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March 3, 2023

Abbey Brown
Washington Department of Ecology
Air Quality Program
P.O. Box 47600
Olympia, WA 98504
Submitted via online public comment form

RE: 3Degrees comments in Response to Clean Fuels Standard 2023 Program Fee

Dear Abbey Brown,

3Degrees Group, Inc. ("3Degrees") submits the following comments to the Department of Ecology ("Ecology") in response to the 30-day public comment on the clean fuels standard ("CFS") proposed program fee.

3Degrees is a certified B Corporation that is active in clean fuels programs in multiple jurisdictions. We are one of the largest participants in California's Low Carbon Fuel Standard by registered fuel supply equipment ("FSE"), we are pioneering new vehicle-fuel applications in Oregon, and we are actively preparing to support organizations in leveraging Washington's program to enable transportation decarbonization.

Our comments focus specifically on the implementation of the program fee as it relates to credit aggregators. Based on recent communication with Ecology staff and with the credit designating entities with whom we work, we have the following two recommendations relating to program fees associated with credit designating entities and aggregators:

1. **Program fee invoices should be addressed to aggregators, not to credit designating entities.**

It is our understanding that Ecology plans to address program fee invoices directly to fuel reporting entities even when these organizations have designated aggregators to manage program participation on their behalf. It is our view that this very much goes against the spirit of the option to designate an aggregator. The option for a fuel reporting entity to designate an aggregator to participate in the program on its behalf enables organizations that may not have the resources to manage program participation to assign responsibility to another entity and still benefit from the program. This arrangement works most effectively, and with the largest benefit to the credit designating entity, when the aggregator takes on **all** of the obligations and requirements of the fuel reporting entity or credit generator.

It is not clear why Ecology does not view payment of the program fee on behalf of the fuel reporting entity as one of the components of participation that an aggregator can take over when it is "acting on its behalf". There does not appear to be any language in the statute or rule that would require the fee be paid directly by the credit generator if it has designated an aggregator.

The Aggregator Designation Form also makes clear that the aggregating organization is designated to report on behalf of the designating entity, taking on all reporting obligations to Ecology, and that the designating organization can be held responsible if the aggregating organization is found to be in violation of the program rules. It seems appropriate that the program fee be treated in line with this agreement–the designated aggregator is responsible for payment but ultimately the credit generator can be held responsible if the credit aggregator fails to meet its obligation. We strongly recommend that Ecology take every step to enable credit generators to leverage an aggregator, including invoicing the aggregator directly for the program participation fee due for each credit generator with which it has aggregator designation agreement.

2. **In the future, we recommend that Ecology consider an alternative structure where the program fee is calculated based on the number of credit-generating entities registered with Ecology (i.e. aggregators and natural credit generators).**

We understand that Ecology may explore alternative fee structures for later years of the program in a future rulemaking.[1] We strongly encourage Ecology to consider calculating the fee based on the number of credit-generating entities registered with Ecology, rather than calculating it based on the number of fuel reporting entities. Concerns have been raised by several stakeholders on the risk that producers will avoid Washington's program in favor of other programs that do not levy a program fee.[2] This concern is particularly acute for smaller producers, who are the entities most likely to choose to designate an aggregator to participate in the program and for whom a fully-loaded participation fee may discourage participation entirely. Calculating the fee such that aggregators pay an equal amount as fuel reporting entities that register directly with Ecology recognizes the program administration benefits that aggregators contribute and ensures more program benefits are passed through to smaller program participants. Future iterations could also consider a tiered participation fee for credit-generating entities similar to what is currently proposed for deficit-generating entities.

3Degrees appreciates this opportunity to provide feedback and we look forward to continuing to work with Ecology to ensure the success of the CFP. Please reach out with any questions.

Sincerely,

/s/ Maya Kelty

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[1] *Concise Explanatory Statement Chapter 173-424 WAC, Clean Fuels Program Rule & Chapter 173-455 WAC, Air Quality Fee Rule - Summary of Rulemaking and Response to Comments*, p. 169. (Available at: https://apps.ecology.wa.gov/publications/documents/2202057.pdf)
[2] *Concise Explanatory Statement,* p. 168.