



Ms. Abbey Brown, Clean Fuel Standard Technical Lead  
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Dear Director Watson:

Clean Energy would like to thank Department of Ecology (Ecology) staff for the opportunity to comment on the proposed concepts raised concerning biomethane in the Washington Clean Fuel Standard (CFS) update.

We remain committed as a collaborative partner to the clean air and environmental goals of Washington. As North America's largest provider of renewable natural gas (RNG) transportation fuel with over twenty-seven years of leading industry experience, we provide construction, operation and maintenance services for refueling stations. We have a deep understanding of the growing marketplace, and our portfolio includes over 550 stations in 43 states.

There is no more effective or immediate step we can take to address climate change than to aggressively and rapidly reverse fugitive methane emissions from all sectors, including society's organic waste streams through renewable natural gas (RNG) projects. Many RNG projects in planning and construction across North America currently rely on clean fuel standard revenues to be built, operate, and provide a return on investment for debt service.

We believe the Washington CFS provides opportunities to invest in projects that will capture avoided methane emissions and produce renewable natural gas transportation fuel to displace diesel in heavy-duty trucks. Please consider the following constructive amendments that we believe would protect market certainty, confidence and performance in the CFS update:

- **Ecology Proposal:** add deliverability, additionality, temporal matching, and documentation requirements for biomethane used as a feedstock in the CFS, to possibly include deliverability requirements similar to those proposed by CARB in their LCFS rulemaking.

**We urge Ecology to protect book-and-claim accounting requirements for biomethane.** Any restrictions for RNG projects to a geographic or functional area and elimination of book-and-claim capabilities would disrupt the market by stalling investment both in and outside of Washington, thereby reducing overall supply to Washington and subsequently missing environmental benefits that would otherwise be realized.

Book-and-claim is the preferred method for delivering RNG in North American clean fuel programs, including EPA's Renewable Fuel Standard,<sup>1</sup> the Canadian Clean Fuel Regulation, the Oregon Clean Fuels Program, and the California Low Carbon Fuel Standard Program, as well as for electricity and hydrogen projects. Gas utility procurement programs for RNG also primarily use similar concepts, and Europe's Renewable Energy Directive requires book-and-claim for successful RNG project buildout in the European Union.

In California, for example, in-state producers cannot and will not come close to replacing the fuel volume lost if out-of-state producers are no longer allowed to participate in California. Out-of-state producers have and continue to make substantial contributions to California's climate and clean air goals as they will in Washington. Greenhouse gas emissions do not stop at Washington's borders, and most other states do not have clean fuel programs or come as close to Washington when it comes to tackling our climate crisis.

It's important to note that California's proposed amendments to the LCFS currently under consideration include the requirement that if the number of unique Class 3-8 ZEVs reported or registered in California exceeds 132,000 ZEVs or NZEVs, as defined, on December 31, 2029, then the entity reporting under bio-CNG, bio-LNG and bio-L-CNG pathways for CNG vehicles must demonstrate the physical flow of RNG to California after December 31, 2037 and not 2041. **This is very important and concerning because most of the ZEVs produced which have resulted in California officials claiming production is meeting expectations are classes 2-3, and less than 3% of the ZEVs constitute classes 7-8.**

- **Oppose fewer crediting periods:** while not planning to eliminate avoided methane crediting (AMC), we are concerned Ecology is considering the establishment of timeframes for allowing credit generation. Again, we are concerned with any reduction of the AMC eligibility for dairy projects because it will disincentivize early dairy project investments that Washington needs to meet climate goals. This is especially true if credit prices remain low due to a lack of ambition in the regulation's CI reduction path. At some point, projects fail to pencil out economically and such an outcome would harm the states climate goals.
- **Incentivizing new methane capture projects:** we urge Ecology to provide ample time and transparency should a decision be made to only incentivize new methane capture projects while reducing or phasing out credits allocated towards preexisting projects (i.e., before the CFS program) that do not create an additional environmental benefit. Negative impacts to the overall RNG market could detract from Ecology's goals and result in disincentivizing investment, diminish support for the overall RNG market, and conceivably shutter operations. For example, this year, several refineries switched from renewable diesel/biodiesel production projects and back to fossil fuel production due to poor economic conditions because of low California LCFS credit prices. Our industry isn't any different, except projects could just cease to operate.

It is also vital Ecology demonstrate a long-term commitment to projects and eliminate any perception of future "stroke of the pen change" risk in future CFS updates.

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<sup>1</sup> <https://www.biocycle.net/biogas-rng-projects/>

- **Oppose carbon intensity (CI) penalty:** while the proposal by Ecology to assign credit or deficit modifications in response to the generation of illegitimate credits or unclaimed deficits from erroneous reporting is more favorable than the proposal being considered now by the California Air Resources Board, we urge Ecology to either **NOT** adopt a similar penalty mechanism for CI changes at a project or to provide a less harmful penalty.

Projects are biological in nature and can experience changes in CI due to many factors, including but not limited to, ambient temperature, energy input increases and/or decreases, cloud cover, etc. When these types of natural changes occur, the operator of the low carbon project, like an anaerobic digester, will properly manage the fluctuating project CI and credits being generated. In California, in the event the CI changes unfavorably resulting in an over-generation of credits, normal course of operations is to bank these credits for retirement through the Annual Fuel Pathway Reporting (AFPR) process.

Unfortunately, a four-to-one or lesser penalty to the CI if it moves unfavorably to the credit generating CI is detrimental to an operator who would be forced to apply a very conservative initial margin of safety to the CI of their project, thus reducing its quarterly revenues. Those intending to comply in good faith but fall short will be harmed, and thus a disincentive for investment. We don't believe this should be the tool for enforcement or a bad actor outcome. This proposed change will not provide any CI emissions benefit to the program and puts additional financial strain on low carbon investments.

The success of the CFS will be due to a broad portfolio of clean fuels working together to achieve substantial emissions reductions. Disincentivizing successful partnerships could strand billions of dollars of clean technology investment, delay transportation decarbonization, and extend the period where petroleum is the dominant fuel in Washington. The CFS must remain fuel-neutral, driven by Ecology's science-based analysis, capable of incentivizing real-world investment, and focused on performance-based GHG outcomes. Remaining true to these core concepts will ensure Washington is a leader in rapid transportation sector decarbonization.

Sincerely,



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Clean Energy