock would otherwise have been disposed of by landfilling, and the diversion is additional to any legal or regulatory requirement for the diversion of organics from landfill disposal.

(ii) Any degradable carbon that is not converted to fuel is subsequently treated in an aerobic system or otherwise is prevented from release as fugitive methane. Upon request, the applicant must demonstrate that emissions are not significant beyond the system boundary of the fuel pathway.

(iii) The baseline quantity of avoided methane reflected in the CI calculation is additional to any legal or regulatory requirement for the avoidance or capture and destruction of biomethane.

(c) Carbon intensities that reflect avoided methane emissions from dairy or swine manure pathways, as described in (a) of this subsection, or organic waste pathways as described in (b) of this subsection, are subject to the following requirements for credit generation:

(i) The avoided methane crediting period for projects that break ground on or after January 1, 2023, is limited to two seven and a half year periods, counting from the quarter following ecology approval of the pathway application.

(ii) The avoided methane crediting period for projects that started operations to produce biomethane before January 1, 2023, is subject to the following conditions:

(A) The crediting period for a facility that started operation in 2022 is limited to 14 years.

(B) The crediting period reduces by one year per each year dating back from 2022 that a facility started operations to produce biomethane. For example, a facility that started operation in 2020 is eligible for avoided methane credits for 12 years.

(C) Facilities that started operations to produce biomethane before 2009 are not eligible for avoided methane crediting.

(d) Incremental biomethane production. Avoided methane crediting applies to biomethane expansion projects in existing facilities described in (a) and (b) of this subsection, provided the pathway applicant provided robust evidence to ecology to establish:

(i) The baseline biomethane production capacity; and

(ii) The biomethane production capacity from the expansion project.

(e) Notwithstanding (a) and (b) of this subsection, in the event that any law, regulation, or legally binding mandate requiring either greenhouse gas emission reductions from manure methane emissions from livestock and dairy projects or diversion of organic material from landfill disposal comes into effect in Washington state during a project's crediting period, then the project is only eligible to receive avoided methane credits for the remainder of the project's current crediting period. The project may not request any additional avoided methane crediting periods.

(f) Notwithstanding the above, projects that have generated compliance offset credits under WAC 173-446-500 through 173-446-595 may apply to receive CFS credits. However, the avoided methane crediting period for such projects is aligned with the crediting period for compliance offset credits and does not reset when the project is certified under the CFS.

AMENDATORY SECTION (Amending WSR 22-24-004, filed 11/28/22, effective 12/29/22)

**WAC 173-424-620 Energy economy ratio-adjusted carbon intensity applications.** (1) **Energy economy ratio-adjusted CI applications.** Applications submitted under this section are modified Tier 2 pathway applications under WAC 173-424-610. Vehicles covered by these applications must not be currently covered by a vehicle-category specific EER under WAC 173-424-900 (Table 4).

(2) **Eligibility.** The following persons are eligible to submit an application under this section:

(a) Vehicle owners or operators that would be eligible to generate credits for their vehicles based in Washington state, including for vehicles otherwise exempt from this program under WAC 173-424-130, subject to subsection (7) of this section;

(b) Manufacturers of vehicles that would be eligible to generate credits may make a joint application with an owner or operator of their vehicles based in Washington; and

(c) A single, joint application may be submitted on behalf of, and combining data from, any combination of multiple vehicle owners, operators, and manufacturers.

(3) Applications made under this rule must be for electric vehicles capable of full normal operation using energy from onboard batteries, fuel cells, or other fuel-vehicle technologies.

(4) **Application requirements for an energy economy ratio-adjusted CI.** In addition to the application requirements for a Tier 2 pathway application under WAC 173-424-610, the applicant or applicants must include:

(a) A letter of intent to request an energy economy ratio (EER) adjusted carbon intensity and why the EER values provided in Table 4 of WAC 173-424-900 are not applicable. For electricity replacing other fuels, the letter must demonstrate using data that electricity is not the majority of the fuel currently used in the particular vehicle category;

(b) Supplemental information including a detailed description of the methodology used in its calculations, all assumptions made, and provide all data and references used for the calculation of the proposed EER-adjusted CI value. The methodology used must compare the useful output from the alternative fuel-vehicle technology under consideration to comparable conventional fuel-vehicle technology;

(c) If the applicant or applicants plan to use a value in the lookup table in WAC 173-424-900 for the carbon intensity of the fuel, or an electricity fuel pathway code issued under WAC 173-424-630, to request an EER-adjusted carbon intensity then they do not need to provide the fuel facility information required under WAC 173-424-610 (3)(e) through (h) and (5).

(5) **Minimum data requirements to apply for an energy economy ratio-adjusted CI:**

(a) Any application made under this rule must include at least three months of operating data that represents typical usage for each individual vehicle type included in the application, except that the application must cover at least 300 hours of operating data for each individual vehicle type included in the application; and

(b) Notwithstanding (a) of this subsection, an application from a manufacturer may provide data from duty-cycle testing. A manufacturer seeking to apply using duty-cycle testing data must consult with ecology prior to submitting an application and receive written, advanced approval from the agency for the duration and test cycles it is including in the application in addition to or in lieu of operational data.

(6) **Application review process to apply for an energy economy ratio-adjusted CI:**

(a) Ecology will review an application for completeness, soundness of the assumptions and comparison to the conventional fuel technology, and accuracy of the data. Ecology may deny an application without prejudice if it is incomplete. Ecology may deny any applica-

tion that it believes is adequately covered by an existing EER value in Table 4 in WAC 173-424-900 or that it believes does not fit the intent and purpose of the clean fuels program;

(b) Ecology may prioritize its review of applications under this provision to those that cover a greater number of entities or that the agency believes are critical to the state's transportation electrification goals;

(c) If ecology intends to approve an application, it first must present a review report with a proposed EER value and pathway conditions to the applicant or applicants. If the applicant or applicants accept the proposed review report and EER value, ecology will post the review report and application on its website for a 30-day public comment period. Ecology staff will work with the applicant to aggregate and summarize any submitted data in order to ameliorate concerns regarding trade secrets included in the application. The aggregated data must still allow external stakeholders to understand and replicate the EER value that ecology is proposing to approve; and

(d) Based on comments received during the public comment period, ecology may move forward with approving the application as provided in subsection (7) of this section, deny the application, request additional information from the applicant or applicants, or modify the review report. If ecology modifies the review report or receives additional information that has a material bearing on the proposed EER value, it will issue the modified review report and any affected supplemental materials for another round of public comment.

(7) Based on its review of the application materials and any comments submitted upon the application under subsection (6) of this section, ecology may issue an EER-adjusted fuel pathway or issue a value that it would post on its website that could be used similarly to the EER values contained in Table 4 of WAC 173-424-900. Values issued under this rule can only be used by the applicant or applicants for that value. In its consideration of these applications, ecology may, at its sole and complete discretion, deny applications for vehicles otherwise exempt under WAC 173-424-130 if ecology determines granting such an application is not in the best interests of program administration and goals.

(8) **Adding joint applicants after a value is approved.** If ecology has issued a value under subsection (7) of this section as part of an application that includes the manufacturer of the vehicle(s), owners or operators who begin to operate the same vehicle(s) covered in that application in Washington may request to be added as a joint applicant. In order to do so they must provide the following:

(a) A letter from the manufacturer or vehicle owner that qualify under subsection (2)(a) or (b) of this section stating that ((~~the manufacturer~~)) they support((~~s~~)) the addition of the joint applicant;

(b) Any current operational data by the new joint applicant, or other data elements required to be reported under the value's pathway conditions; and

(c) A statement by the new joint applicant that they understand and accept any and all pathway conditions associated with the value.

(9) **Ongoing reporting requirements.**

(a) For any EER-adjusted carbon intensity of a fuel pathway approved by ecology under subsection (7) of this section, the applicant for such approval must annually submit vehicle usage and energy consumption data for each individual vehicle using the value approved by ecology to generate credits or deficits in the clean fuels program. Ecology may require additional data elements that must be reported an-

nually as part of its pathway conditions for an application that is approved under this rule.

(b) For any EER-adjusted carbon intensity of a fuel pathway approved by ecology under subsection (7) of this section, ecology may require third-party verification of the annual fuel pathway report submitted by the applicant or joint applicants for such approval in CARB or OR-DEQ. If ecology determines that third-party verification is required, ecology will include that as a pathway condition presented to the applicant or applicants under this section as part of its approval of ((~~such fuel pathway~~)) the EER value.

(10) **Modifications to EER values issued under this rule.** Based on the ongoing reported data required under subsection (9) of this section or additional applications for vehicles that ecology determines to be in the same category, ecology may modify any value issued under this provision for reporting beginning with the next full calendar quarter following its notice that the agency is modifying the value. Ecology will provide notice to the applicant(s) for such fuel pathway prior to doing so, and may request comment from them and the public prior to modifying the value.

AMENDATORY SECTION (Amending WSR 22-24-004, filed 11/28/22, effective 12/29/22)

**WAC 173-424-630 Determining the carbon intensity of electricity.** (1) **Utility-specific electricity mix.** The carbon intensity of the electricity used in a utility service area is calculated based on the mix of resources the electricity used to generate the electricity used using the most recent year fuel-mix report published by the Washington department of commerce under RCW 19.29A.140. No later than December 31st of each year, ((~~except that ecology may revise the carbon intensity of electricity for 2023 no later than March 15, 2023,~~)) ecology will:

(a) ((~~Post the updated utility-specific electricity carbon intensity for the next year on the ecology web page;~~)) Propose the draft utility-specific carbon intensity of electricity to the electric utilities for review.

(A) If the utility does not agree with ecology's proposed carbon intensity, then it must provide ecology with an explanation of why it believes the proposed carbon intensity is not accurate within seven calendar days of receiving ecology's proposal. Ecology will consider whether to change its proposed carbon intensity based on the information it receives from the utility.

(B) If the utility fails to submit a timely objection to the calculation, then the draft carbon intensity is made final and approved.

(b) Post the updated utility-specific carbon ((~~intensities~~)) intensity values of electricity for the next year on the ecology web page; and

(c) Add the new fuel pathway codes for the utility-specific carbon intensity values to the WFRS effective for Q1 reporting for the next year.

(2) **Statewide electricity mix.** The carbon intensity for the statewide electricity mix will reflect the average carbon intensity of electricity served in Washington and be calculated by using the carbon-intensity of electricity from the most recent year as published by

department of commerce under RCW 19.29A.140. Ecology will post on its website the statewide average carbon intensity of electricity every year together with the utility-specific carbon intensity values.

(3) **Unspecified electricity.** The emissions associated with electricity generated from unspecified electricity is 0.437 metric tons per megawatt-hour of electricity as measured by the utility at the first point of receipt in Washington, unless ecology assigns another number as directed by RCW 19.405.070(2).

(4) **On-site renewable electricity generation.** For on-site generation of electricity using renewable generation systems such as solar or wind, applicants must document that:

(a) The renewable generation system is on-site or directly connected to the electric vehicle chargers;

(b) The fuel pathway codes listed in Table 6 under WAC 173-424-900 for solar-generated or wind-generated electricity can only be used for the portion of the electricity dispensed from the charger that is generated by that dedicated renewable energy system;

(c) Any grid electricity dispensed from the charger must be reported separately under the ((~~statewide electricity mix or~~)) utility-specific fuel pathway codes found in WAC 173-424-900 (Table 10) or on ecology's CFS website; and

(d) RECs are not generated from the renewable generation system or, if they are, then an equal number of RECs generated from that facility to the number of MWh reported in the WFRS from that facility must be retired in the recognized REC tracking system. The applicant is allowed to utilize RECs generated on-site for other purposes, if the RECs are in excess of the energy dispensed through EV chargers.

(5) **Offsite renewable electricity.** In order to lower the carbon intensity of electricity claimed as a vehicle fuel in the clean fuels program through indirect (book-and-claim) accounting, credit generators and aggregators may retire renewable electricity certificates that meet the following qualifications:

(a) ((~~Renewable energy certificates (RECs) retired in order to claim a carbon intensity other than the statewide mix or utility-specific mix must be certified by the WREGIS, or by a certification system approved by ecology as being substantially equivalent, and:~~

~~(i) Unbundled RECs being used to claim low-carbon electricity through book-and-claim accounting must be certified at the wholesale level, while~~

~~(ii) RECs used in a power purchase agreement or utility renewable electricity product may be certified at the retail level;~~

~~(b)~~)) RECs must be generated ((~~in and~~)) on or after January 1, 2023;

((~~(c)~~)) (b) Until January 1, 2026, RECs must be generated from facilities located in the western electricity coordinating council; and

(c) Starting January 1, 2026, RECs must be generated from renewable electricity generation facilities located in Washington, Oregon, or Idaho that commenced operations on or after January 1, 2019, or from incremental electricity generated as a result of efficiency improvements completed after January 1, 2019. Any incremental hydroelectric generation must meet the conditions specified in RCW 19.405.040 (1)(d) to be eligible under this section; and

(d) RECs must be recorded and retired in a recognized REC tracking system. In addition to recognizing the western renewable energy generation information system (WREGIS), ecology may recognize additional REC tracking systems upon a request from a registered party. In

reviewing those requests, ecology will consider whether the tracking system is comparable to WREGIS and if it has systems in place to ensure accurate issuance and tracking of RECs((.)); and

(e) Unbundled RECs must meet the safeguards to prevent double counting in WAC 194-40-420, except the term "utility" is replaced with "registered entity."

(6) **Carbon intensity of renewable electricity.**

(a) The carbon intensity of solar, wind, ((geothermal,)) hydropower, and ocean power renewable electricity is deemed to be zero((.)); and

(b) For renewable electricity generated from biomass, biogas, biodiesel, geothermal, and hydrogen, the ((generator)) electricity generating must file a Tier 1 or Tier 2 fuel pathway application to determine the carbon intensity of its electricity((.)); and

(c) Ecology ((may)) shall adopt an efficiency adjustment factor for biogas to electricity pathways that include emissions reduction credits in order to maintain the program's incentive for energy efficiency.

(7) **Utility renewable electricity products and power purchase agreements.** Electric utilities may apply for ecology to assign a carbon intensity to one or more of their renewable electricity products or a specific power purchase agreement, which may then be used to generate credits from charging electric vehicles attributable to the use of such products or agreements. All of the following requirements apply to such applications:

(a) Applications made under this section must include:

(i) A letter describing the power purchase agreement or utility renewable electricity product, the existing or planned source, or sources, of electricity and environmental attributes, and the terms by which it is being offered to customers;

(ii) Samples or examples of bills, invoices, contracts, or other documentation that an entity claiming renewable energy under this product could provide to ecology to prove that their electric vehicle charging is covered by the product or agreement;

(iii) In the case of a utility renewable electricity product, any filings with, and orders by, the Washington utilities and transportation commission, governing boards of consumer-owned utilities, or any other local governing board that approves the product; and

(iv) An estimate of the amount of electric vehicle charging attributable to customers for the product or agreement.

(b) Ecology will review pathway applications under this section to determine if they result in a substantially similar environmental outcome to the sources of renewable energy required under subsection (5) of this section. In reviewing a utility product or agreement that contains multiple sources of power, ecology may use the estimate under (a)(iii) of this subsection to determine if sufficient renewable energy that is substantially similar to the requirements of subsection (5) of this section is included in the product to cover transportation-related charging that may be claimed under the CFP. Ecology may revisit this determination annually using the annual fuel pathway report.

(c) Annual fuel pathway report. ((The annual fuel pathway report)) For pathways covered by this section, the applicant must submit an annual fuel pathway report by June 30th that includes:

(i) Updated information ((to update)) on the ((sources or sources)) source(s) of electricity or environmental attributes that were used in the prior year and are planned for use in the year in which the report is submitted((. That documentation must include)); and

(ii) Retirement records for any RECs used to lower the claimed carbon intensity of the electricity being used by customers of those products in the clean fuels program for the prior year((~~. That documentation must also update the~~));

(iii) An updated estimate of the amount of electric vehicle charging attributable to customers using the products or agreements((~~.~~));

(iv) Verification statement if the product is subject to third-party verification; and

(v) Fuel pathway reports required by this section are due by June 30th, notwithstanding WAC 173-424-610 (9)(g)(iii)(C).

