



# Comments on Proposed Rule Language (173-424 WAC)

## Clean Fuels Program Rule

1 August 2025

### ➡ Introduction

ACT Commodities Inc. ("ACT") is the world's leading provider of market-based sustainability solutions. Working at the center of the global energy transition, ACT helps organizations achieve their climate action targets, no matter how ambitious. Since 2009, ACT has become a trusted brand in high-impact climate projects, renewable energy markets, energy efficiency, renewable fuels, and carbon credits. ACT is active in California's Low Carbon Fuel Standard ("CA LCFS"), the Oregon Clean Fuels Program, and the Federal Renewable Fuels Standard.

ACT previously submitted comments to the Washington Department of Ecology ("Ecology") regarding a Clean Fuels Standard ("CFS") during the original rulemaking in 2021 and 2022 and more recently on the Proposed Rule in 2024. ACT would like to take this opportunity to comment on the [CFS Public Hearings](#) held on July 22nd and July 23rd, 2025. ACT appreciates Ecology making these recordings available for review.

### ➡ 2.3.5.1 Alternative jet fuels and alternative marine fuels

Ecology is proposing to exclusively permit utility-specific carbon intensity electricity to be claimed for producing electrolytic hydrogen as a feedstock for Alternative Jet and Marine fuels. ACT discourages the preclusion of book-and-claim Renewable Energy Certificates ("RECs"). In previous comments ACT cited language in the California LCFS as precedent for the use of book-and-claim RECs in hydrogen production via electrolysis. The California Air Resource Board (CARB) has since updated its Regulations but has maintained book-and-claim accounting for the production of hydrogen.

[CA § 95488.8](#), Fuel Pathway Application Requirements Applying to All Classifications. *(i) Indirect Accounting for Low-CI Electricity, Biomethane, and Low-CI Hydrogen. (f) Book-and-Claim Accounting for Low-CI Electricity Supplied as a Transportation Fuel, Direct Air Capture projects, or Used to Produce Hydrogen as a transportation fuel. Reporting entities may use indirect accounting mechanisms for low-CI electricity supplied as a transportation fuel, for hydrogen production and processing for hydrogen used as a transportation fuel, or for direct air capture projects, provided the conditions set forth below are met:*

Beyond LCFS applications, the Inflation Reduction Act and the One Big Beautiful Bill Act both stipulate production tax credits for electrolytic hydrogen. The Department of Treasury in [RIN 1545-BQ97](#) 45V requires the use of EACs, specifically those that comply with the three pillars of incrementality, deliverability, and time matching. As one of the leading policies for the investment and deployment of electrolytic hydrogen assets and production, Ecology should align with, or at a minimum not explicitly conflict with, 45V guidance. Failure to do so could lead to inconsistent claims, potential duplicative purchasing and misaligned demand signals.

ACT also encourages Ecology to consider a parallel concept for hydrogen produced via steam-methane reforming which the California LCFS, in the same section cited above, permits:

[§ 95488.8](#). *(i) (2) Book-and-Claim Accounting for Pipeline-Injected Biomethane Used as a Transportation Fuel or to Produce Hydrogen. Indirect accounting may be used for RNG used as a transportation fuel or to produce hydrogen for transportation purposes (including hydrogen that is used in the production of a transportation fuel), provided the conditions set forth below are met:*

Whether the feedstock is the form of an electron or a molecule, incentivizing low, zero, and negative-CI feedstocks is critical in developing the hydrogen, alternative jet, and marine fuel landscapes. Ecology's consideration of both book-and-claim electricity and RNG is appreciated.

### ➡ 2.3.5.2 Book-and-claim pipeline-injected biomethane

Ecology has stipulated more restrictive and unaligned deliverability requirements. The restrictive extent of these requirements do not exist in the Renewable Fuel Standard (RFS) or Oregon's Clean Fuel Program. Restrictions proposed here by Ecology do not reflect those implemented by CARB. Continued deviations in regulatory language across regional clean fuels programs burdens implementation, impairs optimization, and stifles shared success. The introduction of this deliverability requirement introduces complexity and cost without achieving meaningful emission benefits.

### ➡ 2.3.5.3 Avoided methane from livestock and organic waste

Ecology's Proposed Rule has detailed significant changes which redefine the application of biomethane in the context of transportation fuel, specifically recommending limitations on avoided methane credit periods that do not align with the useful life or economic viability of assets. The draft proposes two 7.5 year periods whereas a typical project requires 20 to 30 years for investment. CARB's most recent LCFS amendments ([title 17 CCR sections 95480-95503](#)) allow up to three 10-year crediting periods certified prior to July 1, 2025 and two 10-year crediting periods for projects certified thereafter.



