

Clean Energy Fuels Corp.
Form POS AM
August 31, 2012
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As filed with the Securities and Exchange Commission on August 31, 2012

Registration No. 333-168433

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Post-Effective Amendment No. 2

to

Form S-3

**REGISTRATION STATEMENT UNDER
THE SECURITIES ACT OF 1933**

CLEAN ENERGY FUELS CORP.

(Exact Name of Registrant as Specified in Its Charter)

Delaware

(State or Other Jurisdiction of Incorporation or Organization)

33-0968580

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(I.R.S. Employer Identification No.)

3020 Old Ranch Parkway, Suite 400

**Seal Beach, California 90740
(562) 493-2804**

(Address, Including Zip Code, and Telephone Number, Including Area Code, of Registrant's Principal Executive Offices)

Andrew J. Littlefair

President and Chief Executive Officer

Clean Energy Fuels Corp.

3020 Old Ranch Parkway, Suite 400

**Seal Beach, California 90740
(562) 493-2804**

(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies to:

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Clean Energy Fuels Corp.
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Seal Beach, California 90740
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San Francisco, California 94105
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Approximate date of commencement of proposed sale to the public: From time to time after the effective date of this registration statement.

If the only securities being registered on this form are being offered pursuant to dividend or interest reinvestment plans, please check the following box.

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If any of the securities being registered on this form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box. x

If this form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. o

If this form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. o

If this form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box. o

If this form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box. o

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act.

Large accelerated filer	<input type="checkbox"/> o	Accelerated filer	<input checked="" type="checkbox"/> x
Non-accelerated filer	<input type="checkbox"/> o	Smaller reporting company	<input type="checkbox"/> o

CALCULATION OF REGISTRATION FEE

Title of each class of securities to be registered	Amount to be registered (1)(2)(3)(8)	Proposed maximum offering price per unit (3)	Proposed maximum aggregate offering price (3)(4)(5)	Amount of registration fee (3)
Primary Offering				
Common Stock, par value \$.0001 per share				
Preferred Stock, par value \$.0001 per share				
Debt Securities				
Warrants				
Rights				
Units (6)				
Total			\$ 150,475,916	(7)
Secondary Offering				
Common Stock to be sold by selling stockholder	491,764	(8)	(8)	(8)
(1)	With respect to the primary offering, also includes an indeterminate aggregate principal amount and number of securities of each identified class of securities up to a proposed aggregate offering price of \$150,475,916, which may be offered by the registrant from time to time in unspecified numbers and at indeterminate prices, and as may be issued upon conversion, redemption, repurchase, exchange or exercise of any securities registered hereunder, including under any applicable anti-dilution provisions. Except as provided in Rule 462(b) under Securities Act of 1933, in no event will the aggregate			

