



State of Oregon Department of Environmental Quality

Workshop Comments

Clean Fuels Program 2024

This document is a compilation of written comments received in response to the workshop that was held on Jan. 30, 2024.

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February 16, 2024

Bill Peters
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Portland, OR 97232

Electronic submittal only via: CFP.2024@deq.oregon.gov

Re: RPMG Comments on Clean Fuels Program Initial Public Kick-Off Workshop January 2024

Dear Bill;

RPMG Inc. (RPMG) appreciates the opportunity to comment on this important rulemaking effort. The scope of this rulemaking package is impactful for both the fuel market near-term and well into the future.

RPMG is a biofuel marketing company representing our owner and marketing partner ethanol facilities located throughout the Midwest. Our member facilities provide both ethanol and distillers corn oil (DCO) as essential inputs to Oregon's clean-fuels market in substantial quantities. Since the Program's inception, RPMG has supported Oregon's clean transportation fuel policy, and worked diligently with DEQ staff to improve the administration of the Program.

We are supportive of DEQ's efforts to develop a scientifically robust and sustainable program that promotes and rewards innovation in the transportation fuel industry. RPMG is appreciative of the initial discussion that kicked-off this more limited, but important rulemaking to continue promoting a fuel-diverse approach to meeting the state's transportation fuel GHG reduction targets.

It is necessary to stress the importance of maintaining a fuel and technology neutral program. Let the market place sort out the best energy source to meet consumer demand, at the best price and lowest achievable (including negative) lifecycle carbon emitting fuel supply. We thank the agency for their acknowledgement and support for biofuels as a highly effective credit contributor to the current and future success of this program.

The CI scores of Midwest ethanol is on a downward trajectory. Facilities are employing carbon reducing and energy efficiency technologies of all varieties at an escalating rate, including Carbon Capture and Storage (CCS). DEQ's approval of the Red Trail Energy Tier 2 CCS pathway late last year was a significant step forward, and showed the commitment of the agency to recognize investment and innovation while ensuring environmental integrity. RPMG is fully supportive of the idea presented that the Clean Fuels Program regulatory text be updated to reflect the advancing state of policy and technology on the CCS front.

The Kick Off workshop highlighted the following two topics as being in scope for this upcoming rulemaking that impact RPMG. Our comments are limited to these topics.

1. Scope of OR-GREET updates
2. Carbon Capture and Sequestration: Verification and Reserve Account

RPMG appreciates the stability of the DEQ CFP program. The changes being suggested are fully appropriate for where the Program is on its compliance curve, and do not introduce market uncertainty. Additionally, the DEQ structure of appointing and working with a stakeholder Rulemaking Advisory Committee, or RAC, continues to be a positive process component.

OR-GREET Updates

DEQ is proposing in this rulemaking to align the OR-GREET with the updated CA-GREET model, which is currently being updated in California with a formal LCFS rulemaking underway. RPMG understands that the OR-GREET 'update' is really the compilation of several embedded model updates, including OPGEE, EMFAC, and eGRID. We are currently working with CARB on their CA-GREET update to ensure the documentation assumptions and model inputs accurately reflect the reality associated with domestic starch and fiber ethanol production. We anticipate engaging with DEQ on a similarly detailed level as you move forward in this rulemaking effort.

CCS Verification and Reserve Account Provisions

RPMG supports DEQ's efforts to issue CCS Tier 2 pathways with reasonable operating conditions, including robust monitoring, reporting, data collection, and permanence modeling. A temporary accumulation of CFP credits into a "Reserve Account" is an appropriate mechanism for ensuring credits are readily available in the unlikely event that a subsurface leak did occur. It is also a positive acknowledgement that circumstances change, and therefore the percentage of credits accrued in reserve can be modified on a going forward basis and there can be a return of the credits to the pathway holder at an appropriate period when risk has been mitigated.

The specific feedback requested is on the following topics:

- Credits set aside: Annual evaluation and flexibility of the system to adapt to changing circumstances.
- Adjustments: Timeliness of adjustments becoming effective by January of the following year.
- Remittance: Operational impact of the credit retainment timeframe.
- Other procedural changes, adjustments to timeframes, or any other recommendations.

Given RPMG's experience with the first CCS pathway, we will address each of these requested feedback topics directly.