AMENDATORY SECTION (Amending WSR 22-24-004, filed 11/28/22, effective 12/29/22)

**WAC 173-424-700 Authority to suspend, revoke, or modify.** (1) If ecology determines that any basis for invalidation set forth in subsection (2) of this section has occurred, in addition to taking any other authorized enforcement action, ecology may take any of the actions described in (a) through (d) of this subsection. For the purposes of this section an approved carbon intensity refers both to carbon intensities approved by ecology under WAC 173-424-600(4), 173-424-610, 173-424-620, and 173-424-630.

(a) Suspend, restrict, modify, or revoke an account in the WFRS, or take one combination of two or more such actions;

(b) Modify or delete an approved carbon intensity;

(c) Restrict, suspend, or invalidate credits; or

(d) Recalculate the credits and/or deficits in a regulated party's WFRS account.

(2) Ecology may take any of the actions described in subsection (1) of this section based on any of the following:

(a) Any of the information used to generate or support the approved carbon intensity was incorrect, including if material information was omitted or the process changed following the submission of the carbon intensity application;

(b) Any material information submitted in connection with the approved carbon intensity or a credit transaction was incorrect;

(c) Fuel reported under a given pathway was produced or transported in a manner that varies in any way from the methods set forth in any corresponding pathway application documents submitted under WAC 173-424-600 and 173-424-610 such that the variance would meet the threshold to be material information;

(d) Fuel transaction data or other data reported into the WFRS and used to calculate credits and deficits was incorrect or omitted material information;

(e) Credits or deficits were generated or transferred in violation of any provision of this chapter or in violation of other laws, statutes, or regulations;

(f) A party obligated to provide records under this chapter refused to provide such records or failed to do so within the required time frame for documenting credit transactions under WAC 173-424-400;

(g) Failure to submit a verification statement when it is required under WAC ((~~173-424-800~~)) 173-424-820;

(h) An adverse verification statement submitted under WAC ((~~173-424-800~~)) 173-424-820; or

(i) A party obligated to provide records associated with credit revenue spending under this chapter refused to provide such records or failed to do so within the required time frame.

(3) **Credit or deficit modification.**

(a) If a registered party self-reports an action outlined in subsection (2) of this section that has resulted in illegitimate credits or unclaimed deficits, they must submit a correction request.

(i) If the correction is made before the end of the compliance period but after the quarterly reporting deadline, ecology may modify the registered party's ledger by issuing additional deficits or removing additional credits. The number of credits or deficits modified will be determined by the number of occurrences and the number of illegitimate credits or unclaimed deficits. Occurrences within an initial 36-month period will be handled as outlined in the following table, with each ratio representing the number of additional credits removed or deficits issued relative to the number of illegitimate credits or unclaimed deficits reported.

| | 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 |

After three occurrences, ecology may choose to continue issuing deficits or removing additional credits, or to seek further enforcement action.

(ii) If the number of occurrences of reporting errors in the previous 36-month period is two or three, the number of credits or deficits that ecology modify in the registered party's ledger will be according to the next row starting the second column. However, for illegitimate credits or unclaimed deficits exceeding 500, the number of credits or deficits that ecology modifies in the registered party's ledger will continue to be in the 4:1 ratio.

(iii) If the correction is made after the end of the compliance period, ecology may modify the registered party's ledger by issuing four deficits or removing four credits for each unclaimed deficit or illegitimate credit. Ecology may also take further enforcement action as deemed necessary.

(b) If ecology finds an unreported violation outlined in subsection (2) of this section that has resulted in illegitimate credits or unclaimed deficits, the registered party must submit a corrections request within 10 business days following notification by ecology.

(i) If the violation is within the compliance period, ecology may modify the registered party's ledger by issuing additional deficits or removing additional credits. The number of credits or deficits modified will be determined by the number of occurrences and the number of illegitimate credits or unclaimed deficits. Multiple occurrences within a 36-month period will be handled as outlined in the following table, with each ratio representing the number of additional credits removed or deficits issued relative to the amount of illegitimate credits or unclaimed deficits reported.

| | First Occurrence | Second Occurrence | Third Occurrence |
|---|---|---|---|
| 0-10 credits or deficits | Warning + 1:1 | 2:1 | 3:1 |

| | First Occurrence | Second Occurrence | Third Occurrence |
|---|---|---|---|
| 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 |

After three offenses, ecology may choose to continue issuing additional credits or deficits or seek further enforcement action.

(ii) If the correction is made after the end of the compliance period, ecology may modify the registered party's ledger by issuing four deficits or removing four credits for each unclaimed deficits or illegitimate credit. Ecology may also take further enforcement action for repeat offenses and as deemed necessary.

(c) If a registered party makes multiple violations in a 36-month period that fall under both (a) and (b) of this subsection, the number of occurrences will be considered cumulatively by the total number of occurrences committed in that period, regardless of whether they were identified by ecology or self-reported by the regulated party.

(d) If a registered party commits multiple violations in a 36-month period that fall under different credit or deficit thresholds identified in (a) or (b) of this subsection, the number of offenses will be considered cumulatively for the purposes of identifying a credit or deficit modification. A less stringent modification of illegitimate credits or deficits from the first or second tier may be assessed at ecology's discretion if deemed appropriate to correct the error.

(4) **Providing notice of an initial determination.**

(a) Upon making an initial determination that a credit calculation, deficit calculation, or an approved carbon intensity may be subject to an action described in subsection (1) of this section, ecology will notify all potentially affected parties.

(b) The notice shall state the reason for the initial determination and may also include a specific request from any party for information relevant to any of the bases described in subsection (2) of this section.

(c) Within 20 days of the issuance of the notice, the affected parties shall make records and personnel available to ecology as it conducts its investigation.

(d) Any party receiving the notice may submit any information it believes is relevant to the investigation and that it wants ecology to consider in its evaluation. Within 15 business days of any such request, unless a different schedule is agreed to by ecology, a regulated entity shall make records and personnel available to assist ecology in determining the validity of the credit, deficit calculation, or certified CI.

((~~(4)~~)) (5) **Interim account suspension.** Once a notice has been issued based on initial determination under subsection ((~~(3)~~)) (4) of this section, ecology may immediately take one or both of the following actions:

(a) Deactivate an approved carbon intensity in the AFP; or

(b) Suspend an account in the WFRS. In cases where a discrete number of credits are being investigated, ecology may place an administrative hold on a specific number of credits rather than suspending an entire account.

((~~(5)~~)) (6) **Final determination.** Within 50 days after making an initial determination under subsections (2) and ((~~(3)~~)) (4) of this

section, ecology shall make a final determination based on the available information. The final determination should include:

(a) Whether any of the bases for invalidation in subsection (2) of this section exist;

(b) Identification of the affected parties; and

(c) What actions in subsection (1) of this section ecology will impose and how many credits, deficits, or approved carbon intensities are affected. If the final determination invalidates credits or deficit calculations, the corresponding credits and deficits will be added or subtracted from the appropriate accounts in the WFRS.

((~~(6)~~)) (7) **Responsibility for invalidated credits or miscalculated deficits.** Any party that generated, previously held, or holds invalidated credits or whose account reflects an invalid deficit calculation is responsible for returning its account to compliance without regard to its fault or role with respect to the invalidation of the credits or miscalculation of deficits. The deficit holder has 60 days from the date of the final determination to purchase sufficient credits to eliminate the entire deficit. A return to compliance does not preclude further enforcement actions.

AMENDATORY SECTION (Amending WSR 22-24-004, filed 11/28/22, effective 12/29/22)

**WAC 173-424-710 Public disclosure.** (1) **List of ecology-approved registered parties.** Ecology will maintain a current list of ecology-approved registered parties and will make that list publicly available on its website. ((~~The list will include, at a minimum, the name of the registered party and whether the registered party is an importer of blendstocks, a large importer of finished fuels, a small importer of finished fuels, a producer, a credit generator, or an aggregator.~~))

(2) All information submitted as application materials in the WFRS that are not identified as trade secrets or confidential business information are subject to public disclosure pursuant to Washington Public Records Act (chapter 42.56 RCW). If ecology approved the application, the carbon intensity value(s) and its associated fuel pathway code(s) will be posted publicly on the CFP website and incorporated into the WFRS for use by fuel reporting entities.

(3) **Monthly credit trading activity report.** Ecology must post on its web page, by no later than the last day of the month immediately following the month for which the calculation is completed, a credit trading activity report that:

(a) Summarizes the aggregate credit transfer information for the:

(i) Most recent month;

(ii) Previous three months;

(iii) Previous three quarters; and

(iv) Previous compliance periods;

(b) Includes, at a minimum:

(i) The total number of credits transferred;

(ii) The number of transfers;

(iii) The number of parties making transfers; and

(iv) The formula ecology used to calculate the volume-weighted average price of that month's transfers, exclusive of transactions that fall two standard deviations outside of the mean credit price for the month or that are transferred without a price;

(c) Is based on the information submitted into the WFRS; and

(d) Presents aggregated information on all fuel transacted within the state and does not disclose individual parties' transactions.

(4) **Quarterly data summary.** Ecology must post on its web page at least quarterly:

(a) An aggregate data summary of credit and deficit generation for the most recent quarter and all prior quarters; and

(b) Information on the contribution of credit generation by different fuel types.

(5) **Clean fuels program annual report.** ((~~Ecology must post on its web page by April 15th of each year, the following information from the previous year:~~

~~(a) The average cost or cost-savings per gallon of gasoline, per gallon of diesel, or any other fuel types, and the formulas used to calculate such costs or cost-savings; and~~

~~(b) The total greenhouse gas emissions reductions.~~)) By May 1st 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.

(6) **Utility reports.** Ecology will post the utility reports it receives under WAC 173-424-420(7) to its website.

AMENDATORY SECTION (Amending WSR 22-24-004, filed 11/28/22, effective 12/29/22)

**WAC 173-424-730 Forecast deferral.** (1) **Conditions and deadline for forecast deferral.** No later than December 1st, ecology shall issue an order declaring a forecast deferral for the following compliance period if:

(a) Ecology receives a fuel supply forecast for the following compliance period by October 2nd; and

(b) The forecast projects that the amount of credits that will be available during the forecast compliance period will be less than 100 percent of the credits projected to be necessary for regulated parties to comply with the carbon intensity standard.

(2) **Forecast deferral content:** The forecast deferral order that ecology issues must set forth:

(a) The duration of the forecast deferral, which may not be less than one calendar quarter or longer than one compliance period;

(b) The types of fuel to which the forecast deferral applies; and

(c) Methods for deferring compliance with the carbon intensity standard during the forecasted deferral out of the following:

(i) Temporarily adjusting the scheduled applicable ((~~clean fuel~~)) carbon intensity standard to a standard ((~~identified~~)) that better reflects the forecast availability of credits during the forecast compliance period and requiring regulated parties to comply with the temporary standard;

(ii) Requiring regulated parties to comply only with the clean fuel standard applicable during the compliance period prior to the forecast compliance period; or

(iii) Suspending deficit accrual for part or all of the forecast deferral period.

(3) **Other or additional method of deferring compliance with the carbon intensity standard:**

(a) Ecology may take an action for deferring compliance other than, or in addition to, the method listed in subsection (2)(c) of this section provided that ecology determines that none of the methods under subsection (2)(c) of this section will provide a sufficient mechanism for containing the costs of compliance with the carbon intensity standard during the forecast deferral.

(b) If ecology makes the determination specified in (a) of this subsection, ecology shall:

(i) Include in such order ecology's determination and the action to be taken; and

(ii) Provide written notification and justification of the determination and the action to:

(A) The governor;

(B) The president of the senate;

(C) The speaker of the house of representatives;

(D) The majority and minority leaders of the senate; and

(E) The majority and minority leaders of the house of representatives.

(4) **Terminating a forecast deferral.** Ecology may terminate, by order, a forecast deferral before the expiration date of the forecast deferral. Termination is effective on the first day of the next calendar quarter after the date that the order declaring the termination is adopted.

AMENDATORY SECTION (Amending WSR 22-24-004, filed 11/28/22, effective 12/29/22)

**WAC 173-424-800 ((~~Validation and verification.~~)) Third-party verification definitions.** ((~~(1) For fuel pathways that have been certified by CARB or OR-DEQ and approved by ecology, the regulated party must submit the periodic third-party verification reports submitted to and approved by CARB or OR-DEQ.~~

~~(2) Ecology may require third-party verification, as necessary, to validate and verify the carbon intensity of fuel pathways, according to:~~

~~(a) The principles, requirements, guidelines, and procedures in ISO 14067; or~~

~~(b) The requirements California adopted in low carbon fuels standard program under 95500 through 95502.~~)) The following definitions are applicable to the third-party verification requirements in accordance with WAC 173-424-810 through 173-424-850, including fuel pathway applications submitted under WAC 173-424-610, annual fuel pathway reports required under WAC 173-424-610, quarterly reports submitted under WAC 173-424-410, and carbon sequestration project reports submitted under this chapter.

(1) "Adverse validation statement" and "adverse verification statement" means a statement rendered by a verification body attesting that (either or both):

(a) It cannot say with reasonable assurance the submitted report or fuel pathway application is free of a material misstatement under this chapter; or

(b) The submitted report or fuel pathway application contains correctable errors and thus is not in conformance with the requirements to fix such errors according to WAC 173-424-830 (2)(f).

(2) "Conflict of interest" means a situation in which, because of financial or other activities or relationships with other persons or organizations, a verification body is unable or potentially unable to provide an impartial verification statement of a potential client's report or fuel pathway application, or the verification body's objectivity in providing verification services is or might be otherwise compromised.

(3) "Correctable errors" means errors identified by the verification team that affect data in the submitted report or fuel pathway application, which result from a nonconformance with this chapter, as applicable. Differences that, in the professional judgment of the verification team, are the result of differing but reasonable methods of truncation or rounding or averaging, where a specific procedure is not prescribed by this chapter, are not considered errors and therefore do not require correction.

(4) "Difference in CI" means the absolute value result of the reported operational CI minus the verifier's calculation of CI for material misstatement of carbon intensity assessments for a CFS fuel pathway application or annual report. The verifier's calculation of CI is based on site-specific data inputs modified to include discrepancies, omissions, and misreporting found during the course of verification services.

(5) "Full verification" means all verification services as required under WAC 173-424-830.

(6) "Independent reviewer" means a lead verifier within a verification body that has not participated in providing verification services for a responsible entity for the current reporting year and provides an independent review of verification services provided to the responsible entity.

(7) "Less intensive verification" means the verification services provided in interim years between full verifications for fuels other than electricity; less intensive verification does not require a site visit, and only requires data checks and document reviews of a submitted report based on the analysis and risk assessment in the most current sampling plan developed as part of the most current full verification services. This level of verification may only be used if the verifier can provide findings with a reasonable level of assurance.

(8) "Member" means any employee or subcontractor of the verification body or related entities of the verification body and includes any individual with majority equity share in the verification body or its related entities.

(9) "Material misstatement" means any discrepancy, omission, misreporting, or aggregation of the three, identified during verification services that leads a verification team to believe that reported data or a submitted report or fuel pathway application contains one or more errors, as described in WAC 173-424-830 (2)(i) and (j), as applicable.

(10) "Performance review" means an assessment conducted by ecology of an applicant seeking to become accredited or reaccredited as a verification body or lead verifier pursuant to WAC 173-424-840(8). Such an assessment may include a review of applicable past sampling plans, validation and verification reports, validation and verification statements, conflict of interest submittals, and additional information or documentation regarding the applicant's fitness for qualification.

(11) "Positive verification statement" means a verification statement from a verification body attesting that it can say with reasonable assurance that the submitted report or fuel pathway applica-

tion is free of material misstatement and that it conforms to the requirements of this chapter.

(12) "Quarterly review" means a review process conducted by the verification team after quarterly data is submitted and before annual data is submitted and verified.

(13) "Reasonable assurance" means high degree of confidence in the accuracy and truth of a conclusion.

(14) "Recertification" of a pathway or a "recertified pathway" means a pathway certified by CARB or OR-DEQ and submitted to ecology with all necessary inputs to the WA-GREET CI calculator and that is the same as the one approved by CARB or OR-DEQ, except for the fuel transportation mode and distance.

(15) "Responsible entity" means an entity that is subject to or voluntarily agrees to be subject to the requirements of this chapter.

(16) "Sector specific verifier" means a person that has met the requirements to perform such a role and has been approved by ecology under WAC 173-424-840 to act as a sector specific verifier in providing verification services as described by this chapter.

(17) "Subcontractor" means an individual or business firm contracting to perform part or all of another's contract.

(18) "Validation" means verification of a fuel pathway application using the requirements of this chapter.

(19) "Validation statement" means the final statement produced by a verification body attesting whether a fuel pathway application is free of material misstatement and whether it conforms to the requirements of this chapter.

