

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 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;

(h) An adverse verification statement submitted under WAC 173-424-800; 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) **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 re-

quest, 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) **Interim account suspension.** Once a notice has been issued based on initial determination under subsection (3) 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) **Final determination.** Within 50 days after making an initial determination under subsections (2) and (3) 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) **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.

[Statutory Authority: Chapter 70A.535 RCW. WSR 22-24-004 (Order 21-04), § 173-424-700, filed 11/28/22, effective 12/29/22.]