

April 22, 2022

Ms. Rachel Assink
Rulemaking Lead
Washington State Department of Ecology
300 Desmond Drive SE
Lacey, WA 98503

RE: Clean Fuels Program Rulemaking

Dear Ms. Assink,

The joint signatories appreciate the opportunity to comment on the Department of Ecology's (Ecology) rulemaking for the Clean Fuel Program (CFP). The signatories include electric utilities that serve nearly all Washingtonians with some of the nation's cleanest electricity, currently fuel over 85,000 electric and plug-in hybrid electric vehicles, and are organizations that represent and advance environmental and human service needs across Washington and the Northwest. Washington utilities continued and increasing investment in clean energy will contribute to reduced emissions in the transportation sector.

We are committed to a robust CFP that reduces GHG emissions, provides investments in underserved communities, and encourages the expansion of transportation electrification (TE). We greatly appreciate Ecology's robust stakeholder process and opportunities for engagement thus far and look forward to continued participation in the rulemaking process to ensure that the program works effectively across the state.

Electric Utility CFP Revenues = Equitable Investments in Washington Communities

Washington's electric utilities have a strong history and commitment in providing services to all customers, including those in underserved communities. The Legislature established requirements in the Clean Fuel Standard (CFS) statute on how participating electric utilities may invest their CFP revenues. The existence of these requirements demonstrates the Legislature intended for electric utilities to be program participants, collect program credits and advance the goals of the program. The statute requires electric utilities to invest their CFP revenues in TE projects and programs with a significant focus on serving and benefiting vulnerable populations and highly impacted communities. With the completion of their first iteration of Clean Energy Implementation Plans, Washington utilities established their experience in developing conservation and clean energy programs specific to both vulnerable populations and highly impacted communities. Those efforts will be leveraged in developing transportation electrification programs to the very customer groups the statute requires. Under the CFS statute ([RCW 70A.535.080](#)), utilities are required and committed to deploying revenues in:

- Programs and projects in and benefitting Washington state,
- Programs and projects that reduce greenhouse gas emissions, or
- Programs and projects that directly benefit underserved communities.

The state's various greenhouse gas (GHG) emissions reduction laws, CFS statutory goals and stated intent, and the nature of TE acceleration efforts require coordinated deployment of current

and planned electrification programming in Washington. Utilities would allocate CFS credit revenues optimally due to their trusted relationships with their customers as well as history of understanding customers and customer-centered programming. Utilities will invest CFP revenues in ways that best serve the needs and interests of their communities statewide while advancing the statute's goals. These investments will expand access to clean modes of transportation. Therefore, the signatories support draft rules that result in utilities having maximal access to credits and their respective revenues.

Electric vehicle manufacturers and many aggregators do not have systems in place, unlike utilities, that are subject to the regulatory and community oversight to ensure programs are developed and administered transparently, subject to stringent review and evaluation, and accompanied by robust engagement from stakeholders. Electric utilities have all these processes and safeguards in place, and possess the expertise and presence in their communities to enable them to efficiently achieve these objectives for their unique and specific communities. As mentioned above and foundational to all of this, utility monies generated by CFP credit revenues will be spent in Washington in an additive and accelerative manner.

The joint utilities are encouraged by the April 13, 2022 draft rule language found in WAC 173-424-SRR (3)(b)(iv) that states non-utility credit generators must expend credit revenues to "benefit EV drivers and their customers." The draft rule language should expand to require that non-utility residential credit generators expend all credit revenues within Washington and have an annual accounting of revenue. Ultimately, the utilities are supportive of Ecology pursuing programmatic rules and processes that ensure all credit revenues are expended in Washington state.

Residential Credits

All Residential Charging Credits Should Be Allocated to Electric Utilities

The signatories implore the Department of Ecology (Ecology) to craft rules that are consistent with the legislation and clearly prioritizes the assignment of credits from residential charging to electric utilities. Residential credits include those generated from electric vehicle chargers located at:

- Single family homes,
- Common-interest communities (e.g. Homeowners' Association, condominiums, etc.),
- Multi-family dwelling units, and;
- Public chargers on right-of-way that are expressly and purposefully installed to support residential customers (e.g., Level 2 chargers for EV owners who do not have access to their own garage).

