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Adam Saul, CFS Rule Lead  
Department of Ecology  
Climate Pollution Reduction Program  
P.O. Box 47600  
Olympia, WA 98504-7600

**PACT Comments on Ecology’s Clean Fuel Standard Rulemaking Revising Chapter 173-424 of the Washington Administrative Code (“WAC”)**

**I. Introduction**

Powering America’s Commercial Transportation (“PACT”) is pleased to provide these comments in response to the Department of Ecology’s (“Ecology”) proposed amendments to Chapter 172-424 WAC Clean Fuels Program Rule. PACT is pleased to see Ecology’s inclusion of provisions related to medium- and heavy-duty (“M/HD”) charging in this rulemaking, particularly the expansion of capacity credits to M/HD fast charging infrastructure (“M/HD-FCI”) sites. In these comments, PACT provides recommendations intended to further strengthen the program and support Ecology’s efforts to meet Washington’s decarbonization goals.

PACT appreciates the creation of the M/HD-FCI program and looks forward to continued engagement with Ecology and Program Staff throughout the next phases of the rulemaking process.

**II. About PACT**

PACT is a coalition dedicated to accelerating the development and deployment of reliable nationwide charging infrastructure for medium- and heavy-duty (“M/HD”) zero-emission vehicles (“ZEVs”).<sup>1</sup> PACT’s membership comprises stakeholders across the transportation electrification ecosystem, including leading truck manufacturers, charging infrastructure technology providers and developers, commercial fleets, fleet management companies, and utilities.

PACT is committed to promoting productive, cross-sector collaboration to advance policies and regulations that improve access to and reduce barriers for M/HD charging infrastructure. PACT engages nationally on matters related to transportation electrification (“TE”), including but not

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<sup>1</sup> M/HD refers to Class 6 - 8 vehicles, according to the Federal Highway Administration <https://afdc.energy.gov/data/10381>



limited to project energization timelines, infrastructure funding strategies, and make-ready programs to accelerate the deployment of M/HD ZEVs and its attendant infrastructure.<sup>2</sup>

### **III. Support for Proposed Amendments**

PACT applauds Ecology’s proposed amendment to expand the capacity crediting opportunity to M/HD charging sites. Expanding capacity crediting opportunities to M/HD-FCI will play a critical role in ensuring that additional investments are made in M/HD ZEVs and the requisite charging infrastructure. Extending capacity crediting opportunities to M/HD-FCI will foster greater confidence among fleets looking to transition to M/HD ZEVs that the necessary charging infrastructure will indeed be available. These important amendments to the Clean Fuel Program thereby incentivize the infrastructure providers and benefit customers. Extending capacity crediting to M/HD-FCI brings Washington one stop closer to achieving its decarbonization goals.

#### **A. Definition of “Shared MHD-FCI.”**

PACT supports Ecology’s decision to extend crediting opportunities to sites shared by multiple M/HD fleets. Moreover, PACT appreciates that Ecology is planning to define a shared M/HD-FCI site as a “nonpublic charging site for electric vehicles with a gross vehicle weight rating of 8,501 pounds or more that can be accessed by at least two M/HD fleets under different ownership and control” and that site controls and security are allowed. This definition of shared charging significantly improves the program’s utility and will expand the anticipated benefits. Moreover, expanding crediting opportunities to shared charging sites better aligns with current market realities for M/HD charging. These charging sites are a critical component to supporting the transition to M/HD ZEVs and allow fleets that would not otherwise have the resources to install their own charging equipment a pathway to transition their fleets to ZEVs.

#### **B. Program Flexibility**

PACT appreciates the changes Ecology is proposing in effort to make the Clean Fuel Standard program more flexible and more accessible for multiple entities. As PACT has noted, ample availability of charging infrastructure is critical to achieving Washington’s TE initiatives. A flexible and accessible Clean Fuel Standard will encourage more program participation and, therefore, support deployment of M/HD charging. PACT also feels strongly that flexibility in

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<sup>2</sup> PACT membership comprises ABB E-mobility, Amazon, Alpitronic, BC Hydro, Burns & McDonnell, Chateau Energy Solutions, Cummins, Daimler Truck North America, EV Realty, Forum Mobility, Geotab, Greenlane, InductEV, International, J.B. Hunt Transport, Inc., Mortensen, Penske, Pilot Flying J, Pioneer eMobility, PittOhio, Prologis, Voltera, Volvo Group North America, WattEV, and Zeem Solutions.



incentive programs is essential while the M/HD ZEV market is still in the emergent phase. Many of the adjustments that Ecology has proposed in these amendments will allow for a more adaptable approach as the industry continues to grow. Additionally, PACT is supportive of the flexibility around operability requirements, including the longer time-period for M/HD sites to become operational and the provision that dormant applications will only be canceled if the cap is exceeded.

PACT supports Ecology's decision to not include geographic or location requirements on sites. This decision provides stakeholders with the necessary flexibility to identify site locations based on their market demand and applicability to business needs. Flexibility in site selection will facilitate faster, lower-cost infrastructure deployment, including for that which will serve key freight hubs and connecting corridors.

