



August 31, 2022

Debebe Dererie
Washington Department of Ecology
300 Desmond Drive SE
Lacey, WA 98503

RE: Washington Department of Ecology Clean Fuel Program Rule, 173-424 WAC

Dear Mr. Dererie:

The Alliance for Automotive Innovation (“Auto Innovators”)¹ appreciates the opportunity to provide comments to the Department of Ecology (“Department”) on the open Clean Fuels Program Rule (“rule”). The comments below build off of comments submitted to the rulemaking docket in March 2022.²

Auto Innovators and its predecessor organizations have long supported Clean Fuel Standards across the country at the state and federal levels as a policy that not only supports EVs but can also further reduce emissions from every vehicle on the road. In the context of climate change, market-based mechanisms are widely understood to encourage emissions reductions in the most efficient way, especially when broadly applied. Properly structured, a clean fuel standard reduces the carbon intensity (CI) of gasoline and diesel fuel either directly or by funding low CI alternatives, such as plug-in and fuel cell electric vehicles and the required

¹ Formed in 2020, the Alliance for Automotive Innovation is the singular, authoritative, and respected voice of the automotive industry. Focused on creating a safe and transformative path for sustainable industry growth, the Alliance for Automotive Innovation represents the manufacturers producing nearly 99 percent of cars and light trucks sold in the U.S. The newly established organization, a combination of the Association of Global Automakers and the Alliance of Automobile Manufacturers, is directly involved in regulatory and policy matters impacting the light-duty vehicle market across the country.

² https://scs-public.s3-us-gov-west-1.amazonaws.com/env_production/oid100/did1008/pid_202037/assets/merged/t50li8u_document.pdf?v=PNK6A9TFR. Submitted March 11, 2022

infrastructure to support the use of these vehicles. A clean fuel standard is an important part of Washington’s overall strategy to reduce transportation-related carbon emissions, providing an approach that aligns improved fuel economy with lower emission fuels. It can also provide a source of revenue for transportation-related investments and improvements. Unfortunately, the proposed base residential EV charging credit generation hierarchy misses an opportunity for Washington to provide a direct and strong incentive for EVs that are highly utilized by allowing vehicle manufacturers, using vehicle-based data, to generate a share of the credits alongside utilities and aggregators. We recommend that the Department alter the residential EV charging credit generation hierarchy to take advantage of this opportunity.

Also included in comments below are suggested minor modifications to definitions, modifications to the Hydrogen Refueling Infrastructure (HRI) pathways for light-, medium-, and heavy-duty vehicles, edits to the DC Fast Charging pathway, and additional clarifications.

Base Residential EV Charging Credit Eligible Entities

The proposed rule provides a hierarchy for base, residential EV charging credits as 1) electric utility, 2) backstop aggregator, and 3) EV manufacturer. Unfortunately, this hierarchy is flawed for a number of reasons, a few of which are detailed below.

For residential EV charging conducted at locations that do not have a separate meter, the Department proposes to use an estimation method based on the number of EVs in a service territory and average amount of charging done at home. This method is contrary to the first success factors that the Department presented at its January 27, 2022 Workshop³ to use “verifiable and accurate data on EV charging events.” Using the proposed estimation method will not provide the Department with accurate data. On the other hand, vehicle-based data, provided by the OEMs, would be both verifiable, accurate, and cover all charging events.

³ <https://ecology.wa.gov/DOE/files/b3/b39b1c75-3247-4101-9300-8f831cb6a5b1.pdf>

Residential EV Charging – Success Factors

Verifiable and accurate data on EV charging events

- Meter at on-site EV charging station?
- OEM – generated EV charging data?
- Estimation–data and calculation procedure?

Data coverage of the available EV charging events

- OEM – generated data – not available for all EVs

Providing incentives to all actors in the fuel life cycle

- Electric utility, EV – OEMs, EV owner

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A split in the residential EV charging credits between OEMs, utilities, and third-party aggregators based on the amount of data provided by the OEM, as was also proposed at the January 27, 2022 Workshop,⁴ would ensure that the agency met its other Success Factors – “data coverage of the available EV charging events, and providing incentives to all actors in the fuel life cycle.” A split in base residential EV charging credit generation is the only pathway that would meet all of the success factors. OEMs are uniquely positioned to aggregate vehicle charging data for credit generation and are well-positioned to provide verifiable and accurate data to the Department. In the same January 27, 2022 Workshop, the Department seemed to recognize the benefits of a split in the credits by not indicating any cons for such a program.

