WAC 173-424-220 Designation of fuel reporting entity for electricity. (1) **Applicability.** This section prescribes how credits are generated for electricity when used as a transportation fuel.

(2) **Responsibilities to generate credits.** To receive credits for electricity supplied as a transportation fuel, an entity subject to this section must:

(a) Establish an account in the online system;

(b) Comply with registration, recordkeeping, and reporting requirements.

(3) **Designating another entity as credit generator.** A person who is eligible to generate credits as described in subsections (4) through (11) of this section may elect to designate another entity to be the credit generator if the two entities agree by written contract that:

(a) The credit generator outlined in subsections (4) through (11) of this section will provide the electricity data to the designated entity.

(b) The designated entity accepts all CFP responsibilities as the fueling reporting entity and credit generator.

(4) **Nonresidential electric vehicle charging.** For electricity used to charge an electric vehicle at nonresidential locations, such as in public for a fleet, at a workplace, or at multifamily housing sites, the eligible entities that generate credits are:

(a) The owner of the electric-charging equipment may generate credits from each piece of equipment.

(b) If the owner of the electric-charging equipment does not generate the credits, then an electric utility or its designated entity may generate the credit, if the two entities agree by written contract that:

(i) The owner of the charging equipment will provide the electricity data to the designated entity.

(ii) The designated entity accepts all CFP responsibilities as the fueling reporting entity and credit generator.

(5) **Public transit systems.** For electricity used to power transit buses, ferry vessels, or fixed guideway vehicles such as light rail systems, streetcars, or aerial tram, the transit agency operating the system is eligible to generate the credits for the electricity used to propel the system.

(6) **Electric forklifts.**

(a) For electricity used as transportation fuel supplied to electric forklifts, the fleet owner is the fuel reporting entity and the credit generator. The forklift owner must annually notify in writing to the forklift operator that:

(i) The owner is generating credit for the amount of electricity the operator uses for the electric forklifts.

(ii) The estimated annual credits and credit revenue the owner gets for the use of electricity in the forklift based on the credit price in the previous year. For the 2023 calendar year, the owner shall use the average of the annual average credit price in CARB and OR-DEQ clean fuel standard programs.

(b) If the fleet owner does not generate the credits, then the forklift operator may generate the credit if the two entities agree by written contract that:

(i) The fleet owner will not generate credits.

(ii) The forklift operator accepts all the CFP responsibilities as the fuel reporting entity and credit generator.

(c) If credit generation rights are passed to the forklift operator, the forklift operator must annually notify in writing to the forklift owner that:

(i) The operator is generating credit for the amount of electricity they use for the electric forklifts.

(ii) The estimated annual credits and credit revenue the operator gets for the use of electricity in the forklift based on the credit price in the previous year. For the 2023 calendar year, the operator shall use the average of the annual average credit price in CARB and OR-DEQ clean fuel standard programs.

(7) **Electric transport refrigeration units (eTRU).** For electricity supplied to the eTRU, the eTRU fleet owner is the fuel reporting entity and the credit generator.

(8) **Electric cargo handling equipment (eCHE).**

(a) For electricity supplied to eCHE, the electric cargo handling equipment owner is the fuel reporting entity and the credit generator.

(b) The eCHE owner must annually notify in writing to the eCHE operator that:

(i) The owner is generating credit for the amount of electricity the operator uses for the cargo handling equipment.

(ii) The estimated annual credit revenue the owner gets for the use of electricity in the cargo handling equipment based on the credit price in the previous year. For the 2023 calendar year, the owner shall use the average of the annual average credit price in CARB and OR-DEQ clean fuel standard programs.

(c) If the eCHE owner does not generate the credits, then the eCHE operator may generate the credit if the two entities agree by written contract that:

(i) The eCHE owner will not generate credits.

(ii) The eCHE operator accepts all the CFP responsibilities as the fuel reporting entity and credit generator.

(d) If credit generation rights are passed to the eCHE operator, the operator must annually notify in writing to the eCHE owner that:

(i) The operator is generating credit for the amount of electricity they use for the electric cargo handling equipment.

(ii) The estimated annual credits and credit revenue the operator gets for the use of electricity in the eCHE based on the credit price in the previous year. For the 2023 calendar year, the operator shall use the average of the annual average credit price in CARB and OR-DEQ clean fuel standard programs.

(9) **Electric power for ocean-going vessel (eOGV).**

(a) For electricity supplied to the eOGV, the owner of the electric fuel supply equipment is the fuel reporting entity and the credit generator.

(b) If the owner of the electric fuel supply equipment does not generate the credits, then the operator of the electric fuel supply equipment may generate the credit if the two entities agree by written contract that:

(i) The owner of the electric fuel supply equipment will not generate credits.

(ii) The operator of the electric fuel supply equipment accepts all the CFP responsibilities as the fuel reporting entity and credit generator.

(10) **Electric ground support equipment.**

(a) The owner of the charging equipment for ground support equipment is eligible to generate credits.

(b) If the owner of the charging equipment does not generate the credits, then the owner of the electric ground support equipment may generate the credit if the two entities agree by written contract that:

(i) The owner of the charging equipment will not generate credits.

(ii) The owner of the electric ground support equipment accepts all the CFP responsibilities as the fuel reporting entity and credit generator.