(20) "Verification body" means a business entity that has met the requirements under WAC 173-424-840 and has been approved by ecology to provide verification services and produce verification statements.

(21) "Verification services" means services provided during full verification or less intensive verification including, but not limited to, reviewing a report or fuel pathway application submitted by a responsible entity, assessing compliance with ecology regulations, ensuring accuracy according to the standards specified by ecology, and submitting a verification statement(s) to ecology.

(22) "Verification statement" means the final statement produced by a verification body attesting whether a report or fuel pathway application submitted by a responsible entity is free of or contains material misstatement and whether it does or does not conform to the applicable requirements.

(23) "Verification team" means all persons working for a verification body, including all subcontractors, to provide verification services.

(24) "Verifier" means an individual person that has met the requirements and been approved by ecology under WAC 173-424-840 to provide verification services as described in this chapter.

NEW SECTION

**WAC 173-424-810 General requirements for verification of reports and fuel pathway applications.** (1) General. The annual third-party verification requirements set forth in this chapter apply beginning in 2027, using operational data from calendar year 2026 for fuel transactions data and operational data from calendar year 2025 and 2026 for

fuel pathway reports. Quarterly review conducted as part of annual verification services that meet the requirements of this chapter may begin in 2027 for reports with data for the year 2026.

(2) Each responsible entity must:

(a) Engage the services of a verification body to perform verification under this chapter;

(b) Do the following before verification services begin:

(i) Conduct a conflict of interest evaluation in coordination with the verification body and develop a conflict of interest mitigation plan, if needed, according to WAC 173-424-850. Ensure both a complete and accurate conflict of interest evaluation and conflict of interest mitigation plan, as applicable, are submitted to ecology, and receive from ecology approval in writing to proceed with verification services;

(ii) Submit to ecology the report that is to be verified and attest that the data and information submitted to ecology in the report is true, accurate, and complete;

(iii) Ensure that a verification statement is submitted to ecology from the verification body for each report identified under WAC 173-424-820 by the deadline specified under subsection (3) of this section; and

(iv) Ensure the requirements of this chapter are met including, but not limited to, ensuring that verification services are provided in compliance with the requirements of WAC 173-424-830 and that a potential for a conflict of interest is evaluated, monitored, and mitigated according to WAC 173-424-850.

(3) Verification deadlines.

(a) Each responsible entity must ensure that a positive, qualified positive, or adverse verification statement is received by ecology from a verification body on or before September 15th of the year a report is submitted, for the following reports, for any CFP report as applicable under WAC 173-424-820.

(b) Ecology may extend verification deadlines in (a) of this subsection as necessary and will issue notice of any extensions.

(4) Requirements for full or less intensive verification for certain responsible entities.

(a) Full verification must be provided for all verification services required under this chapter, unless less intensive verification is permitted under (b) or (c)(ii) of this subsection.

(b) Responsible entities required to engage the services of a verification body to perform annual verification of CFS quarterly reports under WAC 173-424-820(3) may engage the services of a verification body to provide less intensive verification in place of full verification, for up to two years out of every three-year period, if:

(i) There has not been a change in the verification body;

(ii) A positive verification statement was issued for the previous year;

(iii) No electricity-based transaction types are covered in the report(s) requiring verification; and

(iv) No change of operational control of the responsible entity occurred in the previous year.

(c) A verification body may choose to provide full verification, at its discretion, if it is deemed necessary to reach reasonable assurance. This may include instances where the responsible entity has made changes in sources, significant changes in emissions, significant changes in data management systems, or any combination therein, occur-

red compared to the previous year, based on the professional judgment of the verification body.

(i) The verification body must provide reasons why it opted for full verification to the responsible entity and to ecology.

(ii) The verification body must provide justification in the verification report if it did not opt for full verification in instances where the total reported emissions differ by greater than 25 percent relative to the previous year's emissions.

(5) Verification body and verifier rotation requirements.

(a) A responsible entity must not use the same verification body or verifier(s) to perform verification for a period of more than six consecutive years.

The six-year period begins on the execution date of the entity's first contract for any validation or verification under this chapter and ends on the date the final verification statement is submitted. The six-year limit does not reset upon a change in ownership or operational control of the entity required to contract for validation or verification services.

(b) A responsible entity must wait at least three years before re-engaging the previous verification body or verifier(s) to perform verification.

(c) If a reporting entity is required to select a new verification body to verify a report or fuel pathway application that has been set aside according to WAC 173-424-830 (3)(d)(ii), the reporting entity may continue to contract for verification services with its current verification body, subject to the six-year time limit, unless the verification body's approval to provide those services has been modified, suspended, or revoked by ecology under WAC 173-424-840(10).

NEW SECTION

**WAC 173-424-820 Requirements for verification of CFS reports and validation of fuel pathway applications.** (1) **Validation of CFS fuel pathway (carbon intensity or CI) applications.**

(a) **Applicability.** The following persons must meet the requirements of this chapter and engage the services of a verification body for the purposes of fuel pathway validation, including required site visit(s), for each fuel pathway application submitted under this chapter, except as otherwise provided under (b) of this subsection:

(i) Fuel pathway applicants supplying site-specific CI data for fuel pathway applications that meet the requirements of this chapter; or

(ii) Specified source feedstock suppliers and other persons with site-specific CI data that apply for separate ecology recognition as a joint applicant and elect to be responsible for separate validation and verification as specified in WAC 173-424-610 (9)(g)(iii)(C)(II).

(b) **Validation schedule.**

(i) Fuel pathway applicants submitting fuel pathway applications to ecology that have been validated according to the requirements of this chapter must submit the validation statement at the same time the pathway application is submitted according to WAC 173-424-600 through 173-424-630.

(ii) Fuel pathway applications submitted to ecology that have been validated under CARB's low carbon fuel standard (LCFS) or Oregon's clean fuels program (CFP) must include the following:

(A) Documents generated during the validation for the fuel pathway application submitted to CARB LCFS or OR-DEQ CFP, including a positive or qualified validation statement, and other fuel pathway application documents as required under WAC 173-424-610(2); and

(B) The annual fuel pathway report and verification statement of the annual fuel pathway report, if they were submitted under CARB's LCFS or OR-DEQ CFP, after the latest validation statement.

(iii) Fuel pathway applications submitted to ecology that include an adverse validation statement under ecology's CFS, CARB's LCFS, or Oregon's CFP will not be considered by ecology.

(2) **Annual verification of CFS annual fuel pathway (carbon intensity or CI) reports.**

(a) **Applicability.** The following persons must meet the requirements of this chapter and engage the services of a verification body for the purposes of annual verification, including required site visit(s), for each annual fuel pathway report submitted under this chapter, except as otherwise provided under (b) of this subsection:

(i) Holders of certified fuel pathways that supplied site-specific CI data for pathway certification and are required to update site-specific CI data on an annual basis; and

(ii) Specified source feedstock suppliers and other persons with site-specific CI data that apply for separate ecology recognition as a joint applicant and elect to be responsible for separate verification as specified in WAC 173-424-610 (9)(g)(iii)(C)(II).

(b) **Verification schedule.** Responsible entities that are subject to the subsection (a) requirement to engage the services of a verification body to perform verification of annual fuel pathway reports (CI) must ensure a fuel pathway verification statement for each fuel pathway report is submitted to ecology according to WAC 173-424-810.

(i) Annual verification. Verification statements are due to ecology by September 15th of the year the annual fuel pathway report is submitted, beginning in 2027 for 2026 data, unless eligible to defer verification, as specified in (b)(ii) of this subsection.

(ii) Deferred verification. Fuel pathway holders producing alternative fuels may defer verification of their annual fuel pathway reports for each production facility up to two years if the quantity of fuel produced at the production facility and reported by any entity does not result in 6,000 or more credits and/or deficits generated in WFRS-CBTS during the prior calendar year and does not include a fuel pathway with biomethane or hydrogen supplied using book-and-claim accounting pursuant to WAC 173-424-610 (9)(g)(iii)(C)(II). Fuel pathway holders classified as joint applicants are not eligible to defer verification. The verification body must submit fuel pathway verification statements to ecology for all prior unverified reports on or before September 15th of the year verification is required or conducted for the production facility.

(iii) Quarterly review of operational CI data is optional and may only be included as part of annual verification services if the fuel pathway holder submits quarterly data to ecology. Quarterly review may only be conducted after the fuel pathway holder submits the report and attests that the statements and information submitted are true, accurate, and complete. Quarterly review does not replace the requirements for the verification team to consider all quarterly data submitted during annual verification. Quarterly review must meet the require-

ments for verification under this chapter, but a verification statement and verification report are not submitted after quarterly review.

(iv) Facilities with California or Oregon pathways recertified in Washington. A responsible entity that must meet the requirements of this chapter for the purposes of annual verification for any fuel production facility that is also subject to annual or deferred verification under CARB's LCFS or OR-DEQ's CFP must submit its verification statement to ecology within 10 calendar days of its comparable submittal to CARB or OR-DEQ. If the responsible entity received an adverse verification statement, it must also submit the log of issues as specified in WAC 173-424-830 (2)(h) at the same time it submits the verification statement to ecology.

(A) For responsible entities that operate facilities with one or more Washington fuel pathway codes that are a recertification of California or Oregon fuel pathway codes, the verification statement submitted to CARB or OR-DEQ must be submitted to ecology according to the verification deadline specified under WAC 173-424-810.

(B) For responsible entities that operate facilities with one or more fuel pathway codes that are not a recertification of California or Oregon fuel pathway codes, but have active California or Oregon fuel pathway codes, the fuel pathway holder must ensure the following:

(I) That when verification services are provided, the inputs and annual operational carbon intensity are confirmed under WA-GREET as required under WAC 173-424-830 (2)(a)(i); and

(II) That a fuel pathway verification statement for each annual fuel pathway report is submitted to ecology according to WAC 173-424-810.

(v) If a fuel pathway holder is eligible for deferred verification under the California or Oregon program, the fuel pathway holder must notify ecology before April 30th of each year. If fuel from the facility results in 6,000 or more total credits and deficits in Washington, then the fuel pathway holder must engage the services of a verification body to perform verification and ensure a fuel pathway verification statement for each annual fuel pathway report is submitted to ecology according to WAC 173-424-810.

(3) **Annual verification of CFS quarterly reports.**

(a) **Applicability.** The following persons must meet the requirements of this chapter and engage the services of a verification body for the purposes of annual verification under this chapter, including required site visit(s), for CFP quarterly reports submitted under WAC 173-424-410, except as otherwise provided under (b) of this subsection:

(i) Regulated parties, credit generators, and aggregators subject to WAC 173-424-810. The scope of verification services is limited to the transaction types under (a)(ii) of this subsection, including associated corrections submitted into CFS quarterly and annual reports.

(ii) Except as provided in (b) of this subsection, reporters of volumes for any of the following transaction types must engage the services of a verification body to perform verification for the following transaction types:

(A) All liquid fuels, including:

(I) Production in Washington;

(II) Production for import;

(III) All import transactions;

(IV) Exports, or position holder sale for export if that transaction is used with the undefined business partner;

(V) Gain of inventory;

(VI) Loss of inventory;
(VII) Not used for transportation; and
(VIII) Transactions used to claim exempt fuel uses under WAC 173-424-130.
(B) NGV fueling;
(C) Propane fueling;
(D) For the following hydrogen-based transaction types:
(I) Forklift hydrogen fueling; and
(II) Fuel cell vehicle (FCV) fueling;
(E) For the following electricity-based transaction types:
(I) eCHE fueling;
(II) eGSE fueling;
(III) eOGV fueling;
(IV) eTRU fueling;
(V) EV charging, except for nonmetered residential EV charging as specified under WAC 173-424-420 (3)(b);
(VI) Fixed guideway electricity fueling; and
(VII) Forklift electricity fueling;
(F) FCV fueling for hydrogen produced from biomethane supplied using book-and-claim accounting pursuant to WAC 173-424-610 (9)(g)(iii)(C)(II).

(b) Verification schedule. Responsible entities under (a) of this subsection required to engage the services of a verification body to perform annual verification of CFS quarterly reports must ensure a transactions data verification statement is submitted to ecology according to WAC 173-424-810.

(i) Annual verification. The responsible entity must ensure a transactions verification statement is submitted annually by September 15th, as specified in WAC 173-424-810(3), to ecology for the prior calendar year of data unless specified otherwise in (b)(ii) and (iii) of this subsection. Quarterly review of a quarterly fuel transactions report may only be included as part of annual verification services after the responsible entity submits the report and attests that the statements and information submitted are true, accurate, and complete.

(ii) Deferred verification. Fuel reporting entities may defer annual verification of their quarterly fuel transactions reports up to two years if they do not generate 6,000 or more credits and/or 6,000 or more deficits in the WFRS-CBTS during the prior calendar year. Any fuel quantity reported under a pathway with biomethane or hydrogen supplied using book-and-claim accounting pursuant to WAC 173-424-610 (9)(g)(iii)(C)(II) is not eligible for deferred verification. The verification body must submit transactions verification statements to ecology for all prior unverified reports on or before September 15th of the year verification is required or conducted for the reporting entity.

(iii) Verification exemption for designated liquid fuel transactions. Entities reporting fuel transactions as export, gain of inventory, loss of inventory, and not used for transportation, which do not result in 6,000 or more credits and/or 6,000 or more deficits generated in the WFRS-CBTS in a calendar year, are exempt from verification of the quarterly fuel transactions reports for that calendar year if all the following conditions are met:
(A) The entity did not report any liquid fuel using the transaction types: Production in Washington, production for import, or import; and
(B) The entity did not report any transactions specified in (a)(ii)(B) through (F) of this subsection.

(c) **Optional quarterly review.** Quarterly review of a CFS quarterly report is optional and does not replace the requirements for the verification team to consider all quarterly data submitted during annual verification. Quarterly review must meet the requirements of this chapter, but a verification statement and verification report are not submitted after quarterly review.

(4) **Verification of crude oil quarterly and annual volumes reports.**

(a) **Applicability.** Entities submitting crude oil volume data must obtain the services of a verification body accredited by ecology for purposes of conducting verification services, including required site visit(s), for crude oil quarterly and annual volumes reports submitted under this chapter.

(b) **Verification schedule.** Entities required to contract for verification of crude oil quarterly and annual volumes reports must ensure a crude oil volume verification statement for the prior calendar year of data is submitted to ecology annually by September 15th. Quarterly review of a crude oil quarterly volumes report may only be conducted as part of annual verification services after the entity submits the quarterly report and attests that the statements and information submitted are true, accurate, and complete.

(5) **Annual verification of CFS annual carbon sequestration project reports.**

**Applicability.** The following persons must meet the requirements of this chapter and engage the services of a verification body for the purposes of annual verification, including required site visit(s), for CFS carbon capture and sequestration project reports required to be submitted as a condition of a fuel pathway's continued approval under WAC 173-424-610 (9)(g)(v).

(a) Project operators of carbon sequestration projects; and

(b) Joint applicants for carbon sequestration projects. Verification schedule. Responsible entities under this subsection required to engage the services of a verification body to perform verification of CFS project reports must ensure a project report verification statement is submitted annually to ecology on or before September 15th, as specified by WAC 173-424-810.

NEW SECTION

**WAC 173-424-830 Requirements for validation and verification services.** (1) **Notice of verification services.**

(a) Before a verification body commences any verification services for the responsible entity, the responsible entity must ensure the verification body submits a notice of verification services to ecology that meets the requirements of WAC 173-424-810 through 173-424-850. The notice must be submitted to ecology after ecology has provided a determination that the potential for a conflict of interest is acceptable, as specified in WAC 173-424-850(7), and that verification services may proceed.

(i) If the conflict of interest evaluation submitted by the responsible entity and the notice of verification services submitted by the verification body are submitted at the same time, verification services may not begin until ecology has determined the potential for conflict of interest is acceptable in writing.

(ii) Except as provided in (a) of this subsection, the verification body may begin verification services for the responsible entity after the notice of verification services is received by ecology. However, the verification body must allow a minimum of 14 calendar days advance notice of a site visit unless an earlier date is approved by ecology. The site visit may not take place prior to the applicable regulatory deadline for the reporting type to be verified, except under the conditions listed in subsection (2)(c)(ii)(A) of this section.

(b) The verification notice must include all of the following information:

(i) A list of the staff designated to provide verification services as a verification team, including the names of each individual, the lead verifier, and all subcontractors, and a description of the roles and responsibilities each member will have during verification. The independent reviewer must also be listed separately. The list must include any verifiers in training who will participate on the verification team.

