June 7, 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 the recent stakeholder meetings and this opportunity to provide a second round of comments as Ecology develops updated rules for 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 generally supportive of Ecology's proposed updates to the CFS program described during the recent stakeholder meetings. We offer the following specific suggestions to support rulemaking goals to improve program implementation and align with California and Oregon program updates.

Extending Fast Charging Infrastructure (FCI) capacity credit generation to sites serving medium- and heavy-duty (MHD) zero-emission vehicles (ZEV)

MN8 appreciates Ecology's interest in public feedback to update the FCI pathway to support MHD EV charging deployment. MN8 provides the following specific input addressing technical topics from the recent stakeholder meetings to extend FCI credit generation opportunities to sites serving MHD EVs in Washington. These updates will enable the CFS program to support deployment of MHD ZEV FCI and complement existing policies in Washington, such as the State's recently adopted Advanced Clean Trucks rule to support a rapid transition to ZEVs across vehicle classes:

Maximum nameplate capacity for fuel supply equipment (FSE)

The maximum nameplate capacity for FSE that is made eligible for FCI should continuously be reviewed and revisited to ensure that this cap remains in line with the

charging needs of MHD fleets over time. While 350 kilowatts (kW) largely covers the maximum charging capability of MHD ZEVs today, future vehicles are being designed to accept higher levels of power, which is a trend that will continue given that the MHD trucking market is in its infancy and charging technology will mature rapidly over the coming years to meet the demand of MHD ZEVs. As such, if the cap is set at 350 kW, Ecology should periodically revisit this and update it accordingly based on evolving ZEV capabilities; a higher cap may be warranted in anticipation of the vehicle architectures of the not-so-distant-future that will be served by the charging sites being developed today. At the same time, Ecology should not set the cap beyond the power levels that the next iterations of MHD ZEVs will be able to accept, as this would be an inefficient use of resources.

Number of eligible fuel supply equipment per site

MN8 recommends aligning with the California Air Resources Board's (CARB) recently proposed amendments to the Low Carbon Fuel Standard (LCFS) rule to allow for up to ten MHD chargers within ¼ mile of one another to generate MHD FCI credits.[1] Allowing up to ten MHD FCI-eligible chargers incentivizes a sufficient number of chargers at any MHD charging location while also encouraging deployment of many individual sites across the State.

Eligibility for public and private MHD FCI

In determining MHD FCI eligibility, MN8 emphasizes the importance of allowing for both public and private sites serving one or more MHD fleets to generate FCI capacity credits. We appreciate Ecology's efforts to extend FCI capacity credit generation opportunities to shared hubs. However, this rule should align with CARB's proposed eligibility rules, which would incentivize both public and private sites.[2]

Given the substantial capital costs of installing MHD ZEV refueling infrastructure, the state's objectives to achieve rapid fleet turnover from internal combustion engine vehicles to ZEVs, and because MHD ZEV adoption is in its infancy, it is critical that MHD FCI credit generation allows for a variety of business models and use cases for MHD infrastructure, similar to California's proposal for LCFS. Critically, this should include "behind-the-fence" charging sites at warehouses with fleets, and other facilities serving a single ZEV fleet, since this category of MHD ZEV infrastructure will be critical in enabling a rapid transition in the MHD space. Excluding these sorts of infrastructure from FCI credit generation would remove an important incentive for infrastructure

[1] California Air Resources Board, Purpose and Rationale of Proposed Amendments to the LCFS, page 48
[2] California Air Resources Board, Purpose and Rationale of Proposed Amendments to the LCFS, page 47

categories that will be critical enablers of MHD ZEV adoption. MN8 reinforces the same reasoning applied to the LCFS in California: "[CARB] Staff's proposal to include both shared and private stations in the MHD-FCI program reflects the distinct nature of the primarily commercial MHD fleet in California compared to the primarily private LD fleet. Private and contracted refueling for MHD fleets is a common business model. The MHD-FCI program will promote uptake of MHD BEVs by incentivizing opportunity refueling infrastructure and incentivizing private and contracted fueling."

Locational strategy to drive MHD FCI benefits to overburdened communities

MN8 appreciates Ecology's goals to maximize the benefits of the CFS program for overburdened communities in Washington. At this stage in the rulemaking process, MN8 cautions against imposing locational requirements using a screening tool that limits MHD FCI eligibility to sites directly located in overburdened areas, as this infrastructure is needed beyond just these communities. Furthermore, infrastructure built in key corridors, irrespective of whether it's in overburdened communities or not, will have benefits for overburdened communities. Conversely, implementing restrictive locational criteria could hinder the buildout of MHD charging infrastructure in critical areas and could lead to the clustering of MHD charging infrastructure in disadvantaged communities, which could have negative consequences insofar as it drives incremental MHD vehicle traffic into these areas. Additionally, it could slow down the adoption of ZEVs more broadly, including ZEVs that operate in overburdened communities but need widespread charging infrastructure to enable their routes, which in turn would negatively impact these communities.