⁴ *Id.*

Residential EV Charging

	Option 1	Option 2	Option 3
Credit generator	Utility	Utility for metered and non-metered	<ul style="list-style-type: none"> Metered EV credit: utility, OEM, and backstop aggregator Non-metered credit for utility
	Aggregator for unclaimed	Aggregator for unclaimed	<ul style="list-style-type: none"> OEM credit based on the extent of EV charging events data provision Backstop aggregator- shares metered credit and unclaimed credit
EV charging event data	No metering EV charging, use estimation method	Different credits for metered and unmetered	
Pros		Incentive for metered EV charging events	<ul style="list-style-type: none"> Credit largely based on measured EV charging energy Encourages OEM to provide more EVs with charging data meter
Cons	Credit is based on estimated energy, less effective program	Availability of feasible residential EV charging meter?	

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Allowing OEMs to generate residential base credits provides a direct and strong incentive for EVs that are highly utilized, generating more EV miles traveled, displacing proportionally more fossil-based vehicle miles traveled and thus realizing further GHG emission reductions. Splitting residential EV charging credits provides an opportunity to bring together automakers, utilities, and backstop aggregators to actively participate in the Clean Fuel Standard as credit generators. Unfortunately, that opportunity is missed.

Incremental Residential EV Charging Eligible Entities

The hierarchy proposed in the rule for multiple claims for non-metered incremental EV charging credits is 1) electric utility, 2) EV manufacturer, and 3) any other entity. For the reasons listed above, we recommend that utilities and EV manufacturers both have an equal opportunity to claim incremental residential EV charging credits.

In addition to comments above, there are inconsistencies that should be addressed:

1. WAC 173-424-220 (10)(b)(iii) provides the order of preference for how multiple claims for non-metered incremental credits will be resolved, whereas

WAC 173-424-420 (3)(c)(ii)(B) states that “If two or more entities report for the same FSE to generate incremental credits, no incremental credits will be issued for that FSE.” The elimination of an FSE from generating credits is inconsistent and should be eliminated from the rule.

2. The draft rule offers a choice of electricity carbon intensity from a statewide mix or utility-specific mix. Some Washington utilities have utility CI values higher or lower than the statewide mix, which could affect how incremental credits are earned. Language should be added explaining how the Department will evaluate the requested mix.

Utility Use of EV Charging Credits

The proposed rule does not include requirements for what the utilities must spend their residential EV charging credits on. Without specifying what the credits must be spent on, there is lack of certainty that credits received will go to programs that provide the greatest benefit to transportation electrification. We recommend that a clean fuel reward be set up to provide a point of purchase rebate for electric vehicles. This reward would be funded through utility-generated residential EV charging credits and provide an immediate discount to EV buyers. A portion of the revenue could also be spent on equity and environmental justice programs. The cost of EVs continues to be an impediment for many customers making the switch to an EV, therefore, reducing the purchase price through a point of purchase rebate, funded through utility-generated credits would further advance the transition to an electrified fleet in the state of Washington. We were involved in the development of the Clean Fuels Reward program in California and would support a similar endeavor in Washington.

Registration of Fueling Supply Equipment

The process for the registration of fueling supply equipment (FSE), WAC 173-424-300 (g)(ii), seems to be written for stationary equipment with requirements for “Name and address of the entity that owns the FSE, if different from the entity registering the FSE.” This requirement makes it unclear how to register a vehicle that may charge at multiple residences, i.e., primary residence, vacation home, other non-public location. We recommend providing clearer guidance

as to how a vehicle generating credits at multiple residences would comply with this requirement.

DC Fast Charging Infrastructure Pathways

The draft rule provides charging station requirements for DC fast charging infrastructure (FCI) pathways, including that “Charging equipment at the site must support at least two of the following three fast charging connectors: CHAdeMO, SAE CCS, and/or Tesla.” We recommend that all charging stations must have at least one SAE CCS connector. This requirement aligns with Advanced Clean Car II requirements for on-vehicle charging receptacles⁵ and proposed minimum standards for the Federal National Electric Vehicle Infrastructure (NEVI) for all federally funded charging stations to be equipped with an SAE CCS connector.⁶

Definition of Electric Vehicle and Fuel Cell Electric Vehicle

The draft rule only includes fuel cell vehicle under the abbreviation section (FCV), not in the definition section and not with reference to a fuel cell vehicle being an electric vehicle. We request that:

- 1) That the definition of fuel cell electric vehicle and fuel cell be included to ensure consistency with state law:

“Fuel cell electric vehicle mean an electric vehicle powered by a fuel cell.”

“Fuel cell means a technology that uses an electrochemical reaction to generate electrical energy by combining atoms of hydrogen and oxygen in the presence of a catalyst.”

