

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; 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.

(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.

(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 credits. If the credit buyer and credit seller have not fulfilled the requirements of subsections (3) and (4) of this section within 20 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 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.

[Statutory Authority: Chapter 70A.535 RCW. WSR 22-24-004 (Order 21-04), § 173-424-530, filed 11/28/22, effective 12/29/22.]