MN8 recommends that Ecology leverage guidance from the U.S. Joint Office of Energy and Transportation's National Zero-Emission Freight Corridor Strategy (the Strategy) to understand the wide range of communities that will need MHD charging infrastructure and the best strategies to maximize the benefits of MHD charging deployment for overburdened communities.[3] The Strategy was published in March 2024 providing federal guidance to "identify the greatest opportunities to support early introduction of MHD ZEVs, promoting cost savings for commercial fleets, cleaner air for communities, and strategic investments for infrastructure companies and electric utilities."[4] The Strategy recommends a phased approach to MHD ZEV infrastructure buildout, starting with Phase 1 in 2024-2027 by establishing zero-emission-freight (ZEF) hubs focused on areas that have the highest concentration of MHD vehicles including I-5 across Washington and the Port of Seattle. According to estimates in the report, forty percent of the benefits stemming from these ZEF hubs in Phase 1 are anticipated to flow to

[3] The National Zero-Emission Freight Corridor Strategy report is available here.
[4] The National Zero-Emission Freight Corridor Strategy, page III

disadvantaged communities and represent the opportunity to decarbonize goods movement for more than 1 billion in total annual commodity tonnage.[5] Ecology may reference the Strategy's Phase 1 map provided on page 6 of the Strategy to visualize prioritized locations, corridors, and distance parameters for MHD ZEV infrastructure buildout through 2027, which demonstrates that infrastructure will be needed in both overburdened communities and outside of these.

Strengthening book-and-claim accounting requirements for electricity

MN8 supports implementation of Green-e and suggests that Ecology adopt the following specific protocols that draw on Oregon's Clean Fuel Program to utilize Renewable Energy Certificates (RECs) in the Washington CFS program:[6]

- **Certification:** All RECs used in the program are from generation facilities that are CRS Listed (previously Green-e Eligible).[7] 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.
- **Vintage**: 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 generated and claimed through REC retirement.
- **Location:** RECs used in the program must come from electric generators located in the Western Electric Coordinating Council Region.[8]
- **Tracking system:** MN8 requests that Ecology provides 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.

[5] The National Zero-Emission Freight Corridor Strategy report, page 6.
[6] Oregon Department of Environmental Quality provides instructions to use RECs for its CFS Program: https://www.oregon.gov/deq/ghgp/Documents/cfpRetiringRECs.pdf
[7] The Latest information on CRS Listed can be found here: https://www.green-e.org/energy/about-tracking-attestation
[8] For more information on WECC, please see: https://www.wecc.org/epubs/StateOfTheInterconnection/Pages/WesternInterconnection.aspx

By adopting these protocols, Washington can utilize existing, industry-recognized standards, aligning with other power markets in the region to use RECs in the CFS.

Consideration of third-party verification of electricity

Pending further updates to the California LCFS and the Washington State Department of Agriculture's (WSDA) rulemaking on EV Supply Equipment, Ecology should delay development of requirements to implement a third-party verification program for electricity fuel pathway applications and data reports as part of this rulemaking.

CARB has scheduled a public hearing for November 8 to consider adoption of proposed amendments to the LCFS including a proposal to implement a third-party verification system for electricity dispensed via EV charging.[9] Given Ecology's goals to align Washington CFS rules with California LCFS program requirements, MN8 recommends delaying any development of requirements for third-party verification of electricity dispensed via EV charging in Washington until there is greater clarity on the protocols established in California.

In addition, WSDA is currently undergoing a rulemaking process to update weights and measures regulations for EV chargers.[10] Washington statute WAC 16-662-100 establishes the authority of the WSDA to adopt standards related to publicly available EV supply equipment in the State. To avoid redundancy and streamline compliance with regulation of EV charging, Ecology should defer to WSDA to regulate the process for verifying the accuracy of electricity dispensed via public EV chargers.

MN8 thanks Ecology for its leadership

MN8 thanks Ecology again for its leadership in implementing the CFS in Washington. MN8 appreciates the opportunity to provide feedback on this important program.

Regards,

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[9] https://ww2.arb.ca.gov/our-work/programs/low-carbon-fuel-standard

[10] 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."