(11) **Residential electric vehicle charging.**

(a) Base credit. For electricity used to charge an electric vehicle in a residence, the following entities are eligible to generate base credits:

(i) Electric utility. In order to generate residential vehicle charging credits for the following year, an electric utility must notify ecology by October 1st of the current year whether it will generate base credits or designate an aggregator to act on its behalf. For the 2023 reporting year, electric utilities must notify ecology by January 15, 2023. The utility or its aggregator must have an active registration approved by ecology under WAC 173-424-300. Once a utility has made an aggregator designation under this section, that designation will remain in effect unless the utility requests a change in writing to ecology.

(ii) Backstop aggregator. If an electric utility does not register or designate an aggregator under (a)(i) of this subsection, then the backstop aggregator is eligible to claim any base credits that the utility could have generated for the following year, as provided in subsection (11) of this section.

(iii) Electric vehicle manufacturer. If a backstop aggregator does not register under (a) of this subsection, then the electric vehicle manufacturer is eligible to claim the base credits associated with the electric vehicles that the backstop aggregator could have generated for the following year.

(b) Incremental credits. Any entity, including an electric utility, is eligible to generate incremental credits for improvements in carbon intensity of electricity used for residential EV charging. An entity that generates incremental credits must meet the requirements set forth in WAC 173-424-420 (3)(b), as applicable.

(i) For metered residential EV charging, incremental credits for each FSE may be generated for the low-CI electricity.

(ii) For nonmetered residential EV charging, the electric utility is eligible to generate incremental credits for supplying low-CI electricity to the EVs in its service territory.

(iii) Multiple claims for incremental credits for metered residential EV charging associated with a single FSE ID will be resolved pursuant to the following order of preference:

(A) The utility supplying electricity to the EV associated with the FSE ID and metered data has first priority to claim credits;

(B) The manufacturer of the EV associated with the FSE ID has second priority; and

(C) Any other entity has third priority.

(12) **Backstop aggregator.** The backstop aggregator serves as the credit generator of electricity credits that have not been claimed by an electric utility, an aggregator designated by an electric utility, or an owner of electric charging equipment under subsections (4) and (11) of this section.

(a) To qualify to submit an application to be a backstop aggregator, an organization must:

(i) Be an organization exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code; and

(ii) Complete annual independent financial audits.

(b) An entity that wishes to be the backstop aggregator must submit an application to ecology that includes:

(i) A description of the mission of the organization and how being a backstop aggregator fits into its mission;

(ii) A description of the experience and expertise of key individuals in the organization who would be assigned to work associated with being a backstop aggregator;

(iii) A plan describing:

(A) How the organization will promote transportation electrification statewide or in specific utility service territories, if applicable, prioritizing projects that directly benefit disproportionately impacted communities;

(B) Any entities that the organization might partner with to implement its plan;

(C) How the organization plans to use the revenue from the sale of credits, which may include, without limitation, programs that provide incentives to purchase electric vehicles or install electric vehicle chargers, opportunities to educate the public about electric vehicles, and anticipated costs to administer its plan; and

(D) The financial controls that are, or will be, put in place to segregate funds from the sale of credits from other moneys controlled by the organization.

(iv) Its last three years of independent financial audits and I.R.S. form 990s, and proof that the I.R.S. has certified the entity as qualifying as an exempt organization under 501 (c)(3);

(c) Initial applications to be a backstop aggregator are due to ecology no later than March 15, 2023, to be eligible to be the backstop aggregator beginning in 2023. If ecology does not designate a backstop aggregator out of the applicants under (e) of this subsection, then ecology may set a new deadline for another application if it decides to undertake a new selection process.

(d) Applications will be evaluated by ecology with the assistance of relevant experts ecology may select. Ecology will evaluate applications based on the likelihood that the applicant will maximize the benefits from the credits it receives to promote transportation electrification and reduce greenhouse gas emissions from the transportation sector in Washington while prioritizing projects that directly benefit disproportionately impacted communities.

(e) Ecology may designate the initial backstop aggregator out of the applying organizations by May 31, 2023. If ecology does not designate an organization to be the backstop aggregator, then ecology may undertake a new selection process at a later date under the same criteria in (b) and (d) of this subsection.

(f) Following ecology's designation of an organization to be the backstop aggregator, ecology and the organization may enter into a written agreement regarding its participation in the program. A written agreement must be in place prior to the backstop aggregator registering an account in the WFRS and receiving credits for the first time. The backstop aggregator must:

(i) By March 31st of each year, submit a report that summarizes the previous year's activity including:

(A) How much revenue was generated from the credits it received;

(B) A description of activities including the status of each activity, where each activity took place, and each activity's budget, including administrative costs, and an estimate of its outcomes including the extent to which it directly benefited disproportionately impacted communities; and

(C) The results of its most recent independent financial audit.

(ii) Maintain records and make them available upon request by ecology, including records required to be maintained under WAC 173-424-400 and, in addition, any records relating to its application, the programs it operates using the proceeds from the sale of credits under this program, and any of the organization's financial records.

(g) If ecology determines that a backstop aggregator is in violation of this chapter or the agreement that it enters into with ecology to be the backstop aggregator, ecology may rescind its designation and solicit applications to select a new backstop aggregator.

(h) If backstop aggregator wishes to terminate its agreement with ecology, then ecology may solicit applications to select a new backstop aggregator.

(i) After a backstop aggregator has been in place for three years, ecology may hold a new selection process to appoint a backstop aggregator for future years. Unless ecology has rescinded an organization as backstop aggregator under (g) of this subsection, the current backstop aggregator may apply to be redesignated as the backstop aggregator for future years.

[Statutory Authority: Chapter 70A.535 RCW. WSR 22-24-004 (Order 21-04), § 173-424-220, filed 11/28/22, effective 12/29/22.]