Washington State Dairy Federation

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December 13, 2024

Washington Department of Ecology
Attn: Ms. Abbey Brown
Clean Fuel Standard Technical Lead
Post Office Box 47600
Olympia, WA 98504-7600

Subject: Comments on Proposed Amendments to Chapter 173-424 WAC Clean Fuels Program Rule

Dear Ms. Brown,

Thank you for the opportunity to comment on the proposed amendments to Chapter 173-424 WAC Clean Fuels Program Rule. The Washington State Dairy Federation has represented our member dairy farmers since 1892. This topic is certainly not one dairy farmers would have been interested in only a few decades ago, let alone in 1892. However, we have members who own, operate or partner with digesters on their farms, some in operation for almost 25 years. Dairy farms have proven they can be an excellent source of clean renewable fuels. Dairy farmers in Washington and across the country are producing renewable electricity from biogas engine generators or fuel cells, they are producing renewable pipeline quality natural gas and lately converting bio methane to hydrogen.

We have concerns with the proposed rules, particularly the limitations on avoided methane crediting periods, deliverability requirements, and restrictive eligibility criteria. All will significantly discourage investment in fuel production under Washington's Clean Fuel Standard (CFS) program. The proposed amendments do not adequately account for the economic realities of biogas projects, particularly the challenges faced by small and medium-sized farms, and risk stifling the growth of the biogas industry in the state.

We have process concerns. The addition of these new policy conditions on renewable biogas have been very 'last minute'. Just last week the draft language changed (December 4) from a maximum of 14 years of crediting (2 seven year periods) for new construction to 15 years. All of these biomethane limitations only appeared in drafts in late October and are not outlined in your original CR 101.
These last-minute policy changes in the draft have made it hard to have conversations between us – the stakeholders - and your staff. For example, we don't know how or why your staff determined that 14 years was appropriate, and we certainly do not know why suddenly 15 years is "the right incentive" or limit. We don't understand why you are placing limits on renewable natural gas in the first place – other than CARB seems to have recently done that. We are not California but we can learn from their successes; they are 10 years ahead of us. California has had the time and incentives in place such that farmers and developers have built bio methane collection and treatment, and supply/ retail dispensing

infrastructure to supply negative carbon intensity bio methane for transportation fuels. The California "system" is a success in all regards for development of a renewable fuels program and has tremendously reduced the average CI of motor fuels. See: https://ww2.arb.ca.gov/resources/documents/lcfs-data-dashboard
We should consider how California made policies (in some case ten years ago) that established the conditions for success, learn where they made mistakes and consider together how we can also establish a successful renewable fuels program.

Specifically:

- **Crediting Periods:** The 15-year crediting period for avoided methane is completely insufficient to incentivize investment. Anaerobic digesters typically operate for 25-30 + years, capturing methane and reducing emissions throughout their lifespan. Limiting credits to such a short 15-year period undermines project viability and fails to account for the long-term environmental benefits these systems provide.
    - A 15 year limitation will not stimulate investment renewable fuel projects! It will stymie investment from farm to retail.
    - Remember California has had a 10-year head start on us.
    - If we recall correctly CARB grants a longer credit if the pathway is biogas to either fuel cell or hydrogen production. (2050?)

  Developers assess projects based on asset lifespan, market value, return on investment (ROI) calculations which fluctuate with market prices and projects specifics. A longer crediting period is essential to ensure stability, attract investment, support sustainable biogas development, and ensure biogas projects continue capturing methane emissions.
    - Additionally, a concern with limitations of 15 years comes on the demand or retail side of the equation. It is hard to envision any significant investment will be made in pipelines and fueling infrastructure if the credit period is limited to 15 years. Additionally, it is our understanding that in California the limitations on crediting biogas may already be having a negative impact on investment by fleets in bio methane powered trucks. There are no current good options for battery powered large trucks and there may never be good options for battery powered heavy trucks, especially long haul. Hydrogen trucks are still a way off from commercial availability, which leaves natural gas fueled internal combustion engines as **the** current best option to reduce fleet CI scores. However, truck purchasing decisions are made by looking out over a longer time frame. We would suggest your staff confer with your California counterparts about not only the supply side but also the reactions to policy changes on the demand side (such as from trucking companies or building out fueling infrastructure).

- **Deliverability:** Establishing a 50% physical flow requirement for biomethane used in transportation fuels, electricity generation, or as a feedstock for hydrogen, jet fuel, or renewable diesel is unnecessary at this early stage of Washington's Clean Fuel Program. These restrictions add complexity, deter investment, and limit flexibility. Additionally, restricting REC sourcing to Washington, Oregon, or Idaho is overly narrow. Maintaining eligibility to the Western Electricity Coordinating Council (WECC) region aligns with other West Coast programs, supports broader market participation, and fosters the program's growth.

- We need clarification about what you mean and why you added the conditions in the following wording, found on page 102, (some natural gas pipelines only flow one way when they pass by or near our farms):

- *i) Starting January 1, 2032, for reporting bio-CNG, bio-LNG, and bio-L-CNG used as transportation fuel, entities must demonstrate that the pipeline or pipelines along the delivery path physically flow from the initial injection point toward the fuel dispensing facility at least 50 percent of the time on an annual basis.*

- **Early adopter/innovator leaders penalized**: Projects operational before 2023 continue to reduce emissions but are unfairly penalized with reduced crediting periods, despite their ongoing contributions to methane abatement. The limitation on established digesters is a penalty that will close their facilities, you will be punishing our early adopters. These existing farmers and developers with digesters are the leaders that other farmers learn from, listen to, visit their facilities and gain wisdom from. The whole notion of a look back from 2022 and reducing or eliminating credits will put these early innovators and leaders out of business. Which sends a really bad message to the rest of the farms in the state.

- **Extreme penalties -** As many commenters noted in previous comments, the penalties (4x) for CI exceedance (page 110) is too extreme. Our farmers/operators whether they are operating mixed feed (co-digestion with food waste) or strictly manure only digesters often see fluctuations in gas production due to a variety of reasons, please don't overly penalize inadvertent changes that will affect the CI scores.

- **Economic Viability**: The draft rules disproportionately impact smaller dairy farms, which make up 75% of Washington's dairies, leaving very few farms viable for digester participation.

Washington's program must recognize its early-stage development compared to California's mature market. Policies should incentivize participation and long-term investment rather than imposing restrictions that dissuade new projects. Expanding crediting periods and revisiting eligibility requirements are critical to ensuring the success of Washington's CFS and support for in-state biogas production.

Our farmers are very interested in reducing GHG emissions, renewable energy and successfully participating in these markets just as their farmer counterparts have done in California. We urge Ecology to reconsider the proposed rules to better align with the state's climate goals and economic realities of incentivizing biogas based energy sources.

Finally, we would ask that your agency consider discussions with the legislature on granting your agency better more timely tools in which to keep the market in a range that works to balance the supply of debits and credits. Once again, we should learn from the experiences of our neighbors to the south. CARB has agency authority (automatic acceleration mechanism) that your agency does not have, that seems to be helping keep a 'healthy' market in balance.

Sincerely,

W. Jay Gordon, Policy Director