(ii) Documentation that the verification team has the skills required to provide verification services for the responsible entity and the type of report or fuel pathway application requiring verification. The notice must include a demonstration that the verification team includes at least one individual approved by ecology as a sector-specific verifier that is not also the independent reviewer, but may be the lead verifier, as required under the following conditions:

(A) Specified competency as evidenced by experience in alternative fuel production technology and process engineering when providing validation services for fuel pathway applications or verification services for fuel pathway reports; and

(B) Specified competency as evidenced by accreditation by CARB as an oil and gas systems specialist pursuant to mandatory reporting requirements (MRR) when providing verification services for quarterly fuels transactions reports submitted by producers and importers of gasoline or diesel, crude oil quarterly and annual volumes reports, and carbon sequestration reports as listed under WAC 173-424-820.

(iii) General information about the responsible entity, including the following:

(A) Name and list of facilities and other locations that will be subject to verification, and contact, address, telephone number, and email address for each facility;

(B) The CFS company and/or facility ID(s) for the responsible entity, as required under WAC 173-424-420 and 173-424-610;

(C) The date(s) of the site visit, if full verification is required under WAC 173-424-810(4) and 173-424-830 (2)(c), with physical address and contact information; and

(D) A brief description of expected verification services to be provided, including expected completion date and whether quarterly review is planned in the context of an annual verification requirement.

(c) The responsible entity must ensure the verification body submits an updated notice of verification services to ecology immediately if any of the information provided under this subsection changes after the notice of verification services is submitted to ecology. When an updated notice of verification services is submitted to ecology, the conflict-of-interest must be reevaluated and information must be resubmitted according to WAC 173-424-850 (6) through (8), except WAC 173-424-850 (7)(b) and (c). Verification services must be suspended until ecology approves the resubmitted conflict of interest evaluation information in writing.

(2) **Verification services must include, but are not limited to, the following:**

(a) **Scoping of validation or verification services.**

(i) Before beginning work on a validation or verification, the responsible entity and the verification team must discuss the activities and scope of the validation or verification services, and the responsible entity must provide information and documents requested by the verification team to conduct the verification services.

(ii) The verification team must review original documents and supporting data provided to them by the responsible entity.

(iii) Before conducting any site visits, the verification team must create a validation or verification plan that meets the requirements in (b) of this subsection and a draft sampling plan that meets the requirements in (d) of this subsection.

(b) **Validation or verification plan.**

(i) The verification team must develop a validation or verification plan that meets the requirements under WAC 173-424-810 through 173-424-850.

(ii) All validation and verification plans must contain information on the timing of verification services, including:

(A) Dates of proposed meetings and interviews with personnel of the responsible entity;

(B) Dates of proposed site visits;

(C) Types of proposed document and data reviews and, if applicable, how quarterly review is planned in the context of an annual verification requirement; and

(iii) The expected date for completing validation or verification services. The validation or verification plan must be based on the information from the responsible entity and must include all the following:

(A) Information to allow the verification team to develop an understanding of facility or entity boundaries, operations, accounting practices, type of CFS report(s) the entity is responsible for, CFS regulatory sections the entity is subject to, other renewable or low carbon fuels markets the entity participates in, and other mandatory or voluntary auditing programs the responsible entity is subject to, as applicable;

(B) Information regarding the training or qualifications of personnel involved in developing the report(s) or fuel pathway application(s);

(C) Description of the specific methodologies used to quantify and report data, as required in this chapter, which are needed to develop the validation or verification plan including, but not limited to, calibration procedures and logs for measurement devices capturing site-specific data;

(D) Information about the data management systems and accounting procedures used to capture and track data for fuel pathway application(s) and each type of CFS report(s), as needed to develop the validation or verification plan;

(E) Information about the entities in the supply chain upstream and downstream of the fuel producer that contribute to site-specific CI data, including a list of feedstock suppliers and contact names with physical addresses;

(F) Evidence demonstrating that any joint applicants are being separately verified;

(G) Previous CFS validation and verification reports, as applicable, and other audit reports including reports from production or management system certifications and internal audits; and

(H) For aggregators, information about the entities the aggregator reports on behalf of, including a list of reporting entities and the fuel type(s) they report.

(c) **Site visits.**

(i) Verification services must include site visit(s) that meet the requirements under WAC 173-424-810(4) and this subsection (2)(c).

(ii) Site visit(s) conducted as part of verification services for validation or verification of fuel pathway applications or CFS reports submitted must meet the requirements of this section:

(A) Site visits must occur after all data and CFS reports for the previous calendar year have been attested to and submitted to ecology, except that a site visit may be conducted as part of a quarterly review if:

(I) No aspects of the data management systems or accounting practices change following the site visit; and

(II) There are no significant changes to the fuel production process or facility when the verification is for an annual fuel pathway report.

(B) At least one ecology-approved lead verifier on the verification team, including the sector specific verifier, if applicable, must at a minimum make one site visit to each facility during each year full verification is required under WAC 173-424-810(4). If the responsible entity keeps records supporting a report or fuel pathway application subject to verification under this chapter in a location that is different from the fuel production facility, then such verifier(s) must at a minimum make one site visit to the location where those records are stored;

(C) A separate site visit is required if a responsible entity elects to engage the services of a verification body to provide verification services for a fuel pathway application; and

(D) For aggregators, the verifier(s) must make at least one site visit to the location where the aggregator's records are stored. Additional site visits to the entities using an aggregator are to be performed at the verifier's discretion and must follow the requirements for sampling outlined in (d) of this subsection.

(E) The following must be conducted during a site visit:

(I) Review supporting evidence used to develop CFS reports listed in WAC 173-424-820 submitted to ecology;

(II) Review and understand the data management systems and accounting practices used by the responsible entity to acquire, process, track, and report CFS data; and evaluate the uncertainty and effectiveness of these systems; and

(III) Carry out tasks that, in the professional judgment of the verification team, are needed in the verification process, including the following, at minimum:

• Conduct interviews with key personnel, such as process engineers, metering experts, accounting personnel, and project operators, as well as staff involved in compiling data and preparing the CFS reports;

• Make direct observations of production equipment, confirming diagrams for processes, piping, and instrumentation; measurement system equipment; and accounting systems for data types determined in the sampling plan to be high risk;

• Assess conformance with measurement accuracy, data capture, temporary measurement method requirements, and the monitoring plan for consistency with the requirements of this chapter; and

• Review financial transactions to confirm complete and accurate reporting.

(d) **Sampling plan.** As part of validating fuel pathway applications and verifying CFS reports the verification team must develop a sampling plan that meets all the following requirements:

(i) The sampling plan must be developed based on a strategic analysis developed from document reviews and interviews to assess the likely nature, scale, and complexity of the verification services for a responsible entity and type of report or fuel pathway application. The analysis must review the inputs for the development of the submitted report(s) and fuel pathway application(s), the rigor and appropriateness of data management systems, and the coordination within the responsible entity's organization to manage the operation and maintenance of equipment and systems used to develop submitted report(s) and fuel pathway application(s);

(ii) The sampling plan must include a ranking of data sources by relative contribution to the data type to be assessed for material misstatement and a ranking of data sources with the largest calculation uncertainty, including risk of incomplete reporting, based on type of report or fuel pathway application;

(iii) The sampling plan must include a qualitative narrative of uncertainty risk assessment in the following areas:

(A) Data acquisition equipment;

(B) Data sampling and frequency;

(C) Data processing and tracking;

(D) Tracking of fuel transportation into Washington state to include modes of transportation and distances traveled, as applicable for CFS fuel pathway applications or annual fuel pathway reports;

(E) CI calculations, as applicable;

(F) Fuel pathway code allocation methodology, as applicable; and

(G) Management policies or practices in developing CFS reports.

(iv) After the verification team completes the strategic analysis and risk assessment required by (d)(i) through (iii) of this subsection, the sampling plan must include a list with the information described in (d)(iv)(A) through (C) of this subsection. The sampling plan list must be updated and finalized before the completion of verification services. The final sampling plan must describe in detail how the identified risks were addressed during the verification. When quarterly reviews are conducted as part of annual verification services, the final sampling plan must describe in detail how the risks and issues identified for the annual data set were addressed during each quarterly review and final annual verification.

(A) Data sources that will be targeted for document reviews, data checks as specified under (e) of this subsection, and an explanation of why they were chosen;

(B) Methods used to conduct data checks for each data type; and

(C) A summary of the information analyzed in the data checks and document reviews conducted for each data type.

(v) Specified source feedstocks included in CFS fuel pathway applications and annual fuel pathway reports that require verification must be included in the scope of verification services. When verification is not required for a fuel pathway, specified source feedstocks must be included in the scope of verification of the CFS quarterly reports. The verification team must use professional judgment and in-

clude in its risk assessment and sampling plan its analysis of the need for a desk review or site visit for verification of any entity in the feedstock chain of custody. This analysis must include an evaluation of the need to trace feedstock through feedstock suppliers, including aggregators, storage or pretreatment facilities, and traders or brokers, to the point of origin. If an error is detected during data checks of records maintained by the responsible entity, the risk assessment and sampling plan must be updated to assure specified source feedstock characterization and quantities to the point of origin.

(vi) Sampling plans for aggregators of credit generators must include the following:

(A) A ranking of credit generators by relative contribution to the data type to be assessed for material misstatement and a ranking of credit generators with the largest calculation uncertainty;

(B) A qualitative narrative of uncertainty risk assessment for credit generations according to the requirements of (d)(iii) of this subsection; and

(C) An indication of whether the verification team intends to make a site visit(s) to credit generators listed based on the risk assessments described in this subsection.

(vii) The verification team must revise the sampling plan to describe tasks completed as information becomes available and potential issues emerge with material misstatement or nonconformance with this chapter.

(viii) The verification body must retain the sampling plan and all material received, reviewed, or generated according to the record-keeping requirements of WAC 173-424-400(1). The sampling plan must be made available to ecology upon request.

(e) **Data checks.**

(i) Verification services must include data checks to determine the reliability of the submitted report in the fuel pathway applications and CFS reports, as applicable. Data checks must focus on the most uncertain data and on data with the largest contributions to greenhouse gas emissions (including life cycle greenhouse gas emissions) and greenhouse gas emission reductions.

(ii) The selection of data checks must meet all the following requirements:

(A) The verification team must use data checks to ensure that the appropriate methodologies and emission factors have been applied for the data submitted in applications and reports required in this rule;

(B) The verification team must choose data checks to ensure the accuracy of the data submitted in applications and reports required in this rule;

(C) The verification team must choose data checks based on the relative contribution to greenhouse gas emissions or reductions and the associated risks of contributing to material misstatement or nonconformance, as indicated in the sampling plan;

(D) The verification team must use professional judgment in establishing the extent of data checks for each data type, as indicated in the sampling plan, which are needed for the team to conclude with reasonable assurance whether the data type specified for the application or report is free of material misstatement;

(E) At a minimum, the data checks must include the following:

(I) Tracing data in the application or report to its origin;

(II) Reviewing the procedure for data compilation and collection;

(III) Recalculating intermediate and final data to check original calculations;

(IV) Reviewing calculation methodologies used by the responsible entity for conformance with this chapter; and

(V) Reviewing meter and analytical instrumentation measurement accuracy and calibration for consistency with the requirements of this chapter;

(F) The verification team is responsible for determining via data checks whether there is reasonable assurance that the application or report conforms to the requirements of this chapter;

(G) The verification team must compare its own calculated results with the submitted data in order to confirm the extent and impact of any omissions and errors. Any discrepancies must be investigated. The comparison of data checks must also include the following:

(I) A narrative to indicate which data were checked;

(II) The quantity of data evaluated for each data type;

(III) The percentage of reported source data covered by data checks; and

(IV) Any separate discrepancies that were identified in the CFS report or fuel pathway application.

(f) **Documentation of differences and modifications to reports and fuel pathway applications.**

(i) While conducting verification services and data checks, the verification team must:

(A) Determine correctable errors using professional judgment, including whether differences are not errors but result from truncation, rounding, or averaging; and

(B) Document the source of any difference identified, including whether the difference results in a correctable error or whether the difference does not require further investigation because it is the result of truncation, rounding, or averaging.

(ii) As a result of data checks conducted by the verification team and before completion of a verification statement(s), the responsible entity must fix all correctable errors that affect the data in the submitted report or fuel pathway application, and submit a revised report or fuel pathway application to ecology.

(A) Failure to fix all correctable errors identified before the completion of the verification services and submit a revised report or fuel pathway application to ecology will result in an adverse verification statement.

(B) Failure to fix misreported data that do not affect credit or deficit calculations in CFS reports submitted under this chapter represents a nonconformance but does not, absent other errors, result in an adverse verification statement.

(g) **Findings.**

(i) To verify that the application or report is free of material misstatements, the verification team shall make its own calculation of the specified data types reported by substituting the checked data from (e) of this subsection.

(ii) The verification team must determine whether there is reasonable assurance that the fuel pathway application or CFS report does not contain a material misstatement calculated pursuant to (j) and (k) of this subsection using the units required by the applicable parts of this chapter.

(iii) To assess conformance with this chapter, the verification team must review the methods and factors used to develop the fuel pathway application or report for adherence to the requirements of

this chapter and identify whether other requirements of this chapter are met.

(h) **Log of issues.**

(i) The verification team must keep a log that documents any issues identified in the course of verification services that may affect determinations of material misstatement and nonconformance, whether identified by the verification team, the responsible entity, or ecology, regarding the original or subsequent application or report versions. The log of issues must:

(A) Identify the regulatory section related to the nonconformance or potential nonconformance, if applicable, and indicate if the issues were corrected by the entity required to contract for verification services prior to completing the verification services;

(B) Document any other concerns that the verification team has with the preparation of the application or report and communicate the concerns to the responsible entity during the course of verification services; and

(C) Indicate whether each issue has a potential bearing on material misstatement, nonconformance, or both, and whether an adverse verification statement may result if not addressed.

(ii) If quarterly review is conducted before an annual verification for CFS reports, any issues identified that may affect determinations of material misstatement or nonconformance must be documented in the log of issues during the quarterly review. The log of issues for the annual verification must include the cumulative record of issues from all quarterly reviews, as well as the annual verification.

(i) **Material misstatement assessments for fuel pathways and quarterly fuel transactions.**

(i) The verification team must conduct separate assessments of material misstatement on each calculated operational CI value and each quarterly fuel transaction quantity for each fuel pathway code (expressed in units from the applicable sections of this chapter). Material misstatement assessments are not conducted for quarterly review.

(ii) Assessments of material misstatement of carbon intensity must meet all the requirements of this subsection (2)(i).

(A) A controlled version of the Simplified CI Calculator for Tier 1 pathways, an ecology-approved WA-GREET for Tier 2 pathways, or another substantially equivalent model approved by ecology for the specific fuel pathway application under WAC 173-424-600(1), as applicable, must be populated to assess whether a fuel pathway application or report contains a material misstatement of carbon intensity.

(B) Each fuel pathway CI is subject to data checks in (e) of this subsection and must be assessed separately for material misstatement. The inputs and annual operational carbon intensity for fuel pathway codes that are not a recertification of a California or Oregon fuel pathway code(s) but have an active California or Oregon fuel pathway code(s) must be assessed.

(C) One or more material misstatements results in a finding of material misstatement for the fuel pathway application or for the fuel pathway report.

(D) Material misstatement of carbon intensity includes any discrepancy as described in paragraph (I) below, omission as described in paragraph (II) below, or misreporting as described in paragraph (III) below, or aggregation of the three, identified in the course of verification services that leads a verification team to believe that the reported operational CI (grams of carbon dioxide equivalent per mega-

joule or $gCO_2e/MJ$) in a CFS fuel pathway application or report contains one or more errors that, individually or collectively, result in an overstatement or understatement more than five percent of the reported operational CI, or 2 $gCO_2e/MJ$, whichever absolute value expressed in $gCO_2e/MJ$ is greater.

(I) Discrepancies means any differences between the reported site-specific CI inputs and the verifier's calculated site-specific CI inputs subject to data checks under (e) of this subsection.

(II) Omissions means any site-specific CI inputs or associated source data the verifier concludes must be part of a fuel pathway application or report but were not included.

(III) Misreporting includes duplicate, incomplete, or other CI input data the verifier concludes should or should not be part of a fuel pathway application or report.