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### ➡ 2.3.3.2 Encouraging use of Pacific Northwest renewable electricity

In prior comments ACT cited considerations on deliverability, additionality, temporal matching, and documentation in book-and-claim accounting of electricity. Each of these pillars remain essential to the success of the Rule. However, Ecology's current Proposed Rule is overly restrictive and will extensively limit the necessary coordination between zero-CI renewable electricity and electric vehicle adoption.

- Deliverability: Under current rules, book-and-claim RECs adhere to Western Electricity Coordinating Council ("WECC") requirements for sited generation. This complements Washington State's local ambitions with the practicality of regional coordination by deploying the capabilities of the Western Renewable Energy Information System ("WREGIS"). To exceed these restrictions would constrain supply and greatly impact some of the smaller and lesser-resourced businesses within the CFS program. Likewise, an important consideration which may not have been considered, is the streamlined eligibility buyers of RECs for incremental CFS generation have appreciated between the Washington State and Oregon programs. Both programs cite deliverability eligibility tied to generation from facilities located in WECC and retirement in WREGIS.

- **OR 340-253-0470 (5) Offsite renewable electricity.** *In order to lower the carbon intensity of electricity claimed as a fuel in the CFP, credit generators and aggregators may retire renewable electricity certificates that meet the following qualifications... (c) RECs must be generated from facilities located in the Western Electricity Coordinating Council; and (d) RECs must be recorded and retired in a recognized REC tracking system, and: (A) In addition to recognizing the WREGIS, DEQ may recognize additional REC tracking systems upon a request from a registered party; and*

- Additionality: ACT strongly supports additionality in environmental markets. Since 2006, Washington State has outlined renewable energy requirements providing a market signal for renewable electricity generation and promoting energy independence in Washington State and the Pacific Northwest region. However, new restrictions based on a "built on or after" date is unprecedented for opt-in fuels within the CFS.

- In [WSR 22-24-004](#), a precondition to the CFS rule, there is a reference to a "permit issuance after July 1, 2021 for a facility or facilities to increase biofuel production capacity by at least 60 million gallons/year, including one new facility producing at least 10 million gallons/year". This is the singular equivalent found in the CFS text related to a "built on or after" date restriction. Notably, this date only applies as a precondition for Ecology to reduce the carbon intensity standard and it would not necessarily prevent capacity prior to or after that date from being eligible for CFS generation. ACT is not aware of any other instance where other technologies in the CFS have similar "built on or after" limitations.

If Ecology continues to seek to incentivize and track renewable electricity generation from facilities built more recently, ACT encourages alignment with Oregon's Department of Environmental Quality and that Program's permissions for book-and-claim RECs. This regional continuity can send a strong signal for renewable energy deployment while maintaining some reasonable supply availability.

- **OR 340-253-0470 (5) Offsite renewable electricity...**(a) RECs retired **in order to claim a carbon intensity** other than the statewide mix or utility-specific mix **must be certified by the Green-e Program** under the Green-e Renewable Energy Standard for Canada and the United States version 4.3, or by a certification system approved by DEQ as being substantially equivalent, and: (A) Unbundled RECs being used to claim low-carbon electricity through book and claim accounting must be **certified at the wholesale level**; ... (b) **RECs must be generated by an electric generator that was placed into service after 2015**, or in the case of biogas generators they must meet the new date requirements of the Green-e Standard;
- Temporal Matching: ACT has not identified clarifying language in the Proposed Rule regarding retirement requirements. Ecology has provided [Clean Fuel Standard Participation Guidance Retiring Renewable Energy Certificates \(RECs\)](#) which states "RECs must be retired within three quarters"; however, this is not specified in the CFS regulation text and clarification is welcomed. Ecology is considering referencing other Washington State statutes and ACT refers Ecology to the Washington State Energy Independence Act ("EIA").
  - **WA (EIA) RCW 19.285.040 (2)(e)** *A qualifying utility may use renewable energy credits to meet the requirements of this section, subject to the limitations of this subsection (i) a renewable energy credit from electricity generated by a resource other than freshwater may be used to meet a requirement applicable to the year in which the credit was created, the year before the year in which the credit was created, or the year after the year in which the credit was created. (ii) a renewable energy credit from electricity generated by freshwater: (a) may only be used to meet a requirement applicable the year in which the credit was created;*

Note Green-e certification criteria has its own temporal matching requirements.

- Documentation: ACT strongly supports relying on REC retirement reports as sufficient documentation and references comments made above on deliverability related to the strengths of WREGIS and regional coordination.

In consideration of HB 1409's statutory direction to align Washington's program with other jurisdictions "to the extent feasible" ACT has cited and considered the California Air Resource Board (CARB) and Oregon Department of Environmental Quality's (ODEQ) regulations where applicable. ACT's experience across global environmental regulations has informed a philosophy grounded in regional and global coordination during the deployment of policy to tackle climate change.

[Thank you for your consideration of these recommendations. Please reach out if you would like to discuss.](#)