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- offering price of all types of securities issued by the registrant pursuant to this registration statement exceed \$150,475,916.
- (2) Pursuant to Rule 416 under the Securities Act of 1933, also covers any additional securities that may be offered or issued in connection with any share split, share dividend or similar transaction.
- (3) With respect to the primary offering, pursuant to General Instruction II.D. of Form S-3, the table lists each of the classes of securities registered and the aggregate proceeds to be raised, but does not specify by each class information as to the amount to be registered, proposed maximum offering price per unit, and proposed maximum aggregate offering price.
- (4) With respect to the primary offering, the proposed maximum aggregate offering price has been estimated solely to calculate the registration fee in accordance with Rule 457(o) under the Securities Act of 1933.
- (5) Includes consideration to be received by us, if applicable, for registered securities that are issuable upon exercise, conversion or exchange of other registered securities.
- (6) Consisting of some or all of the securities listed above, in any combination, including common stock, preferred stock and warrants.
- (7) The securities to be sold in the primary offering were previously registered and the applicable registration fee was previously paid in accordance with Rule 456(b) and Rule 457(r) under the Securities Act of 1933 by the filing of a prospectus pursuant to Rule 424(b) under the Securities Act of 1933 on March 9, 2011 (File No. 333-168433).
- (8) The 491,764 shares of common stock to be sold by the selling stockholder consists of: (i) 210,866 shares of common stock remaining from the 2,490,599 shares of common stock that were included in Post-Effective Amendment No. 1 to this Registration Statement filed on March 9, 2011 and declared effective on March 11, 2011; and (ii) 280,898 shares of common stock (with an aggregate maximum offering price of \$3.75 million based upon the issuance price of \$13.35 per share, which is the average closing price of our common stock on the Nasdaq Global Market for the three days prior to August 31, 2012). The 491,764 shares of common stock are being re-designated from a primary offering to a secondary offering in this Post-Effective Amendment No. 2 (see the Explanatory Note below). The registration fee with respect to the 210,866 shares of common stock to be sold by the selling stockholder has been previously paid in accordance with Rule 456(b) and Rule 457(r) under the Securities Act of 1933 in connection with the registrant's previous registration of the resale of such shares by the filing of a prospectus supplement pursuant to Rule 424(b) under the Securities Act of 1933 on September 7, 2010 (File No. 333-168433) and a prospectus supplement pursuant to Rule 424(b) under the Securities Act of 1933 on January 31, 2011 (File No. 333-168433). The registration fee with respect to the 280,898 shares of common stock to be sold by the selling stockholder has been previously paid in accordance with Rule 456(b) and Rule 457(r) under the Securities Act of 1933 by the filing of a prospectus pursuant to Rule 424(b) under the Securities Act of 1933 on March 9, 2011 (File No. 333-168433).
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EXPLANATORY NOTE

This Post-Effective Amendment No. 2 (this Post-Effective Amendment No. 2) to the Registration Statement on Form S-3 (File No. 333-168433) (the Registration Statement) is being filed to re-designate 280,898 shares of common stock (with an aggregate maximum offering price of \$3.75 million based upon the issuance price of the common stock of \$13.35 per share, which is the average closing price of our common stock on the Nasdaq Global Market for the three days prior to August 31, 2012) from the primary offering to the secondary offering registered hereunder.

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PROSPECTUS

Clean Energy Fuels Corp.

\$150,475,916

Common Stock

Preferred Stock

Debt Securities

Warrants

Rights

Units

491,764 Shares of Common Stock

to be sold by

the Selling Stockholder

We or selling securityholders may from time to time offer to sell common stock, preferred stock, debt securities, depositary shares, warrants, or units.

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Each time we or a selling securityholder sells securities pursuant to this prospectus, we will provide a supplement to this prospectus. Prospectus supplements will be filed and other offering material may be provided at later dates that will contain specific information about the offering and specific terms of the securities offered. You should read this prospectus and the applicable prospectus supplement carefully before you invest in our securities.

Our common stock is listed on the Nasdaq Global Market and trades under the symbol CLNE. On August 30, 2012, the closing sale price of our common stock was \$13.08 per share. We or selling securityholders may offer and sell these securities to or through one or more underwriters, dealers and agents, or directly to purchasers, on a continuous or delayed basis. The applicable prospectus supplement will contain information, where applicable, as to any other listing, if any, of the securities covered by the applicable prospectus supplement.

The selling stockholder identified in this prospectus is offering up to 491,764 shares of our common stock, par value \$0.0001 per share. We issued such shares of common stock to the selling stockholder in connection with our acquisition of the assets and business of I.M.W. Industries Ltd. We will not receive any proceeds from the sale of shares being sold by the selling stockholder. The selling stockholder may sell the shares of common stock from time to time in the open market, on the Nasdaq Global Market, in privately negotiated transactions or a combination of these methods, at market prices prevailing at the time of sale, at prices related to the prevailing market prices, at negotiated prices, or otherwise as described under the section of this prospectus titled Selling Stockholder Plan of Distribution.

Investing in our securities involves a high degree of risk. See the Risk Factors section of our filings with the SEC and the applicable prospectus supplement for certain risks that you should consider before investing in our securities.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.