(E) The following equations for percent error, relative error threshold, and absolute error threshold must be used to determine whether any reported operational CI value contains a material misstatement of carbon intensity and must be in the final verification report pursuant to subsection (3)(c)(i)(A)(IX) of this section.

$$Percent\ error = \left(\frac{\sum |\ Difference\ in\ CI\ |}{|\ Reported\ Operational\ CI\ |}\right) x\ 100\%$$

$$Relative\ error\ threshold\ (CI) = |\ Difference\ in\ CI\ | \geq 0.05\ x\ |Reported\ Operational\ CI\ Value|$$

$$Absolute\ error\ threshold\ (CI) \geq 2.00\ gCO2e/MJ$$

Where:

"| Difference in CI |" means the absolute value result of the reported operational CI minus the verifier's calculation of CI. The verifier's calculation of CI is based on site-specific data inputs modified to include discrepancies, omissions, and misreporting found during the course of verification services;

"|Reported Operational CI Value|" means the absolute value of the operational CI submitted in the fuel pathway application or fuel pathway report.

(iii) Assessments of material misstatement of quarterly fuel quantity for each fuel pathway code must meet all the requirements of this section.

(A) Each aggregated quarterly fuel quantity for each fuel pathway code is subject to data checks under (e) of this subsection and must be assessed separately for material misstatement of quarterly fuel quantity.

(B) One or more material misstatements of quarterly fuel quantity will result in a finding of material misstatement for the annual verification of the quarterly fuel quantity for each fuel pathway code.

(C) Material misstatement of quarterly fuel quantity includes any discrepancy as described in paragraph (I) below, omission as described in paragraph (II) below, or misreporting as described in paragraph (III) below, or aggregation of the three, identified in the course of verification services that leads a verification team to believe that the reported fuel quantity for each fuel pathway code per quarter in a CFS quarterly report contains one or more errors that, individually or collectively, result in an overstatement or understatement greater than five percent.

(I) Discrepancies include any differences between the fuel quantity for the fuel pathway code reported and the verifier's review of

calculation of fuel quantity subject to data checks under (e) of this subsection.

(II) Omissions include any fuel quantity the verifier concludes must be part of a quarterly report but was not included.

(III) Misreporting includes duplicate, incomplete, or other fuel quantity data the verifier concludes should or should not be part of a quarterly report.

(D) The following equation for percent error must be used to determine whether any quarterly fuel quantity for each fuel pathway code contains a material misstatement of quarterly fuel quantity and must be included in the final verification report according to subsection (3)(c)(i)(A)(IX) of this section.

$$Percent\ error\ (fuel\ quantity) = \frac{\sum(Discrepancies\ +\ Omissions\ +\ Misreporting)}{Reported\ quarterly\ fuel\ transaction\ quantity\ for\ FPC} x\ 100\%$$

Where:

"Reported quarterly fuel transaction quantity for FPC" means the total of all reported fuel quantities for each fuel pathway code for each transaction type specified in WAC 173-424-820 (3)(a) for each quarter for which the verifier is conducting a material misstatement assessment.

(E) When evaluating material misstatement of quarterly fuel quantity, correctly substituted missing data must be deemed to be accurate, regardless of the amount of missing data.

(j) **Material misstatement assessment for carbon sequestration project reports.**

(i) The verification team must conduct separate assessments of material misstatement of project data for each carbon sequestration project report submitted under this chapter. The assessments of material misstatement of project data must meet all the requirements of this rule.

(ii) Material misstatement of project data includes any discrepancy as described in paragraph (A) below, omission as described in paragraph (B) below, or misreporting as described in paragraph (C) below, or aggregation of the three, identified in the course of verification services that leads a verification team to believe that the project report contains one or more errors that, individually or collectively, result in an overstatement greater than five percent of the responsible entity's reported emissions reductions.

(A) Discrepancies include any differences between the reported GHG emissions reductions in the project report and the verifier's calculated value based on data checks under (e) of this subsection.

(B) Omissions include any emissions, excluding any GHG emissions reductions, the verifier concludes must be part of the project report, but were not included.

(C) Misreporting includes duplicate, incomplete, or other GHG emissions or emissions reductions data the verifier concludes should or should not be part of the project report.

(iii) A material misstatement of project data is not found when discrepancies, omissions, or misreporting, or an aggregation of the three, result in an understatement of reported emissions reductions in the project report.

(iv) The following equation for percent error must be used to determine whether the greenhouse gas reductions quantified and reported in the project report contain a material misstatement of project data

and must be included in the final verification report according to subsection (3)(c)(i)(A)(IX) of this section.

$$Percent\ error\ (project\ data) = \frac{\sum(Discrepancies + Omissions + Misreporting)}{Reported\ GHG\ emissions\ reduction} x\ 100\%$$

Where:

"Reported GHG emissions reduction" means the total of all greenhouse gas emissions reductions reported in the Project Report for which the verifier is conducting a material misstatement assessment.

(v) Any discrepancies, omissions, or misreporting found must include the positive or negative impact on the reported emissions reductions when entered in the material misstatement equation in (j)(iv) of this subsection. The reported project data contain a material misstatement if the 5.00 percent error threshold is exceeded.

(vi) When evaluating material misstatement of project data, correctly substituted missing data must be deemed to be accurate, regardless of the amount of missing data.

(k) **Crude oil quarterly and annual volumes reports.** Material misstatement assessment does not apply to data submitted in crude oil quarterly and annual volumes reports, but the data must be assessed for reasonable assurance of conformance with this chapter.

(l) **Review of missing data substitution.**

(i) If a source selected for a data check was affected by a loss of data used for the reported data in the fuel pathway application or CFS report, then the verification team must confirm that the reported data were calculated using:

(A) The applicable missing data procedures under this chapter; or

(B) A temporary method as permitted under WAC 173-424-610 and described in WAC 173-424-110. A temporary method may be used for a source that was affected by a loss of data for a period not to exceed six months. Missing data covering a period longer than six months during a calendar year requires an ecology-approved alternate method; or

(C) An ecology-approved alternate method.

(ii) If a source selected for a data check was affected by a loss of data used for the reported data in the report or fuel pathway application, the verification team must note the date, time, and source of any plan substitutions discovered during the course of verification in the validation or verification report.

(3) **Independent review and completion of verification services.**

(a) **Validation or verification statement.** The verification body must complete a validation or verification statement(s) upon completion of verification services, provide its statement to the responsible entity, and submit its statement to ecology by the applicable verification deadline specified under WAC 173-424-810(3). Each positive, qualified positive, or adverse verification statement must describe the findings of the verification.

(i) For every qualified positive validation or verification statement, the verification body must explain the nonconformances contained within the report or fuel pathway application and cite the section(s) in this chapter that corresponds to the nonconformance and why the nonconformances do not result in a material misstatement; and

(ii) For every adverse validation or verification statement, the verification body must explain all nonconformances or material misstatements leading to the adverse verification statement and cite the

section(s) in this chapter that corresponds to the nonconformance(s) and material misstatement(s).

(b) **Independent review.** The verification body must have the verification services and findings of the verification team independently reviewed by an independent reviewer before each validation or verification statement is completed. The independent reviewer must:

(i) Be employed by the verification body and must be a lead verifier not involved in verification services for the responsible entity during that reporting year or for that fuel pathway application period, but does not need to be a sector specific verifier;

(ii) Serve as a final check on the verification team's work to identify any significant concerns, including:

(A) Errors in planning;

(B) Errors in data sampling; and

(C) Errors in judgment by the verification team that are related to the draft validation or verification statement.

(iii) Maintain independence from the verification services by not making specific recommendations about how the verification services should be performed; and

(iv) Review documents applicable to the verification services provided and identify any failure to comply with requirements of this chapter and with the verification body's internal policies and procedures for providing verification services. The independent reviewer must concur with the verification findings before the verification body issues the validation or verification statement.

(c) **Completion of findings and validation or verification report and statement.**

(i) The verification body must provide the responsible entity with the following:

(A) A detailed validation or verification report, which must at a minimum include:

(I) A list of all verification team members that provided verification services, including identification of verifiers, lead verifiers, sector specific verifiers, verifiers in training and the independent reviewer;

(II) A detailed description of the facility or entity including all data sources and boundaries;

(III) A detailed description of entities in the supply chain contributing CI parameters;

(IV) A detailed description of the accounting procedures and data management systems, including data acquisition, tracking, and emissions calculation, as applicable;

(V) The validation or verification plan;

(VI) The detailed comparison of the data checks conducted during verification services;

(VII) The log of issues identified in the course of verification services and their resolution;

(VIII) Any qualifying comments on findings during verification services; and

(IX) Findings of omissions, discrepancies, and misreporting and the material misstatement calculations required in subsection (2)(i) and (j) of this section.

(B) The validation or verification statement(s) at the same time as or before the final validation or verification statement is submitted to ecology. The detailed validation or verification report must be made available to ecology upon request.

(ii) The verification team must have a final discussion with the responsible entity explaining the verification team's findings and notify the responsible entity of any unresolved issues noted in the issues log before the validation or verification statement is finalized.

(iii) Attestations in the validation or verification statement. The validation or verification statement must contain the following attestations:

(A) The verification body must attest whether it has found the submitted report or fuel pathway application to be free of material misstatement, and whether the report or fuel pathway application is in conformance with the requirements of this chapter;

(B) The lead verifier on the verification team must attest in writing that the verification team has carried out all verification services as required by this chapter. The lead verifier must attest in writing to ecology as follows:

"I certify under penalty of perjury under the laws of the State of Washington that the verification team has carried out all validation or verification services as required by this chapter."

(C) The lead verifier that has performed the independent review of verification services and findings must attest to their independent review on behalf of the verification body and their concurrence that the findings are true, accurate, and complete. The lead verifier who has conducted the independent review must attest in writing to ecology as follows:

"I certify under penalty of perjury under the laws of the State of Washington that I have conducted an independent review of the validation or verification services and findings on behalf of the verification body as required by this chapter and that the findings are true, accurate, and complete."

(iv) Procedures for potential adverse validation or verification statement and petition process.

(A) Prior to the verification body providing an adverse validation or verification statement for the application or report to ecology, the verification body must notify the responsible entity of the potential of an adverse validation or verification statement, and provide at least 14 days to modify the application or report(s) to correct any material misstatement or nonconformances found by the verification team. When a verification body has provided notification to a responsible entity under this subsection:

(I) The responsible entity must make modifications to correct any material misstatements or nonconformance found by the verification team;

(II) The modified report, and validation or verification statement must be submitted to ecology before the applicable verification deadline specified in WAC 173-424-810, even if the responsible entity makes a request to ecology according to (c)(iv)(B) of this subsection; and

(III) The verification body must provide notice to ecology of the potential for an adverse verification statement at the same time it notifies the responsible entity and include the current issues log in its notice to ecology.

(B) When a verification body has provided notice under (a) of this subsection and the responsible entity and the verification body cannot reach agreement on modifications that result in a positive or qualified validation or verification statement because of a disagree-

ment on the requirements of this chapter, the responsible entity may petition ecology before the verification deadline and before the validation or verification statement is submitted to make a final decision as to the verifiability of the submitted report or fuel pathway application. When the responsible entity files such petition with ecology:

(I) The responsible entity must submit all information it believes is necessary for ecology to make a determination with its petition;

(II) The responsible entity and the verification body must submit to ecology within 10 calendar days any additional information requested by ecology;

(III) Ecology will review the information submitted and, based on the requirements of this chapter and the submitted information, make a determination on whether modifications are necessary in order for the verification body to issue a positive or qualified positive validation or verification statement, or if such a statement could be issued without modifications; and

(IV) Ecology will notify both the responsible entity and the verification body of its determination.

(d) **Ecology review and approval of validation or verification statement and reverification requirements.**

(i) Ecology review of verification.

(A) In addition to any other enforcement authority ecology may have, ecology retains full authority in determining whether to approve, modify, or reject any verification statement submitted to ecology for a report or fuel pathway application by a verification body on behalf of a responsible entity under this chapter.

(B) Ecology may issue an adverse verification statement for a report or fuel pathway application if it has information to support such a conclusion, even if it has received a positive verification statement from a verification body.

(C) Ecology may also issue an adverse verification statement for:

(I) Failure to submit a complete or accurate fuel pathway application or annual or quarterly report in a timely manner;

(II) Failure to conduct or complete third-party verification as required by this chapter; or

(III) Any other violation of this chapter.

(D) A responsible entity may file petition with ecology to resolve disagreement with the verification body on the requirements of this chapter.

(ii) Reverification requirements.

(A) If a verification body submits a positive or qualified positive verification statement to ecology, ecology may reject and set aside the submitted validation or verification statement and require the applicable responsible entity to have a CFS report or fuel pathway application reverified by a different verification body within 90 days if:

(I) Ecology finds an unacceptable level of conflict of interest according to WAC 173-424-850(2);

(II) Ecology finds a potential conflict of interest has arisen between the responsible entity and the verification body or any verifier engaged by the responsible entity to perform verification through monitoring as required under WAC 173-424-850(8);

(III) Ecology makes a determination that any of the bases for modification, suspension, or revocation of ecology approval under WAC 173-424-840(10) for a verification body or verifier engaged by the responsible entity to perform verification have occurred, and impacted

the verification services provided, or impacted the verification statement(s) submitted to ecology;

(IV) An error is identified that affects the credit or deficit calculations in a CFP report(s) or fuel pathway application(s) submitted under this chapter; or

(V) A report that received a positive or qualified positive verification statement fails ecology verification or audit under (e) of this subsection.

(B) If ecology identifies an error and determines that the error does not affect the credit or deficit calculations in a CFP report or fuel pathway application, a correction may be made by the responsible entity without ecology set aside of the positive or qualified positive verification statement.

(C) A verification body may not continue to provide verification services to a responsible entity, and the responsible entity must have any report(s) or fuel pathway application(s) verified by a different verification body, upon receiving notification from the verification body with which it is currently engaged to provide verification services of either of the following:

(I) A modification to ecology approval of the verification body or any members of the verification team that is relevant to the verification services being performed; or

(II) Suspension or revocation of ecology approval of the verification body or any members of the verification team.

(D) A responsible entity that must have a report or fuel pathway application verified by a different verification body according to (d)(ii)(C) of this subsection may contact ecology to request an extension if it believes it cannot meet the applicable verification deadline under WAC 173-424-810(3) and it must receive written approval from ecology of any extended deadline(s).

(e) **Data requests and audits.**

(i) Ecology data requests and audits of responsible entity.

(A) Upon written request by ecology, the responsible entity must provide the data used to generate the application or report including all data available to the verification team in the conduct of validation or verification services, within 14 days of ecology's request.

(B) Upon written notification by ecology, the responsible entity must make itself, its personnel, and other entities in its feedstock and finished fuel supply chain, as applicable, available for an ecology audit.

(ii) Ecology data requests and audits of verification bodies.

(A) Upon request by ecology, the verification body must provide ecology the validation or verification report given to the responsible entity, as well as the sampling plan, contracts for verification services, and any other supporting documents and calculations, within 14 days.

(B) Upon written notification by ecology, the verification body must make itself and its personnel available for an ecology audit.

NEW SECTION

**WAC 173-424-840 Applications and criteria for ecology approval of verification bodies and verifiers.** (1) **Application for approval.** A business entity or person seeking ecology approval or renewal of ecol-

ogy approval to perform verification under this chapter as a verification body or verifier must submit an application to ecology, on a form approved by ecology, that includes the following information:

(a) For verifier applications, a statement about whether the application is for approval as a verifier, a lead verifier, or a sector specific verifier;

(b) A statement about which specific types of fuel pathway applications or specific types of CFS reports submitted under WAC 173-424-610, or any combination therein, for which the applicant is seeking approval to perform verification;

(c) Documentation demonstrating that the person or business entity holds the accreditation requirements described in subsection (2) of this section;

(d) Additional information as required by subsections (2) through (7) of this section, as applicable;

(e) A certification that the person or business entity agrees to comply with and be subject to the requirements of this chapter in relation to all verification work for responsible entities; and

(f) Any other information requested by ecology that ecology determines is relevant to determine whether to approve the applicant.

(2) **Application information and accreditation criteria for approval.** Any person or business entity that wants to perform verification under this chapter must provide documentation that the person has met all the following criteria for approval, as applicable for the type of verification approval the applicant seeks:

(a) The person or business entity holds an active accreditation under at least one of the following programs:

(i) CARB's low carbon fuel standard program (LCFS);

(ii) CARB's mandatory reporting of greenhouse gas emissions program (MRR);

(iii) American National Standards Institute for Greenhouse Gas Validation/Verification Bodies (ANSI); or

(iv) OR-DEQ's clean fuels program (CFP); or

(v) A substantially equivalent program to one of the programs described in (a)(i), (ii), (iii), or (iv) of this subsection and approved by ecology.