The joint utilities seek clarity on the calculation and assignment of credits using methodology described in 173-424-CCD subsection (3) part (b). Specifically, aligning the calculation methodology with the assignment of both base and incremental credits in section 173-424-220 (7).

Utility Credit Allocation Methodology Should Expand Equitable Access to Clean Fuels

Currently, most at-home charging is not separately metered. Ecology should not require or incentivize separately metered residential charging stations in order to generate residential

charging credits. We believe this should be decided on a utility-by-utility basis. For some, this could increase costs and pose equity issues, further disincentivizing low-income EV adoption and usage. Furthermore, the intended objectives of requiring separate metering can be accomplished through other means that don't face such financial and technical barriers. Ecology should work with Washington utilities to determine desired outcomes and technological pathways that can accomplish those that are reasonable and minimize harm.

“Multi-Family” Should be Considered “Residential”

EV charging that occurs at “multi-family” properties should be considered “residential.” However, Washington utilities also recognize that “multi-family” charging varies significantly under different models from 120V or 240V outlets to a public network charger. Ecology should continue discussions on this topic to work on a crediting system that recognizes these varying situations and administrative complexities, while also continuing to prioritize and incentivize low-income EV adoption and usage.

Non-Residential Electric Vehicle Charging Credit Generation

EV Supply Equipment (EVSE) owners/operators, including utilities, should receive the first right of refusal for credits for non-residential EV charging (including both on-road and off-road vehicles such as forklifts, refrigeration transport units, yard trucks, etc.) where they own and operate charging infrastructure. If non-utility EVSE owners/operators decline credit ownership, then utilities should be the credit owners. The non-residential charging section lists two distinct entities (i.e., station owners and EVSPs) as being eligible to generate credits. This lack of clear delineation creates confusion and uncertainty related to who is legally authorized as the credit-generating entity. In all cases, only one entity should be clearly designated, with other entities in succession if the first entity chooses not to participate.

Furthermore, nothing in the rules should prevent utilities from entering into agreements with non-utility customers who generate credits, such as non-residential EVSE owners or operators, to allow utilities to receive credits from those entities for the purposes of managing, banking, expending, or utilizing credits in a manner as agreed upon by both parties.

Electric Utility CFP Expenditures may be in Addition to Existing TE Investments

Many of the electric utility signatories have adopted and/or implemented a TE Plan approved by the Utilities and Transportation Commission or the utilities' governing bodies. Electric utility investments of CFP revenues would complement and be in addition to any existing TE programs and projects. Furthermore, the CFP revenues should be allowed to pay any programmatic fees.

We suggest Ecology ensure its rules are clear on this point to accelerate and maximize CFP investment impacts. That clarity would effectively provide electric utilities the ability to expedite and expand upon TE investment benefits that may already be underway or that are above and beyond existing TE Plans.

Backstop and Incremental Aggregators for Unclaimed Credits.

The signatories agree that unclaimed credits by utilities or site hosts should be claimed by backstop and incremental aggregators. However, those aggregators should be held to similar accountability with requirements for credit revenues to be expended within Washington and accountability of the revenues through the annual reporting process.

Specific Reporting Requirements for Residential Electricity Charging Consumption in Section WAC 173-424-SRR (3)(a) and (b)

Section WAC 173-424-SRR (3)(b)(i) requires the utility to provide a daily average EV electricity use on a quarterly basis. Section WAC 173-424-CCD (3)(b) states “Ecology will calculate the total electricity dispensed”. We are interested in Ecology’s rationale to provide daily average EV electricity use on a quarterly basis which is inconsistent with other reporting requirements. We recommend Ecology’s calculation for consistency across WA utilities.

Multiple Claims for Incremental Residential Credits

We support the draft rule language assigning a priority to the utility supplying the electricity when multiple requests are submitted for incremental credits in WAC 173-424-220 (7)(b)(iii) and oppose the draft rule language WAC 173-424-SRR (c)(ii)(B) “no incremental credits will be issued for the FSE”.

Thank you again for the opportunity to provide input into the Clean Fuel Standard rulemaking process. We appreciate your time and consideration of our comments.

Sincerely,



**Seattle
City Light**

CHELAN COUNTY