The date of this prospectus is August 31, 2012.

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ABOUT THIS PROSPECTUS

This document is called a prospectus and is part of a registration statement that we have filed with the Securities and Exchange Commission, or the SEC, using a shelf registration process. Under this shelf registration process, we or selling securityholders may, from time to time, sell any combination of the securities described in this prospectus in one or more offerings in amounts to be determined from time to time.

This prospectus provides you with a general description of the securities we or selling securityholders may offer. Each time we or selling securityholders offer a type or series of securities described in this prospectus, we will provide a prospectus supplement, or information that is incorporated by reference into this prospectus, containing more specific information about the terms of the securities that are being offered. We may also authorize one or more free writing prospectuses to be provided to you that may contain material information relating to these offerings and securities. We may also add, update or change in the prospectus supplement any of the information contained in this prospectus or in the documents that we have incorporated by reference into this prospectus, including without limitation, a discussion of any risk factors or other special considerations that apply to these offerings or securities or the specific plan of distribution. If there is any inconsistency between the information in this prospectus and a prospectus supplement or information incorporated by reference having a later date, you should rely on the information in that prospectus supplement or incorporated information having a later date. We urge you to read carefully this prospectus, any applicable prospectus supplement and any related free writing prospectus, together with the information incorporated herein by reference as described under the heading *Where You Can Find More Information*, before buying any of the securities being offered.

You should rely only on the information we have provided or incorporated by reference in this prospectus, any applicable prospectus supplement and any related free writing prospectus. We have not authorized anyone to provide you with different information. No dealer, salesperson or other person is authorized to give any information or to represent anything not contained in this prospectus, any applicable prospectus supplement or any related free writing prospectus.

The registration statement containing this prospectus, including exhibits to the registration statement, provides additional information about us and the securities offered under this prospectus and any prospectus supplement. We have filed and plan to continue to file other documents with the SEC that contain information about us and our business. Also, we will file legal documents that control the terms of the securities offered by this prospectus as exhibits to the reports that we file with the SEC. The registration statement and other reports can be read at the SEC web site or at the SEC offices mentioned under the heading *Available Information*.

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AVAILABLE INFORMATION

We are required to file annual, quarterly and current reports, proxy statements and other information with the SEC. You may read and copy any documents filed by us at the SEC's public reference room at 100 F Street, N.E., Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information on the public reference room. Our filings with the SEC are also available to the public through the SEC's web site at <http://www.sec.gov>.

We have filed with the SEC a registration statement on Form S-3, of which this prospectus is a part, relating to the securities covered by this prospectus. This prospectus is a part of the registration statement and does not contain all the information in the registration statement. Whenever a reference is made in this prospectus to a contract or other document of the Company, the reference is only a summary and you should refer to the exhibits that are a part of the registration statement for a copy of the contract or other document. You may review a copy of the registration statement at the SEC's public reference room in Washington, D.C., as well as through the SEC's web site.

INCORPORATION OF CERTAIN INFORMATION BY REFERENCE

The SEC and applicable law permits us to incorporate by reference into this prospectus information that we have or may in the future file with or furnish to the SEC. This means that we can disclose important information by referring you to those documents. You should read carefully the information incorporated herein by reference because it is an important part of this prospectus.

We incorporate by reference into this prospectus the following documents or information filed with the SEC (other than, in each case, documents or information deemed to have been furnished and not filed in accordance with SEC rules):

- Our Annual Report on Form 10-K for the year ended December 31, 2011;
- Our Quarterly Report on Form 10-Q for the periods ended March 31, 2012 and June 30, 2012;
- Our Current Reports on Form 8-K filed with the SEC on May 25, 2012 and July 10, 2012;
- The description of our common stock contained in the Registration Statement on Form S-1, which became effective on May 24, 2007, including any amendment or report filed for the purposes of updating such description; and
- All documents filed by Clean Energy Fuels Corp. under Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, as amended (the Exchange Act), on or after the date of this prospectus and before the termination of this offering shall be deemed to be incorporated by reference into this prospectus from the respective dates of filing of such documents.