(b) To provide verification services for CFS reports or fuel pathway applications submitted under this chapter, the person or business entity must hold accreditation under CARB's LCFS or OR-DEQ's CFP, or a substantially equivalent program approved by ecology;

(c) All applicants must submit additional information in the application with details of accreditation and verification experience including, but not limited to, recognition or designation as a lead verifier or sector specific verifier, and sector specific accreditations by CARB or organization-level sector accreditations by ANSI, as applicable, to demonstrate qualifications to provide verification services for specific types of fuel pathway applications or specific types of CFS reports submitted under WAC 173-424-610, or any combination therein.

(3) **Application information and criteria for approval for a verification body.** To be approved as a verification body, the applicant must also submit the following information to ecology in the application:

(a) A list of all verification staff and subcontractors and a description of their duties and qualifications, including ecology-approved verifiers on staff. The applicant must demonstrate staff qualifications by listing each individual's education, experience, profes-

sional licenses, accreditations, status as verifier, lead verifier, or sector specific verifier, and other relevant information. A verification body must employ or retain at least two lead verifiers, which may include retention as subcontractors. Any subcontractor used to meet minimum lead verifier requirements must be approved as a lead verifier by ecology.

(b) A list of any judicial proceedings, enforcement actions, or administrative actions filed against the verification body within the previous five years, with an explanation as to the nature of the proceedings;

(c) Documentation that demonstrates that the body maintains a minimum of four million U.S. dollars of professional liability insurance;

(d) Identification of services provided by the verification body, the industries that the body serves, and the locations where those services are provided;

(e) A detailed organizational chart that includes the verification body, its management structure, and any related entities; and

(f) The verification body's internal conflict of interest policy that identifies activities and limits to monetary or nonmonetary gifts that apply to all employees and procedures to monitor potential conflicts of interest.

(4) **Application information and criteria for approval as a verifier.** To be approved as a verifier, the applicant must also submit the following information to ecology in the application:

(a) Applicants must indicate their employer or affiliated verification body on the application; and

(b) Applicants must demonstrate verification qualifications by providing information on education, experience, professional licenses, accreditations, status as verifier, lead verifier, or sector specific verifier, and other relevant information or other personal development activities that demonstrate communication, technical, and analytical skills necessary to perform verification. Evidence demonstrating necessary skills may include, but is not limited to:

(i) A bachelor's level college degree or equivalent in engineering, science, technology, business, statistics, mathematics, environmental policy, economics, or financial auditing; or

(ii) Work experience in a professional role involved in emissions data management, emissions technology, emissions inventories, environmental auditing, financial auditing, life cycle analysis, transportation fuel production, or other technical skills necessary to perform verification.

(5) **Application information and criteria for approval as a lead verifier for the CFS.** To be approved as a lead verifier for verification of CFS reports or fuel pathway applications submitted under this chapter, in addition to submitting information as required by subsection (4) of this section, the applicant must also submit the following documentation to ecology in the application:

(a) Indication that the applicant is accredited as a lead verifier by CARB for the LCFS program, or is designated as a lead verifier by a substantially equivalent program approved by ecology;

(b) To be approved as a lead verifier for verification of fuel pathway applications or annual fuel pathway reports, the applicant must also submit documentation to ecology in the application that demonstrates experience in alternative fuel production technology and process engineering; and

(c) To be approved as a lead verifier for the verification of fuel transaction reports submitted by producers and importers of gasoline or diesel, crude oil quarterly and annual volume reports, and carbon sequestration project reports, the applicant must submit documentation to ecology in the application that demonstrates experience with oil and gas systems. This evidence may include accreditation as an oil and gas systems sector specific specialist.

(6) **Application information and criteria for approval as a sector specific verifier.** To be approved as a sector specific verifier, in addition to submitting information as required by subsection (4) of this section, the applicant must also submit documentation to ecology in the application demonstrating at least two years of professional experience related to the sector in which the individual is seeking approval.

(7) **Verification training and exam requirements.**

(a) To be approved by ecology, applicants must take ecology-approved general verification training, sector specific verification training, CARB LCFS verification training, and Washington CFS specific verification training, as made available and deemed applicable by ecology based on the application submitted to ecology and for the type of approval the applicant has requested.

(b) Applicants must receive a passing score of greater than an unweighted 70 percent on an exit examination.

(i) If the applicant does not pass the exam after the training, the applicant may retake the exam a second time.

(ii) Only one retake of the examination is allowed before the applicant must retake the applicable training.

(8) **Ecology application review and approval process for verification bodies and verifiers.**

(a) After receipt of an application under this section, ecology will inform the applicant either that a submitted application is complete or that additional specific information is required to make the application complete. If the application is incomplete, ecology will not consider the application further until the applicant provides the additional information requested by ecology.

(b) Ecology will review submitted applications and prescreen to ensure the applicant met all applicable regulatory requirements and passes the performance review as defined in WAC 173-424-800(10), prior to notifying an applicant in writing which verification training(s) and exam(s) are required to be completed according to subsection (7) of this section. An applicant may choose to take trainings and exams in addition to those required by ecology.

(c) Ecology will not consider or issue final approval until ecology finds an application for approval as a verification body or verifier is complete and meets all applicable requirements under subsection (1) of this section and all required verification training(s) and exam(s), as deemed applicable by ecology under (b) of this subsection, have been completed according to subsection (7) of this section.

(d) Following completion of the application process and all applicable training and examination requirements, ecology will notify the applicant in writing if approval has been granted or denied.

(i) Ecology may issue approval to verification bodies, verifiers, lead verifiers, and sector specific verifiers that apply and meet the criteria under this section and successfully complete verification training(s) and exam(s) as required under subsection (7) of this section.

(ii) Ecology approval will be limited to certain report types, data types, sources of emissions, or sectors, according to the information in the application and the qualifications of the applicant, and based on ecology's determination of whether the applicant demonstrates, to ecology's satisfaction, sufficient knowledge of the relevant methods and requirements in this chapter, as applicable.

(iii) Ecology will maintain a current list of approved verification bodies, verifiers, lead verifiers, and sector specific verifiers on ecology's website.

(e) Ecology approval is valid for a period of three years from the date the approval is issued by ecology, provided the applicant has not been subject to ecology action under subsection (10) of this section. Ecology may require accredited entities to take additional training as a condition of maintaining accreditation. The applicant may reapply for approval as a verification body, verifier, lead verifier, or sector specific verifier following the same application procedures according to this section and must satisfy all ecology training and examination requirements applicable at the time of reapplication. The performance review requirement set forth in (b) of this subsection must be met for accreditation to be renewed.

(9) **Requirements to maintain ecology approval.**

(a) Except as provided under (c) of this subsection, a verification body, verifier, lead verifier, or sector specific verifier must notify ecology within 30 calendar days of when it no longer meets the requirements for approval under subsections (1) through (7) of this section, as applicable.

(b) A verification body must notify ecology of any verifier staffing changes within 30 calendar days of any such change as these changes are considered an amendment to the verification body's approval.

(c) Ecology must be notified immediately if a verification body or verifier loses or withdraws from accreditation under any program specified or approved under subsection (1)(a) of this section.

(d) Within 20 calendar days of being notified of any nonconformance in another voluntary or mandatory greenhouse gas emissions reporting program or fuels program, an ecology-approved verification body or verifier must provide written notice to ecology of the nonconformance, including a copy of any written notification of nonconformance from the agency or body that administers the program, and information about any corrective actions taken by the verification body or verifier. That notification must include reasons for the corrective action and the type of corrective action. The verification body or verifier must provide additional information to ecology upon request.

(e) Verification bodies and verifiers must provide in a reasonably timely manner any and all information that ecology reasonably requires for the purpose of evaluating continued compliance with the requirements of this chapter, including the criteria for approval.

(10) **Modification, suspension, or revocation of ecology approval.**

(a) Ecology may modify, suspend, or revoke an approval to perform verification if a verification body or verifier:

(i) Fraudulently obtained or attempted to obtain accreditation under any program specified under subsection (1) of this section;

(ii) Fraudulently obtained or attempted to obtain approval from ecology under this chapter;

(iii) Failed at any time to satisfy the eligibility criteria and requirements specified under subsections (1) through (7) of this section;

(iv) Does not satisfy the requirements to maintain approval according to subsection (9) of this section;

(v) Provided verification services that failed to meet the requirements under WAC 173-424-830;

(vi) Violated the conflict of interest requirements under WAC 173-424-850; or

(vii) Knowingly or recklessly submitted false or inaccurate information or verification statement(s) to ecology.

(b) A verifier or verification body that is subject to an ecology action to modify, suspend, or revoke an approval to perform verification may contest ecology's action by providing ecology with a written request for a hearing within 20 calendar days of being notified of ecology's action.

(i) The hearing will be conducted as an adjudicative proceeding under RCW 34.05.413 through 34.05.476.

(ii) Any ecology action taken in (a) of this subsection will remain in place pending the outcome of the contested case.

(iii) A verification body or verifier that has had approval to perform verification revoked may reapply according to subsections (1) through (7) of this section after the applicant demonstrates to ecology that the cause of the revocation has been resolved.

(11) **Voluntary withdrawal from ecology approval.** An approved verification body or verifier may request to voluntarily withdraw its approval by providing a written notice to ecology requesting such withdrawal.

NEW SECTION

**WAC 173-424-850 Conflict of interest requirements.** (1) **Conflict of interest evaluation.** Before verification services may begin, each responsible entity must coordinate with the verification body with which it has engaged to perform verification to conduct a conflict of interest evaluation between itself and any verification bodies, verifiers, lead verifiers, sector-specific verifiers, independent reviewers, and subcontractors intending to perform verification under the requirements of this chapter.

(2) **High conflict of interest.** The potential for a conflict of interest must be deemed to be high where:

(a) The responsible entity and the verification body share any management staff or board of directors membership, or any of the senior management staff of the responsible entity have been employed by the verification body, or vice versa, within the previous five years;

(b) Any employee of the verification body, or any employee of a related entity or subcontractor who is a member of the verification team, has provided to the responsible entity any of the following services within the previous five years:

(i) Designing, developing, implementing, reviewing, or maintaining an information or data management system for data submitted under this chapter or chapter 173-441 WAC unless the review was part of providing independent quality assurance audit services, attestation engagement services, verification services according to the U.S. EPA RFS or EU RED, or third-party engineering services according to the U.S. EPA RFS;

(ii) Developing CI or fuel transaction data or other greenhouse gas-related engineering analysis that includes facility-specific information;

(iii) Preparing or producing CFP fuel pathway application or CFP reporting manuals, handbooks, or procedures specifically for the responsible entity;

(iv) Owning, buying, selling, trading, or retiring CFP credits, RINs, Climate Commitment Act allowances, or credits in any carbon or greenhouse gas-related markets;

(v) Dealing in or being a promoter of credits on behalf of the responsible entity;

(vi) Designing or providing consultative engineering or technical services in the development and construction of a fuel production facility; or energy efficiency, renewable power, or other projects which explicitly identify greenhouse gas reductions as a benefit;

(vii) Any service related to the development of information systems, or consulting on the development of environmental management systems, except for accounting software systems and systems that will not be part of the validation and verification process;

(viii) Verification services that are not provided in accordance with, or equivalent to, the requirements of this chapter, unless the systems and data reviewed during those services, as well as the result of those services, will not be part of the verification process;

(ix) Reporting under this chapter or chapter 173-446 WAC, or uploading data for ecology, on behalf of the responsible entity;

(x) Bookkeeping and other nonattest services related to accounting records or financial statements, excluding services and results of those services that will not be part of the verification process;

(xi) Designing, developing, implementing, conducting an internal audit for, consulting, or maintaining a greenhouse gas emissions reduction or greenhouse gas removal offset project as defined in chapter 173-446 WAC, or a carbon sequestration project report submitted under this chapter;

(xii) Directly managing any health, environment, or safety functions for the responsible entity;

(xiii) Appraisal services of carbon or greenhouse gas liabilities or assets;

(xiv) Brokering in, advising on, or assisting in any way in carbon or greenhouse gas-related markets;

(xv) Appraisal and valuation services, both tangible and intangible;

(xvi) Any actuarially-oriented advisory services involving the determination of amounts recorded in financial statements and related accounts;

(xvii) Any internal audit service that has been outsourced by the responsible entity that relates to its internal accounting controls, financial systems, or financial statements, unless the result of those services will not be part of the verification process;

(xviii) Fairness opinions and contribution in-kind reports in which the verification body has provided its opinion on the adequacy of consideration in a transaction, unless the resulting services will not be part of the verification process;

(xix) Acting as a broker-dealer (registered or unregistered), promoter, or underwriter on behalf of the responsible entity;

(xx) Any legal services;

(xxi) Expert services to the responsible entity, a trade or membership group to which the responsible entity belongs, or a legal rep-

resentative for the purpose of advocating the responsible entity's interest in litigation, regulatory or administrative proceedings, or investigations;

(c) Any member of the verification body or verification team has provided verification services for the responsible entity except with the time periods in which the responsible entity is allowed to use the same verification body or team members as specified under WAC 173-424-810(5).

(d) Any member of the verification body provides any type of incentive, monetary or otherwise, to the responsible entity to secure a contract for verification contract, influence verification documentation, or influence verification findings.

(3) **Low conflict of interest.** The potential for a conflict of interest must be deemed to be low where:

(a) No potential for a high conflict of interest is identified under subsection (2) of this section;

(b) No potential for a medium conflict of interest is identified under subsection (4) of this section; and

(c) Any non-CFS verification services provided by any member of the verification body within the last five years are valued at less than 20 percent of the fee for the proposed clean fuels verification services, except where a medium conflict of interest based on personal, employment, or familial relationships is identified under subsection (4) of this section.

(4) **Medium conflict of interest.** The potential for a conflict of interest must be deemed to be medium where:

(a) The potential for a conflict of interest is not deemed to be either high or low; or

(b) No potential for a high conflict of interest is identified under subsection (2) of this section, but there are instances of personal, employment, or familial relationships between a member of the verification body and a member of the responsible entity. For purposes of this subsection only, "employment" means the condition of having been paid for work as documented in a W-2 form.

(5) **Conflict of interest mitigation plan and submittal requirements.**

(a) If a medium potential for conflict of interest is identified and the responsible entity intends to engage the verification body for verification, the responsible entity must coordinate with the verification body with which it has engaged to perform verification to submit a plan to ecology to avoid, neutralize, or mitigate the potential conflict of interest situation, in addition to the evaluation submittal requirements specified under subsection (6) of this section. At a minimum, the conflict of interest mitigation plan must include:

(i) A demonstration that any individuals with potential conflicts have been removed and insulated from working on or discussing the project;

(ii) An explanation of any changes to the organizational structure or verification body to remove the potential conflict of interest, including a demonstration that any unit with potential conflicts has been divested or moved into an independent entity or any subcontractor with potential conflicts has been removed; and

(iii) Any other circumstance that specifically addresses other sources for potential conflicts of interest.

(6) **Conflict of interest self-evaluation plan and submittal requirements.**

(a) Before verification services are performed under the requirements of this chapter, the responsible entity, verification body, and any related entities must submit to ecology a conflict of interest self-evaluation that includes the following:

(i) Identification whether the potential for conflict of interest is high, low, or medium based on the factors specified under subsections (2) through (4) of this section;

(ii) Identification of whether the verification body, related entities, or any member of the verification team has previously provided verification services for the responsible entity or related entities and, if so, a description of the work and years of service;

(iii) Identification of whether any member of the verification team, verification body, or related entity has engaged in services of any nature with the responsible entity or related entities either within or outside Washington during the previous five years. If services other than ecology verification under this chapter have previously been provided, the following information must also be submitted:

(A) The nature and location of the work performed for the responsible entity or related entity and whether the work is similar to the type of work to be performed during verification, such as emissions inventory, auditing, energy efficiency, renewable energy, or other work with implications for the responsible entity's greenhouse gas emissions;

(B) The nature of past, present, or future relationships of any member of the verification team, verification body, or related entities with the responsible entity or related entities including:

(I) Instances when any member of the verification team, verification body, or related entities has performed or intends to perform work for the responsible entity or related entities;

(II) Identification of whether work is currently being performed for the responsible entity or related entities, and if so, the nature of the work;

(III) How much work was performed for the responsible entity or related entities in the last five years, in dollars;

(IV) Whether any member of the verification team, verification body, or related entities has contracts or other arrangements to perform work for the responsible entity or a related entity; and

(V) How much work related to greenhouse gases the verification team has performed for the responsible entity or related entities in the last five years, in dollars;

(C) Explanation of how the amount and nature of work previously performed is such that the credibility and lack of bias of any member of the verification team should not be under question;

(iv) A list of names of the staff that would perform verification services for the responsible entity, and a description of any instances of personal, employment, or familial relationships identified that potentially represent a conflict of interest under subsection (4)(b) of this section;

(v) Identification of any other circumstances known to the responsible entity or verification body that could result in a conflict of interest; and

(vi) Attestation, in writing, to ecology as follows:

"I certify under penalty of perjury of the laws of the State of Washington the information provided in the conflict of interest self-evaluation is true, accurate, and complete."

