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Washington Department of Ecology
15700 Dayton Ave N
Shoreline, WA 98133

Dear Ms. Assink,

ChargePoint appreciates the Department of Ecology's (the Department) work on developing a Clean Fuels Standard (CFS) rule in Washington on such an accelerated timeline and the opportunity to comment. ChargePoint is a strong advocate of CFS programs and supports the Department's draft rule as proposed, less a few exceptions which we touch on below. ChargePoint is a world leading electric vehicle (EV) charging network and EV charging solution provider, designing, manufacturing, and selling charging stations to the public, workplace, residential, and fleet verticals. We have over 188,000 charging stations on our global network today. ChargePoint is a participant under the California, Oregon, British Columbia, Canada, and Germany CFS, and has collaborated in rulemakings under all of these programs.

Support for the carbon intensity (CI) reduction schedule.

ChargePoint supports the proposed CI reduction schedule, specifically to reach a 20% CI reduction target by the earliest allowable year (2034). Bringing forward the CI reductions will accelerate investment in clean fuels and infrastructure, and transportation decarbonization. While some stakeholders have expressed concern regarding the 2033 to 2034 incremental CI reduction, we believe this concern mischaracterizes the dynamics of the credit market. Obligated parties take a longer-term view than a single compliance year and will begin procuring towards the 2034 target starting in 2023. This will smooth credit supply/demand from 2023 through 2034 and mitigate volatility and stress on the bank. As BRG's own cost benefit analysis concluded in its assessment of the Accelerated Reduction scenario, setting a 20% CI target in 2034 is "achievable". Furthering the viability of a 20% 2034 target, BRG's analysis did not consider recent expansions in renewable diesel production capacity, which Bloomberg estimates has the potential to more than saturate US west coast diesel markets by 2025[1]. This will create significant credit supply in California, Oregon, and Washington CFS programs. Despite this, BRG still concluded a 20% 2034 target is achievable. We urge the Department to look to what has happened in California with the precipitous fall in credit prices over the past year due to increased supply and set commensurate CI targets to accommodate growing supply. The trajectory in the proposed rule better aligns with other west coast CFS programs as well and will result in more investment coming to Washington.

Non-residential EV charging crediting.

For non-residential EV charging crediting, including at multifamily housing sites, we reiterate that the Department should align with Oregon's program and enable the owner *or* network service provider to generate credits as the first fuel reporting entity. This will enable greater flexibility between owners and

[1] BNEF LCFS Scenario Tool, dated July 4, 2022

network service providers to allocate the credit to the entity in the core value chain best suited to utilize the value of the credit and report under the program. This will also minimize stranded credits and return more value to those making investments. It may be that the Department intended to write WAC 173-424-2020(3)(a) this way since (3)(b) states, "*If the owner or service provider of the electric-charging equipment does not generate the credits…*", in which case (3)(a) should be redrafted to read "*The owner or service provider of the electric-charging equipment may generate credits from each piece of equipment.*".

In addition, we caution against designating utilities as a non-residential backstop without stricter reinvestment requirements. WAC 173-424-420(7)(a) only requires utilities to report revenues from the sale of *residential* credits; it does not require the same level of scrutiny around utility reporting and reinvestment for non-residential credits. This risks the utilities potentially collecting non-residential credits and not reinvesting the credit value back into transportation electrification, which goes against the market-based principle of a CFS. Credits should first go to the entities investing in and maintaining the charging station and network; where this is not feasible due to administrative reasons (e.g., EV drivers and residential crediting), the entity designated to collect the credits must reinvest those proceeds back into transportation electrification. Otherwise, the market signal that the CFS is designed to send is lost.

Registration.

We recommend the Department amend WAC 173-424-300(b)(vii)(A) to read, "*Unless described in WAC 173-424-2020(3)(a) as a first fuel reporting entity, provide ecology with a copy of a written contractual agreement demonstrating the registered entity acquired the designation of the first fuel reporting entity status;*". This change will clarify that first fuel reporting entities do not need to provide the Department with contracts for stations where they are already the first fuel reporting entity. Without this clarification, the draft rule could be misconstrued to require amending thousands of EV charging contracts, which would be burdensome and costly.

Under WAC 173-424-300(b)(vii)(B), the draft rule requires registrants of non-residential charging stations to provide the number of chargers located in Washington as well as the estimated annual discharge of electricity per location, among other data points, upon registration. The number of charging stations and electricity discharge is constantly changing making these estimates difficult and subject to large errors. Moreover, no other clean fuels program requires this information upon registration. We recommend the Department drop this requirement from the registration requirements.

Electric utility reinvestment and reporting.

Because a large majority of EV charging happens at drivers' homes, a large majority of credits from on-road EV charging will be generated by utilities under the proposed rule. Therefore, it is critical that the rules developed around utility reinvestment and reporting are sound to ensure that this majority value makes its way back to the market and advances transportation electrification in Washington. Rebates for level 2 home chargers and installation have advanced electrification (and data collection on EV charging) in other programs, as have utility funding programs that cover line extensions and other front of meter costs that help enable transportation electrification. These types of programs aimed at EV drivers and public charging operators have the added benefit of returning value to the drivers whose investment in EVs was the original source of the credit revenue to begin with, which fosters a more equitable CFS.

Regarding the utility reinvestment requirements laid out in 70A.535.080(1)(a) vs (2)(a), (1)(a) offers more ambiguity for utilities due to less detail provided (as opposed to (2)(a) which points to a specific list of

projects to be developed by the Department). We flag this so that the Department can embed sufficient structure and oversight in the rules around utility reinvestment reporting (WAC 173-424-420(7)) to ensure that this value – 50% of utility residential base credit proceeds – makes its way back to the market to advance electrification and benefits drivers, with a large share aimed at benefitting disproportionately impacted communities. Finally, utility programs funded through CFS credit proceeds should be competitive and open to market participation. These funds being administered by utilities stem from individual driver – not utility – investments thus should be open to competitive bidding. Competition for funding will lower costs and increase benefits to drivers, charging, and fleet operators, too.

Fast charging infrastructure (FCI) crediting.

ChargePoint supports the FCI pathway and applauds the Department for including it in the initial rule. The FCI pathway has been an overwhelming success of California's CFS and will be equally effective in Washington at accelerating transportation electrification. The one adjustment we recommend the Department make is to begin FCI crediting *the first quarter the station is activated* following application approval, instead of commencing crediting the quarter following application approval, as currently written. By starting crediting the quarter following application approval, regardless of activation status, projects that pre-applied but are not yet active get penalized by missing out on quarter(s) of credits. This is a relatively new lesson the market has learned from experience under California's FCI provision and ChargePoint as well as others are currently in discussion with CARB to implement this change under California's CFS as well.

Advance crediting.

Advance crediting under CFS is a creative and impactful way to accelerate electrification and decarbonization of transportation. The core concept is to fund projects that would not have happened otherwise, thus generating net new electrification. To this end, we recommend the Department loosen the eligibility requirements of advance crediting beyond just projects receiving funding through an omnibus transportation appropriations act to include all projects. The rationale is projects funded through an omnibus transportation appropriations act are already receiving funding thus may be less in need of financial assistance than other projects. To maximize the impact of the advance crediting provision, the Department should remove this requirement. Projects receiving funding through an omnibus transportation appropriations act will still be eligible.

Thank you for considering our comments. We look forward to continued participation in this rulemaking.

Evan Neyland
Clean Fuels Manager