In addition, all documents filed by Clean Energy Fuels Corp. with the SEC under Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act after the date of the filing of this prospectus included in this Post-Effective Amendment No. 2 and prior to effectiveness of this Post-Effective Amendment No. 2 shall be deemed to be incorporated by reference into this prospectus from the respective dates of filing of such documents.

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Any information that we subsequently file with the SEC that is incorporated by reference as described above will automatically update and supersede any previous information that is part of this prospectus.

Any information that we subsequently file with the SEC that is incorporated by reference as described above will automatically update and supersede any previous information that is part of this prospectus.

We will provide without charge to each person, including any beneficial owner, to whom this prospectus is delivered, upon his or her written or oral request, a copy of any or all documents referred to above which have been or may be incorporated by reference into this prospectus excluding exhibits to those documents unless they are specifically incorporated by reference into those documents. Written or telephone requests should be directed to Clean Energy Fuels Corp., Attn: Investor Relations, 3020 Old Ranch Parkway, Suite 400, Seal Beach, California 90740, (562) 493-2804.

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FORWARD-LOOKING STATEMENTS

This prospectus and any accompanying prospectus supplement, including the documents we incorporate by reference therein or that are deemed to be a part thereof, contain forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended (the Securities Act), and Section 21E of the Exchange Act. Such statements include, without limitation, statements regarding our expectations, hopes or intentions regarding the future. These forward looking statements can often be identified by their use of words such as expect, believe, anticipate, outlook, could, target, project, intend, plan, seek, estimate, should, may and assume, as well as variations of expressions referring to the future. They also include statements concerning anticipated revenues, income or loss, capital expenditures, dividends, capital structure or other financial terms. For a non-exhaustive list of certain forward-looking statements that are incorporated by reference into or deemed to be a part of this prospectus and any prospectus supplement, please refer to the Cautionary Note Regarding Forward-Looking Statements in our Annual Report on Form 10-K for the year ended December 31, 2011.

Forward-looking statements involve certain risks and uncertainties, many of which are beyond our control. If any of those risks and uncertainties materialize, actual results could differ materially from those discussed in any such forward-looking statement. Among the factors that could cause actual results to differ materially from those discussed in forward-looking statements are those discussed under the heading Risk Factors and in other sections of (i) our Annual Report on Form 10-K for the year ended December 31, 2011, (ii) our Quarterly Report on Form 10-Q for the quarter ended June 30, 2012, (iii) our other reports filed from time to time with the SEC that are incorporated by reference into this prospectus and any prospectus supplement, or (iv) any prospectus supplement to this prospectus. See Available Information and Incorporation of Certain Information by Reference for information about how to obtain copies of those documents.

All forward-looking statements in this prospectus, any prospectus supplement and the documents incorporated by reference therein are made only as of the date of the document in which they are contained, based on information available to us as of the date of that document, and we caution you not to place undue reliance on forward-looking statements in light of the risks and uncertainties associated with them. Except as required by law, we undertake no obligation to update any forward-looking statements, whether as a result of new information, future events or otherwise.

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RISK FACTORS

Investing in our securities involves significant risks. You should review carefully the risks and uncertainties described under the heading Risk Factors contained in, or incorporated by reference into, this prospectus, the applicable prospectus supplement, and any related free writing prospectus. Each of the referenced risks and uncertainties could adversely affect our business, operating results and financial condition, as well as adversely affect the value of an investment in our securities. Additional risks not known to us or that we believe are immaterial may also adversely affect our business, operating results and financial condition and the value of an investment in our securities.

DESCRIPTION OF SECURITIES WE MAY OFFER

We may issue, or selling securityholders may offer, from time to time, in one or more offerings the following securities:

- shares of common stock;
- shares of preferred stock;
- debt securities;
- warrants exercisable for debt securities, common stock or preferred stock;
- or rights to purchase any of such securities; and
- units of debt securities, common stock, preferred stock, rights or warrants, in any combination.