(7) **Approval of conflict of interest submittals.**

(a) Ecology will review the conflict of interest self-evaluation and conflict of interest mitigation plan, if applicable, submitted by the responsible entity and will notify the responsible entity in writing whether the verification body is authorized to proceed with verification services.

(b) If ecology determines the verification body or any member of the verification team meets the criteria for a high conflict of interest pursuant to subsection (2) of this section, verification services may not proceed. Ecology may, at its discretion, determine that a high conflict of interest exists when a member of the verification team provided services within the previous five years, but the services were not services that result in a high conflict of interest under subsection (2) of this section. If ecology makes such a determination, it must explain in writing why it believes the work performed creates a high conflict of interest.

(c) If ecology determines that there is a low potential conflict of interest pursuant to subsection (3) of this section, verification services may proceed.

(d) If ecology determines that the verification body and the verification team have a medium potential for a conflict of interest, ecology will evaluate the conflict of interest mitigation plan submitted and may request additional information from the applicant to complete the determination. In determining whether verification services may proceed, ecology may consider factors including, but not limited to, the nature of previous work performed, the current and past relationships between the verification body, related entities, and its subcontractors with the responsible entity and related entities, and the cost of the verification services to be provided. If ecology determines that these factors when considered in combination demonstrate an acceptable level of potential conflict of interest, ecology will authorize the verification body to proceed with verification services.

(8) **Monitoring conflict of interest situations.**

(a) After commencement of verification services, both the verification body and the responsible entity must each:

(i) Monitor and immediately make full disclosure in writing to ecology any potential conflict of interest situation that arises. This disclosure must include a description of actions that the verification body and the responsible entity have taken or propose to take to avoid, neutralize, or mitigate the potential for a conflict of interest;

(ii) Continue to monitor arrangements or relationships that may be present for a period of one year after the completion of verification services. During that period, within 30 days of the verification body or any verification team member entering any contract with the responsible entity or related entity for which the body has provided verification services, the responsible entity must notify ecology of the contract and the nature of the work to be performed. Ecology will determine whether the relationship constitutes a conflict and, if it does, whether the responsible entity must reverify its reports or fuel pathway applications, and if modification, suspension, or revocation of ecology approval of the verification body or any verification team is warranted; and

(iii) Notify ecology within 30 days of any conflicts of interest that arise after verification services begin and until one year after verification services are completed. When such notification is made:

(A) If ecology determines that a disclosed potential conflict of interest is medium risk and the responsible entity and verification

body agree to mitigate this risk in a manner acceptable to ecology, the verification body may continue to provide verification services to the responsible entity and will not be subject to suspension or revocation of ecology accreditation; and

(B) If ecology determines that a disclosed potential conflict of interest is medium or high risk and this risk cannot be adequately mitigated, the verification body may not continue to provide verification services to the responsible entity and may be subject to suspension or revocation of ecology accreditation based on conflict of interest.

(b) Each verification body must report to ecology any changes in its organizational structure, including mergers, acquisitions, or divestitures, that occur within one year after completion of offset verification services.

AMENDATORY SECTION (Amending WSR 22-24-004, filed 11/28/22, effective 12/29/22)

**WAC 173-424-900 Tables.**

**Table 1. Washington Carbon Intensity Standards for Gasoline and Gasoline Substitutes**

| Calendar Year | Washington Carbon Intensity Standard ($gCO_2e$ per MJ) | Percent Reduction |
|---|---|---|
| 2023 | 98.44 | 0.50 percent |
| 2024 | 97.97 | 1.00 percent |
| 2025 | 96.95 | 2.00 percent |
| 2026 | 95.96 | 3.00 percent |
| 2027 | 94.97 | 4.00 percent |
| 2028 | 93.49 | 5.50 percent |
| 2029 | 92.0 | 7.00 percent |
| 2030 | 90.52 | 8.50 percent |
| 2031 | 89.04 | 10.00 percent |
| 2032 | 89.04 | 10.00 percent |
| 2033 | 89.04 | 10.00 percent |
| 2034 | 79.14 | 20.00 percent |
| 2035 | 79.14 | 20.00 percent |
| 2036 | 79.14 | 20.00 percent |
| ((~~2027~~)) 2037 | 79.14 | 20.00 percent |
| 2038 | 79.14 | 20.00 percent |
| Carbon intensity of gasoline and gasoline substitute for the baseline year (2017) is 98.93 $gCO_2$ per MJ | | |

**Table 2. Washington Carbon Intensity Standards for Diesel and Diesel Substitutes**

| Calendar Year | Washington Carbon Intensity Standard ($gCO_2e$ per MJ) | Percent Reduction |
|---|---|---|
| 2023 | 99.61 | 0.50 percent |
| 2024 | 99.11 | 1.00 percent |
| 2025 | 98.11 | 2.00 percent |

| Calendar Year | Washington Carbon Intensity Standard ($gCO_2e$ per MJ) | Percent Reduction |
|---|---|---|
| 2026 | 97.11 | 3.00 percent |
| 2027 | 96.11 | 4.00 percent |
| 2028 | 94.60 | 5.50 percent |
| 2029 | 93.10 | 7.00 percent |
| 2030 | 91.60 | 8.50 percent |
| 2031 | 90.10 | 10.00 percent |
| 2032 | 90.10 | 10.00 percent |
| 2033 | 90.10 | 10.00 percent |
| 2034 | 80.09 | 20.00 percent |
| 2035 | 80.09 | 20.00 percent |
| 2036 | 80.09 | 20.00 percent |
| 2037 | 80.09 | 20.00 percent |
| 2038 | 80.09 | 20.00 percent |
| Carbon intensity of diesel and diesel substitute for the baseline year (2017) is 100.11 $gCO_2$ per MJ | | |

**Table 3. Washington Energy Densities and Conversion Factors for Fuels and Blendstocks**

| Fuel (unit) | MJ/unit |
|---|---|
| Gasoline blendstock (gallon) | 122.48 (MJ/gallon) |
| Washington gasoline (gallon) | 118.38 (MJ/gallon) |
| Fossil diesel fuel (gallon) | 134.48 (MJ/gallon) |
| Compressed natural gas (therm)[1] | 105.5 (MJ/therm) |
| Electricity (kiloWatt hour) | 3.60 (MJ/kiloWatt hour) |
| Denatured ethanol (gallon) | 81.51 (MJ/gallon) |
| Clear biodiesel (gallon) | 126.13 (MJ/gallon) |
| Liquefied natural gas (gallon) | 78.83 (MJ/gallon) |
| Hydrogen (kilogram) | 120.00 (MJ/kilogram) |
| Liquefied petroleum gas (gallon) | 89.63 (MJ/gallon) |
| Renewable hydrocarbon diesel (gallon) | 129.65 (MJ/gallon) |
| Undenatured anhydrous ethanol (gallon) | 80.53 (MJ/gallon) |
| Alternative Jet Fuel (gallon) | 126.37 (MJ/gallon) |
| Renewable naphtha (gallon) | 117.66 (MJ/gallon) |
| Renewable gasoline (gallon) | 122.37 (MJ/gallon) |
| Fossil jet fuel (gallon) | 129.82 (MJ/gallon) |

[1] If therms are reported on a LHV basis. For therms reported on an HHV basis, this value must be converted to HHV basis.

## Table 4. Washington Energy Economy Ratio Values for Fuels in Vehicles

| Light/Medium Duty Applications (Fuels used as gasoline replacements) | | Heavy-Duty/Off-Road Applications (Fuels used as diesel replacements) | | Aviation Applications (Fuels used as jet fuel replacements) | |
|---|---|---|---|---|---|
| **Fuel/Vehicle Combination** | **EER Value Relative to Gasoline** | **Fuel/Vehicle Combination** | **EER Value Relative to Diesel** | **Fuel/Vehicle Combination** | **EER Value Relative to conventional jet** |
| Gasoline (including E10) or any other gasoline-ethanol blend | 1 | Diesel fuel (including B5) or any other blend of diesel and biodiesel or renewable hydrocarbon diesel | 1 | Alternative Jet Fuel+ | 1 |
| CNG Internal Combustion Engine Vehicle (ICEV) | 1 | CNG, LNG, or LPG (Spark-Ignition Engines) | 0.9 | | |
| Electricity/ Battery Electric Vehicle or Plug-In Hybrid Electric Vehicle | 3.4 | CNG, LNG, or LPG (Compression-Ignition Engines) | 1 | | |
| Electricity/On-Road Electric Motorcycle | 4.4 | Electricity/ Battery Electric Vehicle or Plug-In Hybrid Electric Vehicle | 5 | | |
| Propane/LPG Forklift | 0.9 | Electricity/ Battery Electric or Plug-in Hybrid Transit Bus | 5 | | |
| Hydrogen/Fuel Cell Vehicle | 2.5 | Electricity/Fixed Guideway Light Rail | 3.3 | | |
| | | Electricity/Fixed Guideway Streetcar/Trolley bus | 2.1 | | |
| | | Electricity/Fixed Guideway Aerial Tram | 2.6 | | |
| | | Electricity/ Electric Forklift | 3.8 | | |
| | | Electricity/ Electric TRU (eTRU) | 3.4 | | |
| | | Hydrogen/Fuel Cell Vehicle | 1.9 | | |
| | | Hydrogen/Fuel Cell Forklift | 2.1 | | |
| | | Electricity/Cargo Handling Equipment | 2.7 | | |

| Light/Medium Duty Applications (Fuels used as gasoline replacements) | | Heavy-Duty/Off-Road Applications (Fuels used as diesel replacements) | | Aviation Applications (Fuels used as jet fuel replacements) | |
|---|---|---|---|---|---|
| Fuel/Vehicle Combination | EER Value Relative to Gasoline | Fuel/Vehicle Combination | EER Value Relative to Diesel | Fuel/Vehicle Combination | EER Value Relative to conventional jet |
| | | Electricity/Ocean Going Vessel | 2.6 | | |
| | | Electricity/ Ground Support Equipment | 3.2 | | |

**Table 5. Washington Land Use Change CI Values for Biofuels CI Determination**

| Feedstock | LUC Value ($gCO_2e/MJ$) | Applicable Region (Based on CARB 2015 Analysis) |
|---|---|---|
| Corn Ethanol | 19.80 | U.S. |
| Sorghum Ethanol | 19.40 | U.S. |
| Sugarcane Ethanol | 11.80 | Brazil |
| Soybean Biodiesel or Renewable Diesel | 29.10 | U.S. |
| Canola Biodiesel or Renewable Diesel | 14.50 | North America |
| Palm Biodiesel or Renewable Diesel | 71.40 | Indonesia/ Malaysia |

**Table 6. Washington Carbon Intensity Lookup Fuel Pathway Table**

| Fuel | Pathway Code | Pathway Description | Carbon Intensity Values ($gCO_2e/MJ$) |
|---|---|---|---|
| Gasoline | WAGAS001 | Clear gasoline - based on a weighted average of gasoline supplied to Washington. The CI of the gasoline supply was based on average crude oil supplied to the states (WA, UT, and MT) and U.S. average refinery efficiency | 100.46 |
| | ((~~WAGAS002~~ | ~~Washington gasoline - blended with corn ethanol as supplied to Washington[2]~~ | ~~98.93~~)) |
| Diesel | WAULSD001 | Clear diesel - based on a weighted average of diesel fuel supplied to Washington. The CI of the diesel supply was based on average crude oil supplied to the states (WA, UT, and MT) and U.S. average refinery efficiency | 101.18 |
| | ((~~WAULSD002~~ | ~~Washington diesel - blended with soy biodiesel as supplied to Washington[3]~~ | ~~100.11~~)) |

| Fuel | Pathway Code | Pathway Description | Carbon Intensity Values ($gCO_2e/MJ$) |
|---|---|---|---|
| Compressed Natural Gas | WACNG | Average North American natural gas delivered via pipeline; compressed in WA | 77.98 |
| Liquefied Natural Gas | WALNG | Average North American natural gas delivered via pipeline; liquefied in WA | 86.76 |
| Liquefied Petroleum Gas | WALPG | Fossil Liquefied petroleum gas from crude oil and natural gas[4] | 80.79 |
| Electricity | ((~~WAELEC001~~ | ~~Washington average grid electricity used as transportation fuel in Washington~~ | ~~63.51 (subject to annual update)~~))) |
| | WAELEC002-G | Renewable electricity, from ((~~solar or wind~~)) geothermal, deemed to have a carbon intensity of zero | 0 |
| | WAELEC002-H | Renewable electricity, from directly supplied hydropower, deemed to have a carbon intensity of zero | 0 |
| | WAELEC002-O | Renewable electricity, from directly supplied ocean tides and waves, deemed to have a carbon intensity of zero | 0 |
| | WAELEC002-R | Renewable electricity, from indirectly supplied electricity using Renewable Energy Certificates (RECs), deemed to have a carbon intensity of zero | 0 |
| | WAELEC002-S | Renewable electricity, from directly supplied solar, deemed to have a carbon intensity of zero | 0 |
| | WAELEC002-W | Renewable electricity, from directly supplied wind, deemed to have a carbon intensity of zero | 0 |

| Fuel | Pathway Code | Pathway Description | Carbon Intensity Values ($gCO_2e/MJ$) |
|---|---|---|---|
| ((~~Hydrogen~~ | ~~WAHYF~~ | ~~Compressed $H_2$ produced in Washington from central steam methane reformation of North American fossil-based NG~~ | ~~112.76~~ |
| | ~~WAHYB~~ | ~~Compressed $H_2$ produced in WA from central steam methane reformation of biomethane (renewable feedstock) from North American landfills~~ | ~~92.77~~ |
| | ~~WAHYEG~~ | ~~Compressed $H_2$ produced in WA from electrolysis using WA average grid electricity~~ | ~~101.57~~ |
| | ~~WAHYER~~ | ~~Compressed $H_2$ produced in WA from electrolysis using zero-CI electricity, from solar- or wind-generated electricity[5]~~ | ~~6.49~~)) |

((~~[2] Based on 2017 WA blending level of 10% ethanol derived from EIA data, using standard corn ethanol pathway CI from WA-GREET.~~
~~[3] Based on 2017 WA blending level of 2.5% biodiesel derived from EIA data, using standard soy biodiesel pathway CI from WA-GREET.~~))

[4] Based on CARB estimate of 25% NG and 75% petroleum for PADD5.