Credit Set Aside - The mirroring of the calculation framework in CARB's Carbon Capture and Sequestration Protocol under the Low Carbon Fuel Standard¹ as a template for the determination of the amount of Reserve Account credits to contribute is appropriate. This approach is easy to understand, and provides a flexible mechanism if any one parameter within the framework changes. RPMG would be supportive of incorporating this calculation framework into the Oregon CFP regulation. RPMG also supports DEQ's approach which acknowledges in the Tier 2 pathway review that a CCS project which has been permitted by the applicable regional authority, operating under that regulatory approval, and has been reviewed independently is eligible for T2 Pathway consideration under the CFP.

¹ Appendix G. Determination of a CCS Project's Risk Rating for Determining its Contribution to the LCFS Buffer Account

Adjustments – No more frequent than annual adjustments should be pursued. Having annual adjustments is reasonable and appropriate. The factors that go into the Reserve Account calculation are, for the most part, very stable and so changes on a frequency greater than annual is unnecessary. Likewise, annual reporting is required and it makes sense to coordinate the calculation of contributed Reserve Account credits to this reporting and verification timeline. This rate of contribution directly impacts Certified Carbon Intensity (gCO₂e/MJ), including CCS Reserve Account Contribution scores. Therefore, RPMG recommends that any adjustment be prospective and occur with Verified Operational CI Score changes or at the beginning of the next compliance period for Quarterly Fuel Transaction Reporting.

Remittance – RPMG seeks to ensure both environmental protection and CCS project capital expenditure risk both be recognized and considered concerning Remittance.

RPMG recommends that there be a limit to the amount of credits taken from a project and deposited in the Reserve Account. The exact amount should be the focus of additional discussions, but it is clear that collecting Reserve Account credits indefinitely will eventually result in overcollection above the potential leakage risk. Therefore, the rulemaking should clearly state when credits will no longer be needed to be consigned.

Additionally, the concept that after a set timeframe of proven sequestration, the risk of leakage can be shown to have been reduced. At such time, it is appropriate for DEQ to release back to the pathway holder an amount of credits that allow for the deemed risk to be covered with remaining Reserve Account credits. RPMG looks forward to having those more detailed discussions with DEQ.

In Closing

RPMG looks forward to continuing to work with agency staff to improve the adoption and implementation of this important regulation.

Thank you,

/s/

Jessica W. Hoffmann
Regulatory and Compliance Manager
RPMG Inc.



Feb 23rd, 2024

Mr. Bill Peters
Interim Clean Fuels Program Manager
Oregon Department of Environmental Quality
Bill.N.PETERS@deq.oregon.gov
(503)863-6259

RE: Proposed Threshold for Third-Party Verification

Dear Mr. Peters,

Smart Charging Technologies LLC (SCT) is an active player in the Oregon DEQ CFP program as a program administrator and credit aggregator for many companies using electricity to power fleets of forklifts.

SCT is closely following the 2024 rulemaking process, especially the part related to third-party verification. SCT understands the drivers for such new rule, however we have the following reservations:

1. Recently imposed rules related to metering have significantly increased the financial burden on our clients operating electric fleets.
2. Imposing a third-party verification will increase the financial burden as well.
3. Such financial burdens eat away the CFP incentives (Credits) our clients may get. Thus, leading our customers to question their involvement in the CFP program.

For all the above SCT advocates increasing the proposed verification threshold from the currently proposed 6k credits to 10k or 15k credits. This would increase the chances of keeping/making the program a viable option for existing and future clients. Thus help ODEQ achieve the goals of the CFP program.

Respectfully,

Nasser Kutkut, PhD, DBA
CEO
Smart Charging Technologies LLC

February 14, 2024
Submitted via email to cfp.2024@deq.oregon.gov

Oregon Department of Environmental Quality
700 NE Multnomah Street, STE 600
Portland, OR 97232

RE: SRECTrade Comments on CFP 2024 Rulemaking Workshop – January 30, 2024

Dear Oregon Department of Environmental Quality Staff,

Thank you for the opportunity to provide feedback on the key topics presented for the 2024 Clean Fuels Program (CFP) rulemaking at the January 30, 2024 workshop. SRECTrade has the following comments and suggestions:

1. Pursue a thoughtful and flexible approach to verification of electricity

SRECTrade supports expanding the scope of third-party verification to include electricity transactions and suggests the following discussion topics are included during the relevant stakeholder workshop:

