

Multiple organizations

Please see the attached comments from Audubon Washington, Climate Solutions, Climate Reality WA State Coalition, Coltura, NW Energy Coalition, Sierra Club Washington State Chapter, The Nature Conservancy, Union of Concerned Scientists, Washington Black Lives Matter Alliance, Washington Build Back Black Alliance, Washington Environmental Council/Washington Conservation Voters, Washington Physicians for Social Responsibility, 350 Seattle, and 37th LD Democrats Environment and Climate Caucus.

14 March 2022

Department of Ecology
State of Washington
P.O. Box 47600
Olympia, WA 98504-7600

Re: Credit Generation in Chapter 173-424 WAC, the Clean Fuel Standard

Dear Rachel Assink,

Thank you for the opportunity to submit joint comments on rules pertaining to the Clean Fuel Standard (Chapter 173-424 WAC) on behalf of our 14 organizations. These comments are in response to the stakeholder meeting on January 27, 2022 and address credit generation from electric vehicle (EV) charging.

Washington state has committed to a 45% reduction in greenhouse gas emissions below 1990 levels by 2030 per RCW 70A.45.020. The Clean Fuel Standard is a part of the policy suite that will help ensure the state meets its legal obligations, but to ensure these reductions are achieved in an equitable and cost-effective manner, investments in clean transportation are critical. The Clean Fuel Standard will be effective both because of the required carbon intensity reduction of transportation fuels *and* due to the investments it will spur in clean transportation, including through regulated utility transportation investments. For this reason, it is important that this rulemaking ensures that credit generation opportunities are first provided to those closest to fuel use and delivery, reducing costs for those customers the law is seeking to incentivize to convert. When this is not feasible, the credit generation opportunities should then be provided to entities that can reasonably act on behalf of the fuel user and are required to reinvest in further clean fuel programs, projects, and infrastructure.

In the stakeholder meeting on January 27, 2022, the Department of Ecology proposed different options for how to treat credits generated by EV charging. This discussion was influenced by the Department's view that EV manufacturers must have a "[mechanism] to elect to participate in the clean fuels program" per RCW 70A.535.030 (4). **We believe that EV manufacturers already have such a mechanism per the current draft rule language for non-residential EV charging, where the owner or service provider of the electric-charging equipment is first able to claim associated credits.** Some EV manufacturers already own such equipment. However, to clarify this opportunity for their participation in credit generation, we recommend proposed rule language in Appendix A.

Out of the options for residential EV charging credit proposed at the stakeholder meeting, we strongly prefer option 1: the utility may claim 100% of EV charging credit. We believe this option best aligns with the intent of the Clean Fuels Program. This also aligns with how base credits may be claimed under Oregon's program.

Per statute, utilities are required to reinvest credit revenue in transportation electrification programs and projects, with a minimum of 30% of total revenue directly benefiting disproportionately impacted communities or those in nonattainment areas. These investments will create a positive cycle for electric vehicle provision and use, as well as further state goals surrounding environmental justice.

On the other hand, the Legislature did not specify that EV manufacturers have to reinvest credits to the benefit of Washingtonians, nor require that 30% of revenue directly benefit disproportionately impacted communities. They are also already obligated to sell EVs in Washington State under the Zero Emission Vehicle Standard and the Advanced Clean Trucks Rule. It does not further our state's climate or equity goals to reward companies for compliance with overlapping regulations when credit claims could instead address remaining adoption hurdles faced by consumers, including further clean fuels infrastructure and investments and ensuring disproportionately impacted communities have access to electric vehicles and charging infrastructure.

We are not supportive of including incremental credit generation in this rule. Washington is on a pathway to 100% clean electricity, and the remaining option to generate incremental credits would be through the purchase of Renewable Energy Credits (RECs). However, given the interactions with policies in Washington, Oregon, and California, including the Clean Energy Transformation Act (CETA), Oregon's 100% Clean Energy law, and California's cap-and-trade program, generating incremental credits from RECs may lead to double-counting issues and reduce the integrity of Washington's Clean Fuels Program.

We are supportive of allowing for the designation of a backstop aggregator to claim credits that are not first claimed by credit generators that are first in line, which in the case of residential charging, is the electric utility. Such an aggregator should be not-for-profit and Washington-based and revenue should be invested to support overburdened communities.

Given these considerations, we offer proposed draft language for residential charging in Appendix B. We believe that this option will lead to the greatest expansion of clean fuels through reinvestments, as well as provide a more streamlined approach aligned with our neighbor, Oregon. We note that the formula for ascertaining the number of credits associated with residential charging for each individual utility must be carefully considered to ensure credit generation is as accurate as possible without requiring metering. If the Department moves forward with allowing EV manufacturers to generate credits on behalf of EV drivers through their residential charging, there should be oversight on how those investments are spent, similar to requirements for electric utilities and the backstop aggregator. We recommend that credit revenue be reinvested according to the list of programs and projects developed by the Department and the Department of Transportation per RCW 70A.535.080 (2)(a) with a minimum of 30% of investments directly benefiting overburdened communities. EV manufacturers must be required to report to the Department on how their credit revenue was spent should they be able to generate these credits from residential charging.

Thank you for your consideration and work on this rulemaking and we look forward to further discussions,

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Appendix A: Proposed draft language for non-residential electric vehicle charging

Non-residential electric vehicle charging.

For electricity used to charge an electric vehicle at non-residential locations, such as in public, for a fleet, at a workplace, or at multi-family housing sites, subsections (a) through (c) determine the person who is eligible to generate credits.

- a. Owner or service provider of the electric-charging equipment. The owner or service provider of the electric-charging equipment may generate credits from each piece of equipment. If an original equipment manufacturer of electric vehicles is the owner of the electric-charging equipment, they are eligible to generate credits from each piece of equipment.
- b. Electric Utility. If the owner or service provider of the electric-charging equipment does not generate the credits, then an electric utility or an aggregator designated to act on the utility's behalf is eligible to generate the credits if the two entities agree by written contract that:
 - i. The owner of the charging equipment will provide the electricity data to the designated aggregator.
 - ii. The designated entity accepts all CFP responsibilities as the fueling reporting entity and credit generator.
- c. Backstop Aggregator. If an electric utility does not register or designate an aggregator under subsection (b), then the backstop aggregator is eligible to claim any credits that the utility could have generated for the following year, as applicable.

Appendix B: Proposed draft language for residential electric vehicle charging

For residential charging.

For electricity used to charge an electric vehicle at a residence, subsections (a) through (c) determine the person who is eligible to generate credits.

- a. **Electric Utility.** In order to generate credits for the following year, an electric utility must notify Ecology by *Month XX* of the current year whether it will generate credits or designate an aggregator to act on its behalf. The utility or its aggregator must have an active registration approved by Ecology under WAC 173-424-REG. Once a utility has made a designation under this section that designation will remain in effect unless the utility requests a change in writing to Ecology.
- b. **Backstop Aggregator.** If an electric utility does not register or designate an aggregator under subsection (a), then the backstop aggregator is eligible to claim any credits that the utility could have generated for the following year.
- c. **Original Equipment Manufacturer of EV.** If a backstop aggregator does not register under subsection (b), then the original equipment manufacturer of the electric vehicle is eligible to claim the credits associated with the original equipment manufacturer's electric vehicles that the backstop aggregator could have generated for the following year.

Note: Given the fact that EV manufacturers already have the ability to participate in credit generation for non-residential charging, especially as clarified in the language proposed in Appendix A, we do not believe subsection c of the proposed language above is necessary. However, we are open to its inclusion. Please see our comments in the body of the letter about credit expenditures and reporting.