((~~[5] Assumes WAMX grid electricity is used for compression and dispensing at refueling stations.~~))

**Table 7. Washington Substitute Fuel Pathway Codes**

| Fuel | Fuel Pathway code | CI ($gCO_2e/MJ$) |
|---|---|---|
| Substitute CI for Ethanol. This pathway may only be used to report transactions that are sales or purchases without obligation, exports, loss of inventory, not for transportation use, and exempt fuel use. | ETH0116 | 40 |
| Substitute CI for Biodiesel. This pathway may only be used to report transactions that are sales or purchases without obligation, exports, loss of inventory, not for transportation use, and exempt fuel use. | BIOD0116 | 15 |
| Substitute CI for Renewable Diesel. This pathway may only be used to report transactions that are sales or purchases without obligation, exports, loss of inventory, not for transportation use, and exempt fuel use. | RNWD0116 | 15 |
| ((~~Substitute CI for E10 Gasoline. This pathway may only be used to report transactions that are sales or purchases without obligation, exports, loss of inventory, not for transportation use, and exempt fuel use.~~ | ~~WAGAS0116~~ | ~~96.43 (subject to annual update)~~ |
| ~~Substitute CI for B2.5 Diesel[6]. This pathway may only be used to report transactions that are sales or purchases without obligation, exports, loss of inventory, not for transportation use, and exempt fuel use.~~ | ~~WAULSD0116~~ | ~~99.17 (subject to annual update)~~))) |

| Fuel | Fuel Pathway code | CI ($gCO_2e/MJ$) |
|---|---|---|
| Substitute CI for Clear Gasoline. This pathway may only be used to report transactions that are sales or purchases without obligation, exports, loss of inventory, not for transportation use, and exempt fuel use. | WAGAS10116 | 100.46 |
| Substitute CI for Clear Diesel. This pathway may only be used to report transactions that are sales or purchases without obligation, exports, loss of inventory, not for transportation use, and exempt fuel use. | WAULSD10116 | 101.18 |
| Substitute CI for Alternative Jet Fuel. This pathway may only be used to report transactions that are sales or purchases without obligation, exports, loss of inventory, not for transportation use, and exempt fuel use. | WAAJF0116 | 15 |

((6 ~~Based on 2017 WA average diesel blending level derived from EIA data.~~))

**Table 8. Washington Temporary Fuel Pathway Codes**

| Fuel | Feedstock | Process Energy | FPC | CI ($gCO_2e/MJ$) |
|---|---|---|---|---|
| Ethanol | Corn | Grid or renewable electricity, and natural gas((~~, and/or renewables~~)) | WAETH100T | 90[7] |
| | Sorghum | Grid or renewable electricity, and natural gas((~~, and/or renewables~~)) | WAETH101T | 95[8] |
| | Sugarcane and Molasses | Bagasse and straw only, no grid electricity | WAETH102T | 55 |
| | Any ((~~other starch or sugar~~)) feedstock | Any | WAETH103T | 98.93[1] |
| | Any cellulosic biomass including Corn Stover, Wheat Straw, or Sugarcane Straw | As specified in WA-GREET | WAETH104T | 50 |
| Biodiesel | Any feedstock derived from animal fats, corn oil, or a waste stream | Grid electricity, natural gas, and/or renewables | WABIOD200T | 45 |
| | Any feedstock derived from plant oils except for Palm-derived oils | Grid electricity, natural gas, and/or renewables | WABIOD201T | 65 |
| | Any feedstock | Any | WABIOD202T | 100.11[2] |
| | Distiller's corn oil | Grid or renewable electricity, and natural gas | WABIOD203T | 60 |

| Fuel | Feedstock | Process Energy | FPC | CI ($gCO_2e/MJ$) |
|---|---|---|---|---|
| Renewable Diesel | Any feedstock derived from animal fats, ((~~corn oil,~~)) or a waste stream | Grid or renewable electricity, and natural gas((~~, and/or renewables~~)) | WARNWD300T | 45 |
| | Any feedstock derived from plant oils except for Palm-derived oils | Grid or renewable electricity, and natural gas((~~, and/or renewables~~)) | WARNWD301T | 65 |
| | Any other feedstock | Any | WARNWD302T | 100.11[3] |
| | Distiller's corn oil | Grid or renewable electricity, and natural gas | WARNWD303T | 60 |
| Biomethane CNG | Landfill ((~~or Digester~~)) Gas or Municipal Wastewater sludge | Grid electricity, and natural gas((~~, and/or renewables~~)) | WACNG500T | ((~~70~~)) 65 |
| | ((~~Municipal Wastewater sludge,~~)) Food Waste, Green Waste, or Other Organic Waste | Grid or renewable electricity, and natural gas((~~, and/or parasitic load~~)) | WACNG501T | 45 |
| Biomethane LNG | ((~~Landfill or Digester~~)) Gas or Municipal Wastewater sludge | Grid or renewable electricity, and natural gas((~~, and/or renewables~~)) | WALNG501T | ((~~85~~)) 80 |
| | Municipal Wastewater sludge, Food Waste, Green Waste, or Other Organic Waste | Grid electricity, natural gas, and/or parasitic load | WALNG502T | 60 |
| Biomethane L-CNG | Landfill or Digester Gas or Municipal Wastewater sludge | Grid or renewable electricity, and natural gas((~~, and/or renewables~~)) | WALCNG502T | ((~~90~~)) 85 |
| | ((~~Municipal Wastewater sludge,~~)) Food Waste, Green Waste, or Other Organic Waste | Grid or renewable electricity, and natural gas((~~, and/or parasitic load~~)) | WALCNG503T | 65 |
| Biomethane CNG, LNG, L-CNG | Dairy and Swine Manure | Grid or renewable electricity, and natural gas((~~, and/or parasitic load~~)) | WALCNG504T | -150 |
| Hydrogen (compressed or liquefied) with gaseous hydrogen transport distance of less than 500 miles or liquid hydrogen transport distance of less than 2,000 miles | ((~~Centralized SMR of fossil~~)) Natural gas ((~~or LNG~~)) | Grid or renewable electricity, and natural gas((~~, and/or renewables~~)) | WAHYG601T | 185 |
| | Biomethane from nondairy and swine manure sources | Grid or renewable electricity, and natural gas | WAHYG602T | 175 |
| | Biomethane from dairy and swine manure | Grid or renewable electricity, and natural gas | WAHYG603T | -40 |
| | Electrolysis of water using zero-CI or negative-CI electricity | Grid or renewable electricity, and natural gas | WAHYG604T | 55 |

| Fuel | Feedstock | Process Energy | FPC | CI ($gCO_2e/MJ$) |
|---|---|---|---|---|
| Low-CI electricity produced by fuel cell | Biomethane from dairy and swine manure | N/A | N/A | -300 |
| Renewable LPG | Fats, Oils, and Grease residues | Grid electricity, natural gas, and/or renewables | WARNWP400T | ((~~45~~)) 50 |
| | Distiller's corn oil | Grid or renewable electricity, and natural gas | WARNWP402T | 60 |
| | Any feedstock derived from plant oils (excluding palm and palm derivatives) | Grid electricity, natural gas, and/or renewables | WARNWP401T | ((~~65~~)) 70 |
| | Any other feedstock | Grid or renewable electricity, and natural gas | WARNWP403T | 100.11 (2017 Baseline for ULSD) |
| Alternative Jet Fuel | Any feedstock derived from animal fats ((~~, corn oil,~~)) or a waste stream | Grid or renewable electricity, and natural gas((~~, and/or renewables~~)) | WAAJF701T | ((~~50~~)) 55 |
| | Any feedstock derived from plant oils (excluding palm oil and palm derivatives, as a sole feedstock or blended with other feedstocks) | Grid or renewable electricity, and natural gas((~~, and/or renewables~~)) | WAJF702T | ((~~70~~)) 75 |
| | Any other feedstock | Grid or renewable electricity, and natural gas((~~, and/or renewables~~)) | WAAJF703T | 100.11 (2017 Baseline for ULSD) |
| | Distiller's corn oil | Grid or renewable electricity, and natural gas | WAAJF704T | 65 |
| Renewable Naphtha | Any feedstock derived from animal fats, or a waste stream | Grid or renewable electricity, and natural gas | WARNT900T | 50 |
| | Any feedstock derived from plant oils except for Palm-derived oils | Grid or renewable electricity, and natural gas | WARNT901T | 70 |
| | Distiller's corn oil | Grid or renewable electricity, and natural gas | WARNT903T | 60 |
| | Any other feedstock | Grid or renewable electricity, and natural gas | WARNT902T | 100.11 |
| Renewable Gasoline | Any feedstock derived from animal fats, or a waste stream | Grid or renewable electricity, and natural gas | WARNG000T | 50 |
| | Any feedstock derived from plant oils except for Palm-derived oils | Grid or renewable electricity, and natural gas | WARNG001T | 70 |
| | Any other feedstock | Grid or renewable electricity, and natural gas | WARNG002T | 100.11 |

| Fuel | Feedstock | Process Energy | FPC | CI ($gCO_2e/MJ$) |
|---|---|---|---|---|
| | Distiller's corn oil | Grid or renewable electricity, and natural gas | WARNG003T | 60 |
| Any Gasoline Substitute Feedstock-Fuel Combination Not Included Above | Any | Any | WASG800T | 98.93[4] |
| Any Diesel Substitute Feedstock- Fuel Combination not Included Above | Any | Any | WASD801T | 100.11[5] |

1 2017 baseline carbon intensity for Washington gasoline is ((~~98.85~~)) 98.93 $gCO_2e/MJ$.
2 2017 baseline carbon intensity for Washington diesel is ((~~100.02~~)) 100.11 $gCO_2e/MJ$.
3 2017 baseline carbon intensity for Washington diesel is ((~~100.02~~)) 100.11 $gCO_2e/MJ$.
4 2017 baseline carbon intensity for Washington gasoline is ((~~98.85~~)) 98.93 $gCO_2e/MJ$.
5 2017 baseline carbon intensity for Washington diesel is ((~~100.02~~)) 100.11 $gCO_2e/MJ$.
7 Reflects an iLUC value of 19.8. If iLUC value under WA CFS is modified, this may be adjusted accordingly.
8 Reflects an iLUC value of 19.4. If iLUC value under WA CFS is modified, this may be adjusted accordingly.

**Table 9. Summary Checklist of Quarterly and Annual Reporting Requirements**

| Parameters to report | Gasoline & Diesel Fuel | Ethanol, Biomass based diesel, Renewable Diesel, Alternative Jet Fuel, Other alternative fuels | Natural Gas and Propane | Electricity | Hydrogen |
|---|---|---|---|---|---|
| For Quarterly Reporting | | | | | |
| Organization/Company | x | x | x | x | x |
| Organization FEIN | x | x | x | x | x |
| Fuel Pathway Code | x | x | x | x | x |
| Transaction Type | x | x | x | x | x |
| *Transaction Date | x | x | x | x | x |
| Business Partner (if applicable) | x | x | x | x | x |
| Production Company ID and Facility ID | x** | x** | x** | n/a | x** |
| Fuel Supplying Equipment ID | n/a | n/a | x | x | x |
| Vehicle Identifier (if applicable) | n/a | n/a | n/a | x | n/a |
| Physical Transport Mode Code (all) | x | x | x | x | x |
| Aggregated Transaction Indicator (T/F) | x | x | x | n/a | x |
| Fuel Application/EER | x | x | x | x | x |
| Amount of each gasoline and diesel blendstock | x | n/a | n/a | n/a | n/a |
| Amount of each fuel used as gasoline or diesel replacement | n/a | x | x | x | x |
| Amount of each fuel used as a jet fuel replacement | n/a | x | n/a | n/a | n/a |
| MCON or other crude oil name designation, volume (in gal), and country (or state) of origin for each crude supplied to the refinery | x | n/a | n/a | n/a | n/a |
| Credits/deficits generated per quarter (MT) | x | x | x | x | x |
| For Annual Compliance Reporting (in addition to the items above) | | | | | |

| Parameters to report | Gasoline & Diesel Fuel | Ethanol, Biomass based diesel, Renewable Diesel, Alternative Jet Fuel, Other alternative fuels | Natural Gas and Propane | Electricity | Hydrogen |
|---|---|---|---|---|---|
| ***Credits/deficits generated per year (MT) | x | x | x | x | x |
| ***Credits/deficits carried over from the previous year (MT), if any | x | x | x | x | x |
| ***Credits acquired from another entity (MT), if any | x | x | x | x | x |
| ***Credits sold to another entity (MT), if any | x | x | x | x | x |
| ***Credits pledged for sale into CCM (MT) from another entity, if any | x | x | x | x | x |
| ***Credits retired within CFP (MT) to meet compliance obligation, if any | x | x | x | x | x |
| MCON or other crude oil name designation, volume (in gal), and country (or state) of origin for each crude supplied to the refinery. | x | n/a | n/a | n/a | n/a |

* Same as Title Transfer Date; For Aggregated Transactions enter the last day of the reporting period.
** Does not apply to Gasoline blendstock, Diesel Fuel, Fossil Propane, or Fossil NG.
*** Value will be calculated, stored and displayed in the WFRS.

## Table 10. Utility-Specific Carbon Intensity of Electricity[1]

| Fuel Mix Disclosure Claimant ID | Claimant Utility Name | 2020 Carbon Intensity of electricity, $gCO_2e/MJ$ |
|---|---|---|
| 1 | Alder Mutual Light | 7.06 |
| 4 | Benton County PUD #1 | 6.43 |
| 5 | Benton Rural Electric Assn. | 7.07 |
| 6 | Big Bend Electric Coop | 16.19 |
| 12 | City of Blaine | 7.07 |
| 18 | Centralia City Light | 48.63 |
| 19 | Chelan County PUD #1 | 0.00 |
| 20 | Cheney Light Department | 16.21 |
| 21 | Chewelah Electric Department | 7.07 |
| 22 | Clallam County PUD #1 | 6.97 |
| 23 | Clark County PUD #1 | 61.14 |
| 26 | Clearwater Power (WA) | 7.09 |
| 30 | Columbia Rural Electric Assn. (WA) | 20.01 |
| 32 | Coulee Dam, Town of | 7.06 |
| 33 | Cowlitz County PUD #1 | 16.10 |
| 35 | Douglas County PUD #1 | 41.01 |
| 38 | Eatonville Electric Department | 7.07 |
| 39 | Elmhurst Mutual Power & Light | 7.07 |
| 41 | Ellensburg Electric Division | 7.07 |
| 44 | Ferry County PUD #1 | 7.07 |
| 46 | Franklin County PUD #1 | 10.83 |
| 47 | Grays Harbor County PUD #1 | 7.17 |

| Fuel Mix Disclosure Claimant ID | Claimant Utility Name | 2020 Carbon Intensity of electricity, $gCO_2e/MJ$ |
|---|---|---|
| 48 | Inland Power & Light | 14.19 |
| 51 | Kittitas County PUD #1 | 7.31 |
| 52 | Klickitat County PUD #1 | 25.18 |
| 53 | Kootenai Electric Coop | 0.00 |
| 54 | Lakeview Light & Power | 7.07 |
| 56 | Lewis County PUD #1 | 6.59 |
| 59 | McCleary Light & Power | 7.06 |
| 63 | Milton Electric Division | 7.07 |
| 64 | Modern Electric Water Company | 7.07 |
| 66 | Nespelem Valley Electric Coop | 7.07 |
| 69 | Northern Lights (WA) | 6.61 |
| 71 | Ohop Mutual Light | 7.07 |
| 72 | Okanogan County PUD #1 | 10.63 |
| 73 | Okanogan County Electric Coop | 0.00 |
| 75 | Orcas Power & Light Coop | 0.00 |
| 76 | Pacific County PUD #2 | 14.65 |
| 81 | Parkland Light & Water | 7.07 |
| 82 | Grant County PUD #2 | 118.63 |
| 83 | Pend Oreille County PUD #1 | 11.73 |
| 84 | Peninsula Light | 6.27 |
| 85 | Asotin County PUD #1 | 7.03 |
| 86 | Port Angeles Light Operations | 7.07 |
| 88 | Wahkiakum County PUD #1 | 7.07 |
| 89 | Mason County PUD #3 | 6.78 |
| 90 | Puget Sound Energy | 134.79 |
| 91 | Richland Energy Services | 18.21 |
| 92 | Ruston, Town of | 0.53 |
| 95 | Seattle City Light | 4.45 |
| 96 | Skamania County PUD #1 | 7.07 |
| 97 | Snohomish County PUD #1 | 6.22 |
| 99 | Steilacoom Electric Utility | 7.07 |
| 101 | Sumas, City of | 7.07 |
| 102 | Tacoma Power | 4.02 |
| 103 | Tanner Electric Coop | 7.07 |
| 106 | Vera Water & Power | 14.57 |
| 109 | Avista (WA) | 113.08 |
| 111 | Mason County PUD #1 | 6.60 |
| 117 | Whatcom County PUD #1 | 7.07 |
| 118 | Jefferson County PUD #1 | 7.07 |
| 119 | Port of Seattle | 7.07 |
| 120 | Yakama Power | 7.07 |
| 124 | Port Townsend | 0.00 |
| 130 | Pacific Power (WA) | 178.47 |
| 143 | Solar City (WA) | 0.00 |
| 144 | Kalispel Tribal Utility | 7.07 |

| Fuel Mix Disclosure Claimant ID | Claimant Utility Name | 2020 Carbon Intensity of electricity, $gCO_2e/MJ$ |
|---|---|---|
| 157 | Okanogan County Electric Coop | 15.64 |
| 158 | Orcas Power & Light Coop | 7.07 |
| 160 | Energy Northwest | 7.06 |
| 161 | Consolidated Irrigation District #19 | 7.11 |
| 162 | Fairchild Airforce Base | 7.07 |

[1] Updates to this table will be provided annually on the CFS website.