- **Consider a reciprocity mechanism** for fuel reporting entities who have received positive verification statements for EV charging equipment and data management practices in California that are *substantially similar* to those subject to verification in Oregon. This would reduce administrative burden and costs for fuel reporting entities who have recently gone through a verification process for fuel transactions that are essentially identical in nature except for the geography in which have occurred, while also putting less demand on verification bodies.
- **Consider providing flexibility to conduct a less intensive verification of quarterly fuel transactions.** The California Air Resources Board (CARB) has proposed expanding the scope of verification to include electricity and an option to conduct “less intensive verifications” for two years following a positive verification statement, including skipping site visits if the site had already been visited, with exceptions. This option would reduce administrative burden for fuel reporting entities and verifiers while retaining reasonable assurance of data quality.
- **Consider giving verifiers the discretion to conduct site visits.** Site visits can be costly given the volume of charging stations and may provide little to no benefit to the verification of quarterly fuel transactions if the data collection process is centrally managed. However, not all EV charging applications or underlying technologies are the same, therefore a verifier should be given the discretion determine whether a site visit is necessary and be required to document the decision in the verification report.

SRECTrade looks forward to continued engagement with DEQ and other CFP stakeholders on the topic of electricity verification.

2. Consider adding provisions to enable exchange-based trading of CFP credits

SRECTrade encourages DEQ to consider rule language that would enable the exchange-based trading of CFP credits within the scope of this rulemaking. Environmental commodity exchanges remove barriers to market entry and provide clearer pricing signals which translates to investments in and greater utilization of low carbon fuels.

Under current rules, only fuel reporting entities or their aggregators may participate in the program, including maintaining an account in the Oregon Fuels Reporting Systems (OFRS). An exchange operator would not be able to maintain an OFRS account for the purposes of clearing credits which have been transacted on an exchange.

Exchange operators can maintain registry accounts within the California Cap and Trade Program and Low Carbon Fuel Standard. To achieve this under the CFP, SRECTrade recommends inserting specific rule language that establishes a new type of program participant called a “Clearing Service Provider” (CSP). The CSP would only be permitted to take temporary custodial ownership of CFP credits for the purpose of clearing credits that have been transacted on an exchange. Accordingly, DEQ would require that credits traded on an exchange were appropriately labeled as such in transfer documents within OFRS for tracking purposes.

SRECTrade recommends that DEQ include the addition of exchange-based trading as a workshop discussion during the ensuing pre-rulemaking activities.

Sincerely,

Evan Rosenberg
Director, Strategy and Business Development
SRECTrade, Inc.

About SRECTrade

SRECTrade provides management and transaction solutions for renewable energy and clean fuel programs across North America. SRECTrade's parent company, Xpansiv, provides market infrastructure to rapidly scale the world's energy transition. Xpansiv operates CBL, the largest spot exchange for environmental commodities, including carbon credits and renewable energy certificates.

Submitted Electronically via CFP.2024@DEQ.oregon.gov

Bill Peters
Clean Fuels Program Analyst
Oregon Department of Environmental Quality
700 NE Multnomah Street, Suite 600
Portland, OR 97232

RE: Comments on January 30, 2024, Clean Fuel Program Rulemaking Workshop

Dear Mr. Peters,

Pursuant to the Oregon Department of Environmental Quality's (DEQ) Rulemaking Workshop including the Proposed Carbon Fuels Program (CFP) Amendments (Jan. 30, 2024), Tesla respectfully submits the following comments.

Tesla continues to support DEQ and the state of Oregon in defending the state's authority for implementing the CFP. Tesla appreciates the goals, direction, and leadership DEQ has exhibited in the development and implementation of the CFP and ongoing programmatic and accounting improvements that accelerate the emission reduction and public health benefits through electrification.

In response to the Rulemaking Workshop on January 30, 2024, Tesla provides comments highlighting, inter alia, proposed additional changes that should be included in the Rulemaking and concerns regarding the verification proposals.

1. DEQ Should Update the Energy Efficiency Ratios Used for Electric Vehicles While Conducting OR-GREET Model Updates

Tesla agrees with DEQ's proposal to update the OR-GREET model in concert with updates to the CA-GREET model. With DEQ taking on this update, Tesla proposes that DEQ also use this rulemaking as an opportunity to update and modernize the Energy Efficiency Ratio (EER) for Light Duty Battery Electric Vehicles (LD BEV).

