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Thank you for the opportunity to comment on the Chapter 173-424 WAC rulemaking, implementing E3SHB 1091 as passed by the Washington Legislature during the 2021 Session, the Clean Fuels Program. This important legislation provides a broad, multi-technology approach to rapidly reducing carbon emissions from Washington's largest source of carbon emissions, transportation.

The legislature made its intent for the Clean Fuels Program very clear:

“ to support the deployment of clean transportation fuel technologies through a carefully designed program that reduces the carbon intensity of fuel used in Washington, in order to:

- (a) Reduce levels of convention air pollutants from diesel and gasoline that are harmful to public health;
- (b) Reduce greenhouse gas emissions associated with transportation fuels, which are the state's largest source of greenhouse gas emissions; and
- (c) Create jobs and spur economic development based on innovative clean fuel technologies”

As an electric vehicle driver, my comments focus on the creation, allocation, and use of credits associated with electric transportation, and specifically ensuring that electric transportation users receive benefit for their contribution to the creation, allocation, and use of these credits through efficiency in further the public health, environmental, and economic goals specified by the legislature.

Participation by individual electric vehicle drivers

Within electric transportation, actions are required by a number of parties required to enable use of electricity as a transportation fuel. Vehicles must be manufactured and purchased, chargers must be manufactured and purchased, and electricity must be produced, delivered, and purchased. This requirement for contribution by many parties was discussed at the January 17, 2022 webinar.

Much discussion and comment during this rulemaking has centered around the allocation of credits from electricity used in residential charging. Unfortunately, the current draft rules do not clearly identify the important role of the individual electric vehicle driver, nor provide any benefit to that driver, less that owner is a fleet or commercial owner that also owns its own charging equipment, as allowed under draft WAC 173-424-220 (3).

In the April 13, 2022 draft rules, owners of electric vehicles charged in residential settings are ineligible for generation of credits, despite being the purchaser of the vehicles and of the fuel. This is mis-aligned with Section 4 (4) of E3SHB 1091, which specified that that the rules must allow “Mechanisms to elect to participate in the clean fuels program for persons associated with the supply chains of transportation fuels....including....users”, as well as options for other vehicle owners such as transit agencies and forklift operators, who are eligible for credit generation.

There are many practical reasons to use aggregators for the credits generated by residential charging, rather than direct participation in the clean fuels program by individual drivers. These practical reasons include the efficiencies of reporting and participation in credit sales. However, it is also important that the individual electric vehicle drivers have a mechanism to participate, which should be through receiving benefits from credit sales.

Ensuring that sales of allocated credits benefit individual electric vehicle drivers

As discussed in the previous section, the current rules lack a means for direct participation by individual electric vehicle drivers, which is not consistent with the legislation. However, there are means that would allow participation by electric vehicle drivers, as well as ensure that they benefit from revenues from sale of allocated credits, which could be thousands of dollars per vehicle over a vehicle’s lifetime.

A direct provision of benefit to these individuals would be the establishment of a public purpose fund for electric transportation, which could be used to help fund projects that would be more efficient at a larger scale, such as consumer education, vehicle rebate programs, pilot programs for new transportation modes, and statewide planning. The work of the backstop aggregator could be guided by a planning process, which should include input from electric vehicle users and from communities who have been disproportionately impacted by transportation pollution and access and should see positive impact of health benefits, greenhouse gas emissions reductions, and economic development. The concept of a public purpose entity is already contemplated in the rules through a backstop aggregator.

The role of the backstop aggregator should be expanded to have an ongoing, specific source of funding, either through direct granting of credits or requirements for credit generators to allocate a portion of revenues from sales to the backstop aggregator. This would provide a clear and direct benefit to individual electric vehicle drivers, as well as a clear nexus to the legislative goals.

Increasing planning and transparency to maximize investment of funds from allocated credits

Section 9 of E3SHB 1091 defined for utilities requirements to spend all revenues generated through credits earned from the electricity supplied to retail customers on transportation electrification projects. This spending is across broad categories, defined and presumably refined through public process, and has specific requirements for ensuring investments in disproportionately impacted communities.

Draft WAC 173-424-SRR Section 3 (b)(iv) requires only that “non-utility credit generators use credit proceeds to benefit EV drivers and their customers, and educate them about the benefits of EV transportation (including environmental benefits and costs of EV charging, or total cost of ownership, as compared to gasoline),” as well as reporting an “itemized summary of efforts and costs associated with meeting these requirements.” The public purpose of these investments by non-utility credit holders, which presumably includes aggregators, backstop aggregators, and vehicle manufacturers, is necessary and should be broadened and strengthened.


These non-utility parties should be encouraged to make coordinated investments within the same categories as are defined for utilities, as well as required to make investments in disproportionately impacted communities. Further, these non-utility parties, who are not subject to audit of their overall spending under this legislation, should be required to annually certify that use of funds are additional to any other internal and external funding for transportation electrification activities.

Finally, all parties receiving allocated credits, both utilities and non-utilities, should have to submit a publicly available plan for how funds will be used to further transportation electrification, which should consider input from current and prospective individual electric vehicle drivers. This provides for the participation of electric vehicle drivers, as well as provides transparency to encourage efficiency and effectiveness of the investment of funds from these allocated credits.

The Department of Ecology has implementation oversight for several important laws that will affect Washington’s carbon emissions, including the Clean Fuels Standard, Climate Commitment Act, and

vehicle emission standards. In addition, the Departments of Transportation, Commerce, and the Utilities and Transportation Commission have policy, planning, and funding related to electric transportation. Ecology's coordination with these other agencies is critical to create efficiency in reducing carbon emissions and in investment of public funds. The investments in planning and engagement will pay dividends in effectiveness in achieving benefits in health, climate, and economic development.

Thank you for your consideration of public comments on draft WAC 173-424.

A handwritten signature in black ink, appearing to read "Ben Farrow". The signature is stylized with a large initial "B" and "F".

Ben Farrow