

**3SHB 1091 - H AMD 117**

By Representative Paul

**ADOPTED 02/27/2021**

On page 8, line 39, after "program" insert ".

"(c) The department shall harmonize the program's cost containment mechanisms with the cost containment rules in the states specified in section 7(1) of this act.

(d) The department shall consider mechanisms such as the establishment of a credit price cap or other alternative cost containment measures if deemed necessary to harmonize market credit costs with those in the states specified in section 7(1) of this act"

On page 10, line 11, after "requirements." insert "The department must apply the same baseline years to credits associated with electric or alternative transportation infrastructure that apply to gasoline and diesel liquid fuels in any market-based program enacted by the legislature that establishes a cap on greenhouse gas emissions."

On page 10, line 20, after "(ii)" strike "Refinery investments in" and insert "Project-based refinery greenhouse gas mitigation including, but not limited to, process improvements, renewable hydrogen use, and"

On page 11, line 7, after "requirements" insert "and methods for credit generation"

On page 11, after line 22, insert the following:

"(3) The department must conduct a biennial review of innovative technologies and pathways that reduce carbon and increase credit generation opportunities and must modify rules or guidance as needed to maintain stable credit markets."

On page 14, after line 37, insert the following:

**"NEW SECTION. Sec. 12.** (1) The department must issue an order declaring an emergency deferral:

1 (a) No later than 15 calendar days after the date that the  
2 department determines that:

3 (i) There is a known shortage of a fuel or low carbon fuel that  
4 is needed for regulated parties to comply with the carbon intensity  
5 standard established under section 3 of this act; and

6 (ii) The magnitude of the shortage of that fuel is greater than  
7 the equivalent of five percent of the amount of the fuel forecasted  
8 to be available during the effective compliance period; or

9 (b) Immediately upon the issuance by the governor of a  
10 proclamation, executive order, or directive pursuant to declaring an  
11 energy emergency under chapter 43.21G RCW due to a shortage of  
12 gasoline or diesel.

13 (2) An order declaring an emergency deferral under this section  
14 must set forth:

15 (a) The duration of the emergency deferral;

16 (b) The types of fuel to which the emergency deferral applies;  
17 and

18 (c) Which of the following methods the department has selected  
19 for deferring compliance with the scheduled applicable carbon  
20 intensity standard during the emergency deferral:

21 (i) Temporarily adjusting the scheduled applicable carbon  
22 intensity standard to a standard identified in the order that better  
23 reflects the availability of credits during the emergency deferral  
24 and requiring regulated parties to comply with the temporary  
25 standard;

26 (ii) Allowing for the carryover of deficits accrued during the  
27 emergency deferral into one or more future compliance periods without  
28 penalty; or

29 (iii) Suspending deficit accrual during the emergency deferral  
30 period.

31 (3)(a) In implementing an emergency deferral, the department may  
32 take an action for deferring compliance with the carbon intensity  
33 standard other than, or in addition to, selecting a method under  
34 subsection (2)(c) of this section only if the department determines  
35 that none of the methods under subsection (2)(c) of this section will  
36 provide a sufficient mechanism for containing the costs of compliance  
37 with the carbon intensity standards during the emergency deferral.

38 (b) If the department makes the determination specified in (a) of  
39 this subsection, the department shall:

1 (i) Include in the order declaring an emergency deferral the  
2 determination and the action to be taken; and

3 (ii) Provide written notification and justification of the  
4 determination and the action to:

5 (A) The governor;

6 (B) The president of the senate;

7 (C) The speaker of the house of representatives; and

8 (D) The appropriate committees of the house of representatives  
9 and the senate.

10 (4)(a) Except as provided in (b) of this subsection, the duration  
11 of an emergency deferral:

12 (i) Implemented using the method described in subsection  
13 (2)(c)(i) of this section may not be less than one calendar quarter;  
14 and

15 (ii) Implemented using a method described in subsection  
16 (2)(c)(ii) or (iii) or (3) of this section may not be less than 30  
17 calendar days.

18 (b) An emergency deferral may not continue past the end of the  
19 compliance period during which the emergency deferral is issued.

20 (c) The department may terminate an emergency deferral prior to  
21 the expiration date of the emergency deferral only if new information  
22 becomes available indicating that the shortage for which the  
23 emergency deferral was issued has ended. Termination of an emergency  
24 deferral is effective 15 calendar days after the date that the order  
25 declaring the termination is adopted."

26 Renumber the remaining sections consecutively and correct any  
27 internal references accordingly.

EFFECT: (1) Requires the cost containment mechanisms in the Clean  
Fuels Program (CFP) rules adopted by the Department of Ecology  
(Ecology) be harmonized with the cost containment mechanism of other  
states with similar clean fuels program requirements and which supply  
to or receive from Washington significant quantities of  
transportation fuel.

(2) Requires Ecology to consider a credit price cap or other cost  
containment measures if necessary, to harmonize market credit costs  
with other states with similar clean fuels program requirements and  
which supply to or receive from Washington significant quantities of  
transportation fuel.

(3) Requires Ecology's CFP rules to apply the same baseline years  
for electric and alternative transportation infrastructure that apply  
to gasoline and diesel liquid fuels in any enacted market-based  
programs that establish a cap on greenhouse gas emissions.

(4) Authorizes Ecology's CFP rules to allow credits for project-based refinery mitigation other than carbon capture and sequestration, including through process improvements or renewable hydrogen use.

(5) Requires Ecology's CFP rules to seek to harmonize credit generation methods with those of other states with similar clean fuels program requirements and which supply to or receive from Washington significant quantities of transportation fuel.

(6) Requires Ecology to conduct a biennial review of innovative technologies and pathways to reduce carbon and generate credits, and to modify rules or guidance as needed to maintain stable credit markets.

(7) Requires Ecology to issue an emergency deferral of the CFP in the event of a low carbon fuel shortage of at least 5 percent of the amount forecasted to be available during the effective compliance period, or upon the issuance of a Governor's declaration of an energy emergency under existing statutory processes. Requires Ecology emergency deferral orders to specify the duration of the deferral, the type of applicable fuel, and the applicable methods for deferring compliance with CFP requirements, which may include temporary adjustments to the carbon intensity standard, the carryover of deficits accrued during an emergency deferral, or a suspension of deficit accrual. Requires emergency deferrals to last no less than either 30 days or a calendar quarter, depending on the type of emergency deferral ordered by Ecology. Provides processes for Ecology to terminate an emergency deferral prior to its scheduled expiration.

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