⁵ <https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2022/accii/acciifro1962.3.pdf>

⁶ <https://www.federalregister.gov/documents/2022/06/22/2022-12704/national-electric-vehicle-infrastructure-formula-program>

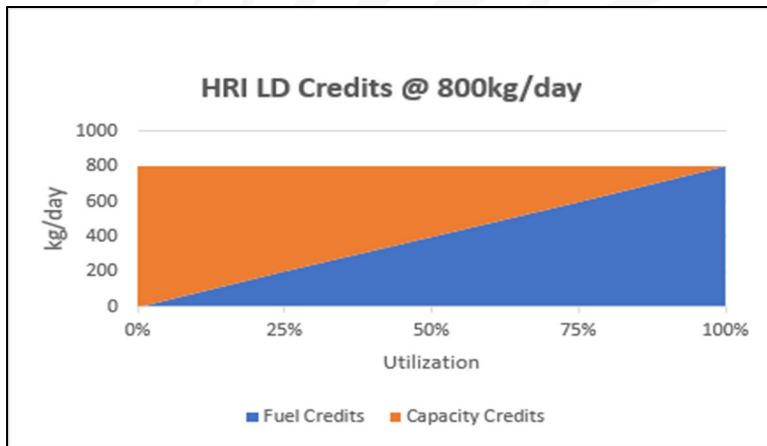
2) That “fuel cell vehicle” be included in the definition of electric vehicle [WAC 173-424-110(60)]

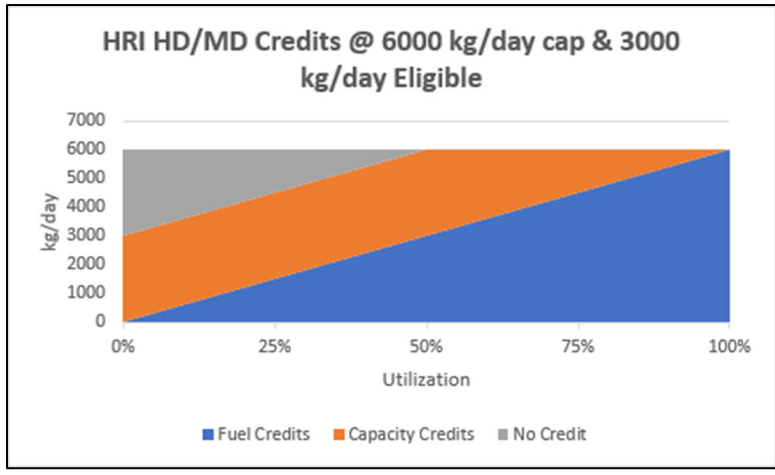
The addition of these definitions would ensure consistency with state law and clarity in the eligibility of electric vehicle technology and not substantively change the rule.

Hydrogen Refueling Infrastructure Capacity Credits

Hydrogen Refueling Infrastructure (HRI) is a very important provision to address the fundamental requirement that hydrogen infrastructure is built out in advance of vehicle deployment. However, it is also key that these stations are sufficiently sized to account for the needs of future vehicle deployment as well as to ensure good customer experience and more cost-effective operations. For example, California’s implementation of 1,200 kg/day for Light Duty (LD) stations HRI capacity limit ensures that stations are built to deliver a user experience that encourages adoption of zero emission vehicles. The success of California’s LD HRI Pathway can be seen in the average hydrogen station capacity increasing 2.5 times and station development programs underway that are 5 times larger than all prior developments.

Based on Washington’s market size and demand, we recommend adopting 800kg/day cap with full capacity eligibility for Light Duty, and 6,000 kg/d station cap with 3,000 kg/day crediting eligibility for Heavy and Medium Duty as shown in the figures below.





In addition, to ensure that adequate network coverage of both light- and heavy-duty vehicles we recommend separate caps for light- and heavy-duty stations, and that each cap be set at 2.5 percent. California is currently in the process of proposing the same allocation.

Additional Recommended Clarifications

In addition to the comments above, we recommend the following clarifying edits to the rule:

1. WAC 173-424-630(5)(b) states that “RECs must be generated by an electric generator that was placed into service after 2023.” This would mean that only RECs put into service after January 1, 2024 would qualify, which would prevent RECs from being used in the first year of the program. Recommend changing text to allow RECs put into service after 2022 to qualify.
2. Recommend modifying the definition of “Incremental credit” by replacing “renewable electricity” with “Low-CI electricity”. The term “renewable electricity” likely eliminates the possibility of smart charging generating incremental credits.

Conclusion

We appreciate the opportunity to provide comments on this rule and look forward to continuing to work with the Department on the implementation of the program. As stated above, we would specifically welcome the opportunity to look for opportunities to alter the residential

EV charging credit generation hierarchy to allow OEMs the opportunity to use vehicle-based data to generate a share of base credits.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Dan Bowerson". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Dan Bowerson
Sr. Director, Energy & Environment