For context, the current 3.4 EER was adopted by California in 2011. The EER was subsequently adopted by Oregon in the CFP but has not been updated in 13 years. As described in the California Air Resources Board's (CARB) 2011 Initial Statement of Reasons (ISOR) (Appendix A, Page 67)¹, the 3.4 was an average of the EERs of two vehicle comparisons. The first vehicle comparison was between a 2011 Chevy Volt compared to a 2011 Chevy Cruze (93 MPGe combined fuel economy / 28.3 MPG combined fuel economy = 3.29 EER). The second vehicle comparison was between a 2011 Nissan Leaf and a 2011 Nissan Versa (99 MPGe combined fuel economy / 28.4 MPG combined fuel economy = 3.49 EER). The fuel economy numbers can be viewed on www.fueleconomy.gov, which is a website administered by the Oak Ridge National Laboratory for the U.S. Department of Energy and the U.S. Environmental Protection Agency. The 28.3 MPG fuel economy for the Chevy Cruze was presumably a simple average of the automatic transmission versions of the three engine

¹ <https://ww3.arb.ca.gov/regact/2011/lcfs2011/lcfs2011.htm>

trims offered. The 28.4 MPG fuel economy for the Nissan Versa was presumably a simple average of the automatic transmission versions of the two engine trims offered. Given the immense change in EV adoption in recent years, and the remarkable improvements in the efficiency of EVs today, it is simply inappropriate to use an EER that is 13 years old. As an illustrative example, a 2024 Hyundai Ioniq 6 has a 140 MPGe, which is a 40% improvement on the 2011 Nissan Leaf.

If DEQ were to keep the existing EER methodology from the 2011 California ISOR and simply updated the calculation using the most current version of the cars included in that calculation, the EER would rise from 3.4 to 3.8. For the first comparison between a PHEV and ICE vehicle, CARB chose the Chevy Volt and Chevy Cruze; unfortunately General Motors ceased production of both vehicles in 2019.² In lieu of these vehicles, a similar comparison can be done between the 2024 Prius Prime, which achieves a 127 MPGe combined fuel economy,³ and the conventional ICE 2024 Toyota Corolla (both are classified as compact cars), which achieves a 28.5 MPG combined fuel economy across the simple weighted average of the automatic transmission versions of the two non-hybrid engine trims. This is a PHEV-to-ICE EER of 4.46. Nissan continues to sell the Leaf and the Versa. The Nissan Leaf energy efficiency has improved from 99 MPGe in 2011 to 111 MPGe for the 2024 model year.⁴ The Nissan Versa energy efficiency has improved from 28.4 MPG in 2011 to 35 MPG for the automatic transmission version of the only engine trim.⁵ This translates to an EER of 3.17 for BEV-to-ICE. Using the simple average of the BEV and PHEV EERs, we arrive at an overall Light Duty EER of 3.8. Another apt comparison would be the Hyundai Ioniq 6 and the Hyundai Elantra. As stated earlier, the Ioniq 6 gets 140 MPGe, while the Elantra's weighted average of the automatic transmission versions of the two non-hybrid engine trims is 35 MPG. This is a BEV-to-ICE EER of 4. At the very least, the CFP EER for LD BEVs should be updated to at least 4.0 from 3.4 simply applying similar methodology to what was used in 2011.

Oregon would not be alone in modernizing its EERs for LD BEVs. Canada's Clean Fuel Regulations use a 4.1 EER for light duty EV Charging. This was calculated based on the ratio of the sales-weighted average efficiencies of electric vehicles to the sales-weighted fuel efficiency of the ICEVs in the same class, with efficiency data came from the 5-cycle testing procedure.⁶ The Netherlands' Energy Transport Regulation currently uses an EER of 4.0.⁷ The European Union recently passed the third version of its Renewable Energy Directive (REDIII). This directive increases the targets for EU member states transportation GHG reductions and guides them to use a 4.0 EER.⁸ Updating the EER is a natural occurrence in a scientifically rigorous policy like Oregon's CFP, particularly over a course of time when technology is rapidly advancing. Not only is an EER update useful in maintaining scientific rigor but also to ensure that electric vehicles producers and EV charging providers are properly credited and continue to be incentivized as EV deployment in Oregon continues.

