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Need to Revise Section 3103 of the Alternative and Renewable Fuel and Vehicle Technology Program

Additional submitted attachment is included below.

February 11, 2015

The Honorable Janea A. Scott, Commissioner
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

Re: <u>Need to Revise Section 3103 of the Alternative and Renewable Fuel and Vehicle Technology Program</u>

Dear Commissioner Scott:

The Bioenergy Association of California urges the Commission to remove the requirement in the ARFVT Program that grant recipients must discount their awards by the amount of LCFS or other credits they receive, even if those other credit programs are voluntary. This requirement is not consistent with AB 118 and is slowing the development of new biofuels facilities that are necessary to meet the Low Carbon Fuel Standard and the Governor's goal of 50 percent petroleum reduction.

The Bioenergy Association of California (BAC) is an association of more than 50 companies, public agencies and local governments working to promote sustainable bioenergy development. Many BAC members are converting organic waste to low-carbon and carbon negative fuels, the lowest carbon fuels in existence. BAC members also develop fueling infrastructure and provide biogas for renewable hydrogen.

Section 3103 of the ARFVT contains an unnecessary provision that prevents grant recipients from securing the maximum value for any credits that may be generated through the production of alternative fuels. Section 3103 reads in part:

> (b) A project that generates credits that the applicant plans to claim based on the reduction of criteria pollutants, toxic air contaminants, or greenhouse gases may not be eligible for funding unless all of the following occur:
>
> > (1) the applicant seeks funding for only a portion of the project;
> > (2) the applicant agrees in the funding agreement to discount emission credits at least in proportion to the amount of funding received;

> (3) the project satisfies one or more of the criteria in sections 3101 and 3101.5, as appropriate.

This language has led, in turn, to recent ARFVT grant solicitations that contain language such as:

> "(if the grant recipient) is an obligated party or has opted in . . . to a credit generating program such as the LCFS or AB 32 initiatives and plans to claim credits generated by the proposed project, then the applicant will be required to agree to discount the value of those credits at the point of transfer in proportion to the funding received".

Although not specifically mentioned, this restriction could also be interpreted to apply to credits generated under the federal Renewable Fuel Standard. This puts grant applicants in a very difficult position of having to forgo the value of LCFS, AB 32, and federal RFS2 credits that may be generated from the alternative fuels produced. For example, biomethane has to compete directly with natural gas that is currently selling for less than $4/MMBtu while biomethane costs $8 - $15 per MMBtu. Thus, securing the full value of LCFS and other credits – in addition to ARFVT grants - is essential to develop biomethane projects and produce these lowest carbon fuels.

We believe that Rule 3103 is based on a misinterpretation of AB 118, which states that:

> For the purposes of both of the programs created by this chapter, eligible projects do not include those required to be undertaken pursuant to state or federal law, district rules or regulations, memoranda of understanding with a governmental entity, or legally binding agreements or documents. For the purposes of the Alternative and Renewable Fuel and Vehicle Technology Program, the state board shall advise the commission to ensure the requirements of this subdivision are met.[1]

AB 118 clearly intended to restrict ARFVT funding from going to parties that have a legal obligation to purchase or produce alternative fuels. Nothing in the legislation, however, limits the eligibility of projects that are entirely voluntary, as projects must be under the LCFS and RFS2, which require producers to "opt in" to the programs.

Requiring voluntary fuel producers to forego the value of LCFS and RFS2 credits will impede the development of low carbon fuels and the state's ability to meet the Governor's goal of reducing petroleum by 50 percent. For biogas developers, LCFS credits may contribute as much as a third of the total cost of fuel production. Requiring developers to forego that revenue defeats the purpose of ARFVT grants.

[1] H&SC Section 44271 (c).

For all of these reasons, we urge the Commission to revise the language of Section 3103 to allow recipients of ARFVT funding to obtain the full value of LCFS, RFS2 and other voluntary credit programs without having to discount ARFVT funding as a result.

Sincerely,

Julia A. Levin

Julia A. Levin
Executive Director