### **C. Application Cut-Off Date**

Per the workshop on September 12, 2024, Ecology is considering setting a December 31, 2026, cut-off date for LD applications, after which all applications will be required to be M/HD. PACT appreciates Ecology's attention to the significant need for M/HD charging infrastructure and commends this effort to bridge the gap. PACT would encourage Ecology to consider amending this proposal so that after the cut-off date, applicants would be required to accommodate both light-duty, and medium-/heavy-duty charging applications. M/HD sites require different configurations for parking spaces and charging hook-ups in order to accommodate the larger size and diverse configurations of M/HD vehicles. By requiring all sites to be designed with these requirements in mind, developers will prioritize what is needed to accommodate M/HD trucks while maintaining the ability to serve light-duty fleets. This adjustment would ensure that Washington prioritizes the need to build out more M/HD charging sites while maintaining the spirit of the Clean Fuel Program.

### **IV. Sector-Specific Requirements**

PACT is appreciative that numerous amendments proposed by Ecology will expand the benefits of the Clean Fuels Rule to the M/HD ZEV industry which will, in turn, expand the overall benefits of the program. PACT appreciates that Ecology has decided to limit the inclusion of various sector-specific requirements in these proposed amendments, including overly restrictive geographical requirements, other site specifications, such as a cap on the number of FSE per site, and requirements for connector type.



With regards to the specifications that Ecology is proposing, PACT feels that there are further adjustments that can be made to strengthen the program. With the consideration and incorporation of industry recommendations, Washington’s Clean Fuel Standard will play an even greater role in supporting the state’s TE, climate, and clean air goals.

### **A. Minimum Nameplate Rating**

PACT appreciates Ecology’s rationale for including a “floor” for the minimum nameplate rating per fuel supply equipment (“FSE”) while recognizing the diversity of charging needs in the M/HD space. PACT encourages Ecology to also apply the minimum nameplate rating of 50 kW to M/HD charging sites as well. PACT proposes the following regulatory text:

*“(v) Each FSE must have a minimum nameplate power rating of 50 kW to be eligible for FCI credits.”*

In PACT member experiences, utilizing a minimum nameplate rating of 50 kW has allowed for greater flexibility to (1) deploy a variety of chargers to meet a site-wide capacity and (2) meet the diverse needs of the fleets served. Fleets utilize a range of charging models in order to best accommodate their business needs. A minimum nameplate rating of 50 kW would allow charging providers to serve fleets that may employ long-dwell or overnight charging, while also installing charging equipment at a higher nameplate rating to cater to fleets that need faster charging for en route operations. This would further align with Ecology’s intent to establish a “floor” that recognizes the diversity of charging needs in the M/HD space.

### **B. Maximum Site-Wide Capacity**

PACT is receptive to Ecology’s decision to include a maximum site-wide capacity, but would encourage Ecology to consider making revisions to this provision. PACT’s overarching preference is for the maximum site-wide capacity to be used *in lieu of* requiring a minimum nameplate rating per FSE.

PACT appreciates that Ecology has proposed a 10 MW maximum site-wide capacity to reflect the significantly greater power needs for M/HD charging sites. Yet such sites have the potential to far exceed this site-wide cap. Developers are increasingly receiving requests for higher-powered chargers, including megawatt chargers. In such circumstances with a site-wide capacity of 10 MW, only 10 chargers would be available. When taking into consideration the size of Washington’s CFS program, PACT is comfortable supporting the proposed capacity cap at this time. PACT understands that the limited availability of credits precludes Ecology from raising the site-wide



cap by an order of significant magnitude. PACT also appreciates that Ecology is seeking to diversify the applicant pool and is attempting to find a balance between accommodating larger projects, while not allowing for one very large project to take up a considerable amount of available credits. Recognizing that M/HD charging sites may require power needs in excess of 10 MW and pending future expansion of this program, PACT would encourage Ecology to reconsider this site-wide cap at a later date.

## **V. Program Size**

PACT encourages Ecology to consider increasing the M/HD-FCI cap to 5% of the previous quarter deficits. Washington state has a goal that by 2030, 30% to 50% of new M/HD vehicles must be zero emissions depending on vehicle class, per the Advanced Clean Trucks (“ACT”) rule.<sup>3</sup> Significant charging infrastructure will be required in order to support deployment of these vehicles. Raising the cap from 2.5% to 5% of the previous quarter deficits will increase the scope and scale of the program, thereby creating more pathways for stakeholders to invest in M/HD-FCI and meet future infrastructure demands.

## **VI. Conclusion**

PACT is pleased to provide these comments in response to the State of Washington's Clean Fuel Standard Rulemaking (Chapter 173-424 WAC). PACT applauds Ecology’s progress, including the proposal for a M/HD-FCI provision in the updated program. PACT stands in strong support for the proposed MHD-FCI program and looks forward to future engagement with Ecology on this matter.

Sincerely,

PACT

/s/  
David Bonelli  
Partner  
Venable LLP  
*On behalf of PACT*

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<sup>3</sup> [https://app.leg.wa.gov/ReportsToTheLegislature/Home/GetPDF?fileName=WA-Transportation-Electrification-Strategy-Summary\\_0ac1fdab-1b85-4e37-9152-cc233756c5dd.pdf](https://app.leg.wa.gov/ReportsToTheLegislature/Home/GetPDF?fileName=WA-Transportation-Electrification-Strategy-Summary_0ac1fdab-1b85-4e37-9152-cc233756c5dd.pdf)