



March 24, 2024

Washington Department of Ecology
300 Desmond Dr SE
Lacey, WA 98503

RE: MN8 Comments on Clean Fuel Standard Rule Development

Dear Washington Department of Ecology (Ecology) Staff,

MN8 Energy LLC (MN8) appreciates this opportunity to provide input on the proposed amendments to the Washington Clean Fuel Standard (CFS). MN8 develops, owns, and operates renewable energy generation facilities, battery energy storage systems (BESS), and electric vehicle (EV) charging stations. Today, we provide clean, affordable energy to over 200 world-class enterprise customers and operate a fleet of over 850 energy projects, comprising approximately 3 gigawatts (GW) of solar photovoltaic (PV) and BESS capacity spread across 28 US states. We are also partnering with various customers, such as vehicle OEMs and fleet operators, to develop EV charging solutions with the goal of delivering a reliable and high-quality experience to EV drivers that will enable widespread EV adoption.

MN8 is supportive of efforts to strengthen the CFS program in Washington, and we appreciate the opportunity to offer these recommendations and align CFS rules with clean fuel program requirements in California and Oregon.

Delay consideration of a third-party verification program for electricity fuel pathway applications and data reports until the completion of Washington State Department of Agriculture's (WSDA) related rulemaking

Ecology should not propose requirements to implement a third-party verification program for electricity fuel pathway applications and data reports as part of this CFS program rulemaking. They should instead defer to the WSDA to regulate the process for verifying the accuracy of electricity dispensed via public EV chargers, as WSDA has statutory authority over weights and measures regulation in Washington.

Washington statute WAC 16-662-100 establishes the authority of the WSDA to adopt standards related to publicly available electric vehicle supply equipment in the state. Under this statute, WSDA has adopted the national standards contained in the National Institute of Standards and Technology Handbook 44 to regulate "the specifications,



tolerances, and other technical requirements for the design, manufacture, installation, performance test, and use of weighing and measuring equipment [and] procedures for checking the accuracy of the net contents of packaged goods.”¹ Under this scope, the WSDA is currently undergoing a rulemaking process to update weights and measures regulations for EV chargers.² Ecology should defer to this rulemaking process under the purview of the WSDA Weights and Measures Program to ensure that electricity dispensed via public EV chargers is properly verified while avoiding redundancy and streamlining CFS program requirements in Washington.

Introduce two distinct crediting schemes for Light-Duty (LD) and Medium- and Heavy-Duty (MHD) fast charging infrastructure (FCI)

MN8 applauds Ecology for adopting a capacity crediting scheme for DC fast charging. However, there are material differences between LD and MHD charging that should be reflected in the FCI crediting scheme. Ecology should introduce a distinct FCI crediting scheme for MHD as compared to LD, as is being proposed under California’s Low Carbon Fuel Standard (LCFS) program.

The MHD FCI pathway should draw on proposed updates to California’s LCFS

Under current rules, the Washington CFS program allows for MHD zero emission vehicle (ZEV) infrastructure to apply for FCI credits. However, the current FCI rules are not fit-for-purpose nor designed in such a way that would incent deployment of MHD ZEV infrastructure at the pace and scale required to meet Washington’s decarbonization goals. According to the Transportation Electrification Strategy (TES), finalized by the Washington State Department of Commerce in November 2023, “the pace of installing charging infrastructure for Light Duty (LD) Vehicles and MHD vehicles needs to accelerate significantly, indicating a clear role for supportive policies. In 2035, Washington will require more than 20 times more EV charging plugs than the TES model suggests is needed today.”³ To meet this demand for EV charging in the MHD vehicle sector, MN8 recommends that Ecology establish a distinct MHD ZEV FCI pathway, for which they can leverage the California Air Resources Board’s (CARB) proposed rules for guidance. In approaching this new standard, Ecology should consider:

- Raising the maximum nameplate power rating for MHD fuel supply equipment (FSE) beyond the 350 kW cap, given that MHD ZEVs will need higher-capacity charging than LD in many cases.

