



December 12, 2024

Mr. Adam Saul
Washington Department of Ecology
300 Desmond Drive SE
Lacey, Washington

Re: Notice of Opportunity to File Written Comments on Proposed Update to Clean Fuel Standard Program Rules (173-424 WAC)

Dear Mr. Saul:

The Biotechnology Innovation Organization (BIO) - the world's largest biotechnology focused trade group with members that produce agricultural, environmental, industrial, and health care products – submits these comments to the Washington Department of Ecology (DOE) in response to the November 26, 2024 Clean Fuel Standard (CFS) draft rule language.

As a longtime supporter of Washington's CFS program, BIO appreciates DOE's work to implement the groundbreaking 2021 authorizing law and subsequent legislation. BIO does, however, want to weigh in on plans to reduce avoided methane crediting to projects built prior to 2023.

First off, it should be noted that there are notable discrepancies between the December 4, 2024 update of CFS Rules Changes Summary and the text of the November 26, 2024 – Public Draft Release #2 that create a tremendous amount of confusion as to the intent of the proposal. For instance, proposed text in WAC 173-424-610(16)(C) limits the crediting period for avoided methane projects that break ground after January 1, 2023 to two seven and half year periods, further limits the credit for operations that started operations in 2022, and deems that facilities that started operations to produce biomethane before 2009 are ineligible altogether for avoided methane crediting.

WAC – 1073-424-610(16)

(c) Carbon intensities that reflect avoided methane emissions from dairy or swine manure pathways, as described in (a) above, or organic waste pathways as described in (b) above, are subject to the following requirements for credit generation:

(i) The avoided methane crediting period for projects that break ground after January 1, 2023, is limited to two seven and a half year periods, counting from the quarter following ecology approval of the pathway application.

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(ii) The avoided methane crediting period for projects that started operations to produce biomethane before January 1, 2023, is subject to the following conditions:
(A) The crediting period for a facility that started operation in 2022 is limited to 14 years.
(B) The crediting period reduces by one year per each year dating back from 2022 that a facility started operations to produce biomethane. For example, a facility that started operation in 2020 is eligible for avoided methane credits for 12 years.
(C) Facilities that started operations to produce biomethane before 2009 are not eligible for avoided methane crediting.

Yet, on December 4, 2024, DOE posted to its website an update of CFS Rules Changes Summary that seems to suggest that facilities that started operations to produce biomethane before 2009 are eligible for avoided methane crediting. BIO hopes this is the case since dairy producers have made significant investments in digesters, regardless of when they were built, and that all digesters provide some form of emission reduction. By failing to offer support to all existing digesters through the CFS, DOE runs the risk of forcing Washington dairy producers out of business.

While biogas facilities do require significant upfront capital DOE should not overlook the ongoing operational costs. As such, longer term avoided methane crediting for both pre and post January 1, 2023 digester facilities is extremely important for dairy producers to be able to ensure that they can recoup the initial capital and ongoing operational expenses. State CFS initiatives – especially California’s LCFS program – have greatly helped dairy producers in this regard.

It should also be noted that the California Air Resources Board – in recognition of the huge investments the dairy industry has made in building and maintaining digesters and the tremendous benefits derived from these emission reductions facilities - recently decided to provide up to 30 years of incentives for digesters already built and up to 20 years for digesters built by 2030. Accordingly, BIO urges DOE to consider extending the timeframes for avoided methane crediting to 30 and 20 years, respectively, for facilities that became operations after January 1, 2023, and those that were functioning prior to that date.

BIO appreciates the opportunity to comment on DOE’s CFS draft rule. Please feel free to contact me at gharrington@bio.org or (202) 365-6436 if you have any questions regarding BIO’s comments.

Sincerely,

Gene Harrington
Senior Director, State Government Affairs, Agriculture & Environment

