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October 3, 2024

Mr. Adam Saul  
CFS Rule Lead  
Washington Department of Ecology

(Comment submitted electronically)

**RE: CleanFuture Comments Rulemaking - Clean Fuel Standard Informal Comment  
Period #3**

Dear Mr. Saul:

CleanFuture appreciates the opportunity to submit comments to the Washington Department of Ecology on the forthcoming amendments to the CFS rule.

CleanFuture is a leading environmental company that has worked for over a decade to electrify and improve the efficiency of a wide range of vehicle fleets. CleanFuture, Inc. has built a strong platform connecting clean vehicle fleet customers with low carbon fuels (electricity and other fuels), particularly zero and sub-zero CI fuels, serving both on the supply and demand side in multiple programs and jurisdictions. CleanFuture is also an active fuel pathway holder for many biogas-to-electricity pathways in California's Low Carbon Fuel Standard and Oregon's Clean Fuels Program so we have a good perspective pertaining to these renewable generation facilities for participation in Washington's CFS.

We offer the following comments in response to the draft regulation published on August 20, 2024.

**For renewable electricity using book-and-claim, use WECC and do not impose a commercial operations date (COD) requirement.**

In the interest of ensuring accessibility to the pool of renewable energy assets, CleanFuture strongly recommends against limiting the REC supply pool through COD requirements or decreasing the available supply area from WECC as this will lead to higher REC pricing without any benefit. Furthermore, establishing narrow specifications on REC eligibility makes it more difficult to source and acquire RECs for CFS use. Also the low CFS credit pricing will reduce participation of renewable electricity for EV charging within investor owned utility service areas.

We encourage Ecology not to establish COD requirements. We also encourage Ecology to stick with the current WECC geographic area, otherwise it is further discriminating against renewable electricity for book-and-claim where renewable natural gas (biomethane) has even fewer geographic restrictions where it can be book-and-claimed from facilities across the country where renewable electricity is limited to the WECC area.

**For methane capture projects, do not treat projects built pre-2023 any differently than post-2023 projects, otherwise pre-2023 projects are likely to shut down if crediting is reduced.**

The Clean Fuel Standard creates an incentive to build and operate methane capture projects; however by reducing avoided methane credits for pre-2023 projects it removes important project revenue for continued operation. Digesters are expensive to operate, if the rules mainly incentivize new projects then eventually the pre-2023 projects will shut down and revert back to becoming methane emitters.

Washington has many non-operational anaerobic manure digesters; CFS credit revenue could help restart the non-operational digesters, which creates additional environmental benefit by capturing methane emissions. Further if Ecology limits credits on existing operational digesters, then it increases the likelihood of existing operational digesters being shut down.

**Do not impose the proposed subsection 700(3) penalties.**

Ecology does not distinguish between illegitimate credits associated with variation in CI between a reported CI and a verified operational CI, or on mis-reporting of quarterly fuel transactions. In either case, subsection 700(6) in the current rule (or 700(7) in the proposed rule language) handles corrections for invalidated credits or miscalculated deficits and further a return to compliance by any such adjustment does not replace further enforcement actions.

If Ecology is intending to reduce reporting errors, then subsection 700(6) covers adjustment and Ecology can take further enforcement action.

If Ecology is wanting to reduce illegitimate credits from a CI exceedance where the verified operational CI exceeds a reported CI, then Ecology should consider a “true-up provision” like in Oregon’s Clean Fuels Program or as being considered for California’s LCFS. These true-up credits are awarded when and if the verified annual fuel pathway report indicates a CI lower than the CI as certified. This allows a pathway developer to set a margin of safety to avoid a CI exceedance without hurting their access to revenue. Without a true-up provision a pathway developer is forced to base their business decisions on an expected CI rather than a conservative CI, risking CFS penalty provisions.

Biological processes make the process inherently indeterminate. Many low-CI fuel pathways depend on biological processes: anaerobic digestion, fermentation, or crop growth. These

processes depend on weather and the behaviors of communities of plants, animals, and bacteria, which are far harder to forecast than the parameters of a conventional oil refinery.

Ecology is remiss in not providing a true-up mechanism which can inherently avoid illegitimate credits due to CI variation.

**Delay verification including third-party verification (3PV) of electricity and hydrogen transactions until the next Clean Fuel Standard rule making; learn from implementation challenges in California's and Oregon's programs.**

CleanFuture is supportive of moving towards 3PV of quarterly fuel transaction reports (QFTR) if the verification protocols and guidelines for electricity and hydrogen can be reasonably matched with the characteristics of dispensing these fuels with high transaction counts of relatively low transaction value across diffuse and diverse vehicle applications.

The established third-party verification (3PV) of QFTR in liquid and gaseous fuels is at the wholesale distribution level, however verification of QFTR for electricity and hydrogen is more analogous to 3PV of every retail gasoline or diesel fuel fill-up.

The Washington CFS is still a new and developing program; and further has a low CFS market price. We are concerned about the significant financial burden on fleets, aggregators, and individual participants. Third-party verification is excessively burdensome and costly<sup>1</sup>.

We are also concerned about Ecology's implementation of 3PV of electricity and hydrogen transactions being included in Washington's first implementation of verification of annual fuel pathway reports and quarterly fuel transactions.

California's LCFS and Oregon's CFP are stable and mature programs with a lengthy history; both programs implemented third-party verification of annual fuel pathway reports and quarterly fuel transaction verification of most fuels (except for electricity and hydrogen) first, and now many years later are just now adding verification of QFTRs for electricity and hydrogen into their respective rules.

Accredited verification bodies have little experience with 3PV of electricity and hydrogen. CARB's most recent 15-day draft rule amendment sets the start-up of 3PV for 2026 transactions to be verified in 2027, so we are concerned about Ecology's start-up being coincident especially as we expect a learning curve for accredited verification bodies.

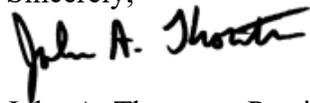
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<sup>1</sup> CARB's Standardized Regulatory Impacts Assessment (SRIA) for Proposed Amendments to the Low Carbon Fuel Standard Regulation (<https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2024/lcfs2024/appc-1.pdf>) in Table 46 on page A-1 on pdf page 121 estimates the cost 3PV of electricity transactions at \$0.006/kWh. DEQ estimates that the annual costs of validation for pathways and verification of quarterly reporting varies from about \$20,000-82,000 (see page 29 of <https://ormswd2.synergydcs.com/HPRMWebDrawer/Record/6803372/File/document>).

For these and many other reasons we encourage Ecology to let California and Oregon do the first rollouts of 3PV for electricity and hydrogen in clean fuel standards, and Ecology to incorporate lessons-learned in a future rulemaking. Otherwise we are concerned about a rocky start-up if all three programs jump into 3PV of electricity and hydrogen at the same time.

CleanFuture appreciates this opportunity to provide feedback, and we look forward to continuing to work with Ecology on the CFS program. Please advise if any further input on these issues would be constructive.

Sincerely,



John A. Thornton, President  
CleanFuture, Inc.