¹ <https://app.leg.wa.gov/wac/default.aspx?cite=16-662&full=true&pdf=true> (page 3)

² <https://agr.wa.gov/services/rulemaking/wac-16-662-evse-012424>

³ <https://deptofcommerce.app.box.com/s/uphekt6rwpmtvbhojyi6eifjxdwttvdh> (page 60)



- Raising the total nameplate power rating for all MHD FSE at a single site beyond the 1,500 kW cap, given that MHD charging depots will look very different than LD charging depots and in many cases will require more chargers, and higher power chargers. For example, under CARB's proposed rule, up to ten MHD chargers can receive FCI at each site, which will likely result in multiples more capacity per site than would be permissible under the current 1,500 kW cap.
- Allowing private MHD ZEV infrastructure to be eligible for FCI, since the needs of MHD fleets in many cases require private MHD charging models. CARB's proposed rule would not introduce any restrictions on MHD FCI based on whether sites are public or private.
- Introducing a fit-for-purpose MHD formula for FCI so as to reflect meaningful differences between LD and MHD infrastructure needs. For example, CARB's proposed rule leads to materially different results for LD and MHD charging under FCI, as shown in Figure 1 of the Appendix below.

In light of the state's objectives to achieve rapid deployment of ZEV refueling infrastructure and the substantial capital costs of doing so, and because LD and MHD vehicle adoption is only just beginning in Washington, MN8 recommends that Ecology consider these suggestions and open further public comment on the MHD FCI pathway. This will allow for the development of a MHD FCI pathway that complements existing policies in Washington, such as the state's recently adopted Advanced Clean Trucks rule, and supports a rapid transition to ZEVs across vehicle classes.

Increase the minimum nameplate power rating for FSE to 150 kW under the LD FCI pathway

MN8 recommends that Washington align with CARB's proposed LCFS program updates by increasing the minimum nameplate power rating for FCI eligibility to 150 kW for LD FSE under the Washington CFS rules. This would also align the Washington CFS program rules with NEVI Formula Program Guidance, which requires that maximum charging power per charging port not be below 150 kW. This will ensure that deployment of charging infrastructure in Washington meets the charging needs of both today's and tomorrow's EVs.

Establish detailed instructions for using Renewable Energy Certificates (RECs) in the CFS

MN8 encourages Ecology to develop specific instructions for program participants to utilize RECs in the CFS program. To this end, we would refer Ecology to the following protocols that draw on Oregon's Clean Fuel Program:



- All RECs used in the program are from generation facilities that are CRS Listed (previously Green-e Eligible).⁴ This requirement promotes compliance with the Green-e standard, prevents the double-counting of carbon attributes from renewable electricity, and prohibits creation of illegitimate incremental CFS credits.
- RECs must meet the Green-e standard's vintage requirement for use in a reporting year, which means RECs must be generated in that calendar year, or in the last six months of the prior year or the first three months of the following year. For example, to use RECs for 2024 electricity reporting, the RECs must be generated between July 2023 to March 2025. This vintage requirement aligns the timeline between when electricity is dispensed from the charger and when renewable energy is claimed through REC retirement.
- MN8 requests that Ecology provide retirement instructions for parties to document REC retirements in WREGIS, including but not limited to WREGIS subaccount creation, subaccount naming convention, retirement reason, additional notes, and uploading retirement reports into the Washington Fuels Reporting System.

MN8 thanks Ecology for its leadership

We thank you again for your leadership in implementing the CFS in Washington. MN8 appreciates the opportunity to provide feedback on this important program.

Regards,

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⁴ Latest information on CRS Listed can be found here <https://www.green-e.org/energy/about-tracking-attestation>



Appendix

Figure 1 below compares FCI charging capacity (kWh/day) using Ecology's current calculation (orange line), which corresponds to CARB's LD FCI calculation, and CARB's proposed FCI crediting calculation (blue line) for a MHD FSE. When an FSE has a nameplate power rating of 200 kW and above, which will be the case for many MHD charging solutions, it generates more FCI charging capacity using the California's proposed MHD FCI crediting calculation than in the case of LD, and vice versa.

Figure 1: Charging Capacity Comparison (LD/MHD FCI)