² <https://www.cbsnews.com/news/chevy-volt-discontinued-chevrolets-last-volt-rolls-off-the-assembly-line/>

³ <https://www.fueleconomy.gov/feg/Find.do?action=sbs&id=47501>

⁴ <https://www.fueleconomy.gov/feg/Find.do?action=sbs&id=46973>

⁵ <https://www.fueleconomy.gov/feg/Find.do?action=sbs&id=47236>

⁶ Page 86 of the Specifications for Fuel LCA Model CI Calculations, <https://data-donnees.az.ec.gc.ca/data/regulatee/climateoutreach/carbon-intensity-calculations-for-the-clean-fuel-regulations/en/Resources/?lang=en>

⁷ <https://www.rijksoverheid.nl/documenten/kamerstukken/2022/12/22/beantwoording-kamervragen-over-wijziging-van-de-stimuleringsfactoren-in-de-regeling-energie-vervoer>

⁸ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32023L2413&qid=1699364355105>

See also, https://www.europarl.europa.eu/doceo/document/ITRE-AM-729929_EN.pdf

In addition, DEQ should consider allowing OEM specific EER applications based on the specific EER of that OEM's real-world fleet. CARB has created a precedent for this by approving the Lime scooter Tier 2 pathway which included a company-specific EER factor.⁹ Allowing OEMs to submit applications for company-specific EERs would better reflect the actual efficiency of electric vehicles in the market and allow those vehicles to be properly credited. This would also incentivize each OEM to focus on improving vehicle efficiency.

There are numerous potential ways to determine EERs. Currently and for simplicity, Tesla recommends the DEQ take a simple two step approach. First updating the EER using the existing methodology, and 2) allowing individual LD EER applications.

2. Third Party Verification for Non-residential Charging May be Redundant and Unnecessary

DEQ has expressed an intent to potentially expand the third-party verification program for electricity transactions to non-residential electricity transactions, which would include EV charging. The third-party verification program would include a monitoring plan, hiring a third-party verifier and having those transaction be annually verified. While Tesla appreciates the intent of DEQ's staff proposal, it seems unnecessary to create a separate third-party verification program regime for non-residential electricity transactions related to EV charging apart from the authority provided to the Oregon Department of Agriculture under its state weights and measures division. Commercial EV charging infrastructure transactions fall under their purview. While the Department of Agriculture has not established specific regulations for EV charging infrastructure, verifying the accuracy of measurement devices associated with commercial EV charging stations should remain within their remit and not be subsumed by additional and potentially costly, third-party verification practices. It would be more efficient for DEQ to align any verification requirements with those that will be established for EV charging stations under the weights and measures requirements for commercial transactions. A separate verification program outside the weights and measures requirements would be unnecessary and redundant. Therefore, Tesla recommends that DEQ instead exhaust the efficiencies that could be utilized through state weights and measures regulations for non-residential EV charging infrastructure transactions under their authority. Tesla welcomes further discussion to understand DEQs objectives and whether those can be met by the Department of Agriculture.

Tesla appreciates the opportunity to provide comments on this important rulemaking and looks forward to engaging with DEQ throughout this process. If you have any questions, please do not hesitate to contact us at any time.

Sincerely,



Thad Kurowski
Public Policy & Business Development

⁹ https://ww2.arb.ca.gov/sites/default/files/classic/fuels/lcfs/fuelpathways/comments/tier2/b0467_cover.pdf



Jim Verburg

Sr. Director, NW and SW Climate and Fuels

February 16, 2024

Sent via e-mail to: CFP.2024@deg.state.or.us

Mr. Bill Peters
Oregon Clean Fuels Program Manager - Interim
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Re: WSPA Comments; DEQ 2024 CFP Rulemaking – Workshop #1

Dear Bill:

Western States Petroleum Association (WSPA) appreciates the opportunity to provide the Oregon Department of Environmental Quality (DEQ) with our feedback from the Clean Fuels Program (CFP) 2024 Rulemaking Workshop #1, held on January 30, 2024. WSPA is a non-profit trade association representing companies that create the energy we need today and for the future of transportation. This includes renewable diesel, biofuels, innovative solar and sustainable energy projects, and carbon capture and sequestration. WSPA member companies also produce petroleum products, which remain a vital source of energy in Oregon and beyond.