This prospectus contains a summary of the material general terms of the various securities that we or selling securityholders may offer. The specific terms of the securities will be described in a prospectus supplement, information incorporated by reference, or free writing prospectus, which may be in addition to or different from the general terms summarized in this prospectus. Where applicable, the prospectus supplement, information incorporated by reference or free writing prospectus will also describe any material United States federal income tax considerations relating to the securities offered and indicate whether the securities offered are or will be listed on any securities exchange. The summaries contained in this prospectus and in any prospectus supplements, information incorporated by reference or free writing prospectus may not contain all of the information that you would find useful. Accordingly, you should read the actual documents relating to any securities sold pursuant to this prospectus. See Available Information and Incorporation of Certain Information by Reference for information about how to obtain copies of those documents.

The terms of any particular offering, the initial offering price and the net proceeds to us will be contained in the prospectus supplement, information incorporated by reference or free writing prospectus relating to such offering.

DESCRIPTION OF CAPITAL STOCK

General

The following summary of the material features of our capital stock does not purport to be complete and is subject to, and qualified in its entirety by, the provisions of our restated certificate of incorporation, our amended and restated bylaws and other applicable law. See Available Information.

Pursuant to our restated certificate of incorporation, we are currently authorized to issue 149,000,000 shares of common stock, par value \$0.0001 per share, and 1,000,000 shares of preferred stock, par value \$0.0001 per share. The authorized shares of our common stock and preferred stock will be available for issuance without further action by our stockholders, unless such action is required by applicable law or the rules of any stock exchange or automated quotation system on which our securities may be listed or traded. If the approval of our stockholders is not required, our board of directors may determine not to seek stockholder approval.

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Common Stock

Dividends

Subject to provisions of the Delaware General Corporation Law, or the DGCL, and to any future rights which may be granted to the holders of any series of our preferred stock, dividends are paid on our common stock when and as declared by our board of directors out of funds legally available for dividend payments.

Voting rights

Each holder of shares of our common stock is entitled to one vote per share on all matters submitted to a vote of our common stockholders. Holders of our common stock are not entitled to cumulative voting rights.

Liquidation

If we are liquidated, holders of our common stock are entitled to receive all remaining assets available for distribution to stockholders after satisfaction of our liabilities and the preferential rights of any of our preferred stock that may be outstanding at that time.

Preemptive rights

The holders of our common stock do not have any preemptive, conversion or redemption rights by virtue of their ownership of the common stock.

Preferred Stock

Shares of our preferred stock may be issued in one or more series, and our board of directors is authorized to determine the designation and to fix the number of shares of each series. Our board of directors is further authorized to fix and determine the dividend rate, premium or redemption rates, conversion rights, voting rights, preferences, privileges, restrictions and other variations granted to or imposed upon any wholly unissued series of our preferred stock.

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Prior to the issuance of shares of a series of preferred stock, our board of directors will adopt resolutions and file a certificate of designation with the SEC. The certificate of designation will fix for each series the designation and number of shares and the rights, preferences, privileges and restrictions of the shares including, but not limited to, the following:

- the maximum number of shares in the series and the distinctive designation;
- voting rights, if any, of the preferred stock;
- the dividend rate(s), period(s) and/or payment date(s) or method(s) of calculation applicable to the preferred stock;
- whether dividends are cumulative or non-cumulative, and if cumulative, the date from which dividends on the preferred stock will accumulate;
- the relative ranking and preferences of the preferred stock as to dividend rights and rights upon the liquidation, dissolution or winding up of our affairs;
- the terms and conditions, if applicable, upon which the preferred stock will be convertible into common stock, another series of preferred stock, or any other class of securities being registered hereby, including the conversion price (or manner of calculation) and conversion period;
- the provision for redemption, if applicable, of the preferred stock;
- the provisions for a sinking fund, if any, for the preferred stock;