Commentary on Washington's Clean Fuels Program Rule

25 October 2021

By ACT Commodities

Introduction

ACT Commodities (ACT) is a global leader in trading energy and environmental commodities. We provide solutions to over 5000 clients worldwide who need to meet environmental compliance requirements and voluntary sustainability goals. Over the past decade, ACT has developed its knowledge on the global carbon market, including emission trading mechanisms in Europe, South America, Africa, Asia, and voluntary standards such as the Verified Carbon Standard (Verra). In North America, ACT is a leader in renewable energy certificates and renewable fuels credit markets. ACT is active in the Oregon OCFP, California LCFS as well as the Federal Renewable Fuels Standard.

ACT would like to take this opportunity to comment on the **Clean Fuels Program Rule Stakeholder Meeting**, conducted on October 6, 2021. Please see comments below:

Credit Generators – Refueling Infrastructure

ACT challenges the Department to consider allowing third parties to assist refueling infrastructure (EV, fuel cell, and natural gas) for crediting purposes. ACT is proposing a similar structure adopted by Bio-CNG/LNG contracts already operating in RFS, LCFS, and OCFP programs. However, not all of Washington's natural gas refueling stations have been exposed to the biomethane in the RFS. Similarly, not all EV charging stations are participants in established statewide REC markets which can be a barrier to entry and reliable pricing. For these reasons, ACT proposes that refueling infrastructure owners can designate a third party to manage book-and-claim environmental attributes (biomethane or RECs). While refueling infrastructure can benefit from the revenue of base credits all participating parties in the value chain should have a share of added revenue opportunities for delivering environmental attributes. Private business contracts will establish a fair market price for renewable energy producers, liquidity providers, and stations. Furthermore, third parties reliably enhance competition and prevent monopolistic markets from forming. This inclusion of different actors is one of the key reasons similar schemes have been successful in reaching environmental targets, creating new ecosystems with jobs in the energy transition, and consequently reshaping the local economy for more sustainable jobs.

Building Biofuel Capacity in Washington

ACT understands the constraints under which the law passed and its requirement for additional in-state production and feedstock use by 2028. However, ACT seeks transparency from the Department of Ecology on how they will track progress towards these goals. ACT recommends information regarding in-state production and feedstock use be available to market participants via the quarterly credit generation report. This informaiton is crucially important to understand the impact and lifetime of the program.

Alternative Credit Generation

In the spirit of Article 6 of the Paris Agreement, CARB's current allowance of LCFS generation from worldwide direct-air-capture (DAC) projects is an example of how global market approaches can help solve the global problem of climate change. Furthermore, quickly decreasing the marginal abatement costs for DAC technology and thus allowing for a fast scaling up will play a crucial role in keeping global warming below the 2 degree Celsius level. This fact is also acknowledged by the Intergovernmental Panel on Climate Change. ACT stresses that DAC should not be the only technology type permitted to generate credits globally. We recommend that the current robust quality standards for CARB LCFS-qualified projects should be adopted and globally sourced to generate Washington credits.

It is reasonable to cap alternative credit generation. ACT suggests doing so as a percentage cap on use for annual compliance by an obligated party. This will allow project credits to still be used in future years of the regulation when annual targets are more ambitious and challenging to achieve with biofuel blending and alternative fuels alone.

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Electricity and Incremental credits

ACT understands the importance of reinvestment of revenue as it pertains to the reliability of the program. However, ACT cautions the Department of Ecology from conforming all entities to specified allowable uses for expenditures. While ACT believes this is fit for utilities, innovation (i.e. incremental, smart-charging) beyond a baseline should not be limited to certain entities or reinvestment opportunities. There is legitimate concern some stations/networks could look at restrictions as another barrier for entry.

ACT strongly supports the inclusion of incremental crediting provisions. It is a direct pathway to promote the low carbon fuel transition and the use of low-carbon electricity. Furthermore, ACT encourages the Department of Ecology to not delay the incremental pathway to a later amendment. The need is imminent and there are two functioning examples in California and Oregon.

Reporting Requirements

The requirement to report the cost/savings per gallon of gasoline and diesel should be supplemented by a companion report on the cost/savings to CNG, LNG, EV, and fuel-cell vehicle drivers.

Other Washington-Specific Policies

ACT is opposed to the potential fee charged to participants; primarily, because participating in these programs as a biofuel producer is already a costly endeavor. Some of these costs include consultants, initial CI reports, third-party validation, and quarterly/annual verification. It's also not uncommon for new market participants to hire external experts to help with compliance monitoring plans and reporting. All things considered, one more fee could be the breaking point for new and/or small market participants. A fee would be more appropriate if the Department of Ecology planned to do validation/verification itself or if the Department accepted reports from CA/OR.

Carbon Intensity Standard

It is appropriate to follow the law as written and begin reporting and compliance in 2023. For years, versions of this bill attempted to pass, and the time is now. If anything, postponements should only be made available to obligated parties that are not already obliged by the LCFS and/or OCFP.

Credit Generating Activities

Please clarify what is meant by "investment in production of gaseous and liquid fuels from non-fossil feedstocks". Does the Department of Ecology plan to credit investments in biofuel production?

Additionally, it is ACT's advice to include as many credit generation pathways in the initial rulemaking as the Department sees fit in the regulation. Changes during an active program cause ambiguity that can discourage further investment.

Conclusion

We thank you for your time and attention to the comments provided here. Please reach out if you would like to discuss further.

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