Workshop #1 consisted of a staff presentation outlining the high level scope of the CFP 2024 rulemaking. WSPA comments on the items discussed in the presentation are provided below.

OR-GREET 4.0 Model Updates (Slides 9 and 12)

For the purpose of limiting duplication, WSPA suggests that DEQ continue to allow the use of CA-GREET as an alternative to the OR-GREET model. Since both models use the same emission factors, this approach would avoid duplication of inputs and minimize potential errors for entities that already use CA-GREET.

OR-GREET Model Implementation Timeline (Slides 12 and 13)

DEQ's proposed implementation schedule for transitioning to the updated GREET model in January of 2026 will require pathway verifications under the previous OR-GREET 3.0 and the new 4.0 version. WSPA requests that DEQ specify in the rule language that CI exceedances that result only from the transition to OR-GREET 4.0 are exempt from penalty or enforcement.

WSPA believes that DEQ should also allow the use of certified fuel pathway codes (FPC) under CA-GREET 3.0 or OR-GREET 3.0 for at least 2 quarters in concurrence with new FPC certified under CA-GREET 4.0 or OR-GREET 4.0 to enable the completion of transactions for fuel in inventory that was certified under the CA-GREET 3.0 or OR-GREET 3.0.

Validation Requirements for CFP Fuel Pathways (Slides 15 and 16)

For efficiency and time savings, WSPA recommends that DEQ certify fuel pathways that have already been validated under the California LCFS regulation, without having to require an additional validation under the Oregon CFP.

For DEQ's proposed pathway validation, WSPA requests that consideration be made for existing

facilities. For new facilities or existing facilities being modified or retrofitted as renewable fuel producers, a thorough validation including a third-party verifier site visit may be reasonable or even necessary. By contrast, an existing renewable fuel facility that is only adding a new feedstock, should be permitted to undergo a less comprehensive validation focused on the new feedstock, with no third-party verifier site visit. We recommend that DEQ include an option in the rule for an abbreviated validation process for existing facilities that already have certified fuel pathways.

WSPA is concerned with potential delays in processing fuel pathway applications. We recommend that DEQ be required to complete the review of a fuel pathway application in no more than 30 calendar days. If the 30-day deadline is not met, the pathway should be deemed complete.

CCS Reserve Account (Slides 20 and 21)

DEQ presented in Workshop #1 the need to establish a CCS reserve account for the purposes of functioning as a “*relief valve*” for projects that do not achieve expected credit generation. If DEQ decides to implement a CCS reserve account, the percentage of the credits set aside should be minimized at 1% or less. If a larger percentage of the CCS credits is taken by the reserve account, there could potentially be less incentive to develop and operate CCS projects, as the projects would netback fewer credits.

WSPA also recommends that companies be eligible for an exemption from the CCS reserve account if the company can prove solid financial standing via an established set of qualifications or equivalent mechanism (e.g. via insurance or self-insurance).

In addition, WSPA requests that DEQ make considerations for CCS projects that are linked to fuel products going to multiple states. DEQ should allow a common third-party verification report to satisfy requirements for multiple states. In addition, the CCS reserve account contribution should be based only on the percentage of sequestered volume linked to fuel sold in Oregon.

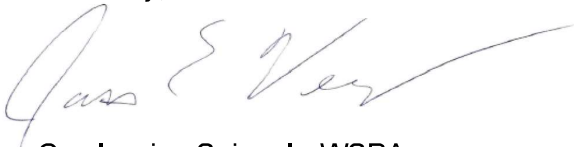
Verification: Electricity Transactions (Slides 23 through 25)

WSPA supports the implementation of a third-party verification program for electricity transactions. This element will help the integrity of the program by expanding the program oversight to a larger fraction of the credits generated in the CFP.

WSPA recommends that residential EV credits calculated by DEQ be verified by an independent third-party. This third-party verification would provide more assurance that DEQ does not underestimate or overestimate these types of credits. Adding a third-party verification program to both non-residential and residential EV credits would provide better assurance that most credits and deficits in the CFP are valid.

WSPA appreciates the opportunity to provide comments. We look forward to the opportunity to serve on the Rulemaking Advisory Committee (RAC) for this regulatory language development effort. If you have any questions regarding this submittal, please contact me at (360) 296-0692 or via email at jverburg@wspa.org.

Sincerely,



Cc: Jessica Spiegel - WSPA