3Degrees. 407 Sansome St., 4th floor
San Francisco, CA 94111

January 5, 2022

Department of Ecology
State of Washington
P.O. Box 47600
Olympia, WA 98504

RE: 3Degrees comments in response to November 17, 2021 Stakeholder Meeting on Washington Clean Fuels Program

Dear Debebe Dererie,

3Degrees Group Inc. ("3Degrees") would like to thank Department of Ecology ("Ecology") Staff for hosting a series of meetings to solicit feedback from stakeholders on the forthcoming Clean Fuels Standard (CFS) rule. We appreciate this opportunity to submit comments to inform the 2023 rules.

3Degrees is a certified B Corporation with deep expertise in greenhouse gas accounting, environmental markets, renewable energy and carbon project development, transportation decarbonization solutions, and utility renewable energy programs. We are active in clean fuels programs in multiple jurisdictions and work with organizations to leverage these programs to enable transportation decarbonization.

We offer the following comments in response to the November 17, 2021 Stakeholder meeting.

First Fuel Reporting Entity

Renewable propane forklifts - WAC 173-424-210(2)(c)
We support Staff's proposal in the November 17th draft rules to make the first fuel reporting entity for renewable propane used in a forklift the producer or importer of the fuel. This aligns with other renewable propane fuel uses.

Non-residential EV charging - WAC 173-424-220(3)
We recommend that Staff further clarify the first fuel reporting entity for non-residential charging. Listing the "owner or service provider" as the first entity could create a conflict on who has the right to generate credits. We understand that the "service provider" would be the entity that operates and maintains the charging stations, which could be a different entity than the "owner" of the charging equipment. We recommend that the owner of the electric charging equipment be the entity eligible to generate credits and the service provider be the second in line.

We support Staff's proposal to include charging at multi-family housing as non-residential EV charging. We also request that Ecology clarify whether there is a distinction between "multi-family housing site" (Section 3) and "multi-family residence" (Section 7). We recommend that Washington align with Oregon in defining "multi-family housing" as a structure or facility that provides four or more living units and where the individual parking spaces that an EV charger serves, and charging equipment itself, is not deeded or owned by a single resident.

Electric fixed guideway systems - WAC 173-424-220(4)
We support Staff's proposal to have the transit agency operating the system to be the first fuel reporting entity eligible to generate credits.

Electric forklifts - WAC 173-424-220(5)
We recommend that Staff make the first fuel reporting entity for electric forklifts the entity that owns the charging equipment, **not** the fleet owner. We have experienced situations in other states where a lack of clarity on the "fleet owner" for eForklifts has led to delays in registering the vehicles to generate credits--a situation that would be much less likely to arise if the charging equipment owner is the first fuel reporting entity.

eTRU, eCHE, and eOGV - WAC 173-424-220(6)
We support Staff's proposal to make the owner of the electric charging equipment the first fuel reporting entity eligible to generate credits.

Residential charging - WAC 173-424-220(7)
We support Staff's proposal to make electric utilities the first fuel reporting entity for base and incremental credits generated from residential EV charging. We recommend that Ecology define "residential charging" as charging that takes place at a single-family residence.

Designation of Fuel Reporting Status

Ability to designate fuel reporting status
3Degrees requests that Staff clarify and align details around designated reporting entities across credit generation opportunities. For each credit generation opportunity, the first fuel reporting entity should have the ability to designate fuel reporting status to a "designated reporting entity" ("DRE") (also referred to as "designated aggregator"). The designated entity should then inherit the priority and any other preferential treatment of the designator.

The entity with the first right to credits is meant to align with who is closest to the decision-making related to supplying low-carbon transportation fuels. Allowing eligible credit generators to designate an aggregator enables this entity to benefit from the program even if they do not have the resources to manage program participation themselves or might not otherwise be able to participate directly. Designating fuel reporting status is particularly beneficial for smaller entities, including entities providing smaller volumes of credit-generating fuels.

To implement this change, for each credit generation opportunity listed in the rule, where it lists the entity eligible to generate credits, Staff should also include "or its designee". For example, under WAC 173-424-220 (4):

> *Fixed Guideway Systems*
>
> *For electricity used to power to fixed guideway vehicles such as light rail systems, streetcars, aerial tram, or transit buses,*

(a) The transit agency operating the system ***<u>or its designee</u>*** *is eligible to generate the credits for the electricity used to propel the system.*

Requirements for designating fuel reporting status

We recommend that Staff standardize the requirements around how an entity designates authority to a designated reporting entity by referencing a single section within the rule that lists the requirements for designating reporting status. We also request that Staff standardize the terminology for a designated entity to either "designated reporting entity" or "designated aggregator" throughout the rule.

Regarding the process for designating fuel reporting status outlined in WAC 173-424-150 (3):

- Under (c)(i), the proposed rule allows aggregator designation to take effect at the start of the next full calendar quarter after Ecology receives the designation form. We request that Ecology align its rules with California and Oregon by allowing the DRE to generate credits in the quarter the application is submitted as long as all registration occurs within the quarter. For example, if designation notice is provided to Ecology in Q2 with sufficient time to register fuel supply equipment in the same quarter, designation takes effect in Q2 and the DRE can report to generate credits for the designator's Q1 fueling.
- Under (c)(iv), the proposed rule requires that an aggregator notify Ecology when a credit generator or regulated party has withdrawn designation of the aggregator. We recommend Ecology allow the designator to provide notice to Ecology to indicate that it has withdrawn its designation to the designee. As written, there could be issues if the original fuel reporting entity chooses to assign a new designee to report on its behalf but is unable to get the previous designated reporting entity to submit the required documentation to Ecology.
- We recommend that Ecology make clear that the quarter in which a new designated reporting entity is reported to Ecology can be the same quarter that a previous designated reporting entity is withdrawn. The goal of this language is to ensure that, in the event the designated reporting entity changes, reporting and credit generation is uninterrupted.

Further Credit Generation Opportunities

3Degrees recommends that Staff include an EER for electric airport ground support equipment ("eGSE") to the regulation so as to further incentivize airports to transition to electric options.

3Degrees recommends that Ecology include infrastructure credits in the 2023 rule largely mirroring the California LCFS rules. In line with our comments above on designating fuel reporting status, we recommend that Ecology allow DCFC charging owners to designate fuel reporting status to another entity in order to support their participation in the program.

Recordkeeping, registration, reporting

Forklifts

We recommend that Ecology align with California and Oregon for calculating electricity use in forklifts. California and Oregon have established a methodology that incorporates measurements, industry standards, and ratings of charging equipment in order to reasonably estimate electricity consumption by forklifts.

3Degrees appreciates this opportunity to provide feedback and we look forward to continuing to work with Ecology on the development of the CFS program. Please reach out with any questions or for further discussion.

Sincerely,

/s/ Maya Kelty

Maya Kelty
Director, Regulatory Affairs
mkelty@3degrees.com
628.333.2679