



**Washington State
Dairy Federation**

August 17th, 2022

To: Dr. Chelsea Morris, Washington State Department of Ecology

From: Dan Wood, Executive Director, Washington State Dairy Federation

Re: Comments on CAFO Draft Permit.

The Washington State Dairy Federation has represented the legislative and regulatory interests of dairy farmers in the Washington State since 1892. We submit these CAFO comments on behalf of the approximately 300-member dairy farmers and families who work every day to produce dairy products that feed our communities, our state, our nation, and the world. We appreciate and thank the department staff for taking the time and effort to reach out, listen and conduct meetings.

1. On page 22. Section S.4.J Sub 3. -This draft unfortunately continues to apply an arbitrary date in requiring a fall “post-harvest” soil testing that must be done by October 1 and after harvest. This is virtually impossible for any farm in the state. We know of no dairy farm in the state that is done with harvest by the first of October.

Suggested change - Change the language to require fall soil testing occurring a. after harvest and then b. before application of nutrients and/or significant applications of water (irrigation or rainfall). If the department still wants to use dates, we suggest testing not later than November 15th on Eastside of state and not later than October 31st on Westside. Most years fall cover crop planting as well as final harvest of grass or alfalfa and fertilizing are done by those dates.

2. On pages 33-34. Section S5.B. Sub 2 - (and a few other places) The department chose to revert back to requiring Total Kjeldahl Nitrogen (TKN). This is not a useful test for farmers. We heard your reasoning as there are more labs that test for TKN. We submit

that farmers have not had a problem getting soil testing done and this is still the wrong test for agriculture and maybe an answer in search of a problem.

Suggested change- Leave soil and manure testing the same as the last permit. (Testing for Organic Matter, Ammonia/Ammonium).

3. On page 25. S4.K, Sub3.f -This draft again continues to use T-Sum 200 on the Eastern side of the state. The science behind the choice to use T-sum 200 is wrong for use on the Eastern part of the state. We submitted comments earlier this year that give plenty of reasons and science behind the use instead of a t- sum 100 protocol on the Eastern side of our state. We will include those comments again as an appendix to these comments. To be abundantly clear - **The science supporting the use of T-Sum 200 was done for wet conditions such as Western Oregon/Washington, SW British Columbia, and England.**

Suggested change –Only on the Westside of our state is T-Sum 200 appropriate. Consider the science, data and information and use a Spring application start date of **T-Sum 100 on the East side of the state**. We believe the waters of the state are well protected with the use of T-Sum 100 in Eastern Washington, in conjunction with the other conditions (no applications to frozen, snow covered or saturated soils or applications prior to significant imminent rainfall).

4. On page 29. S4.N, Sub 3.a. –This draft language adds a fourth option for “riparian protection” in addition to the standard options and language that there should be no manure applications within 100’ of water body on bare dirt OR 35’ if there is a vegetative buffer OR no buffer if there is a berm or dike between field and water.

This fourth option – cited in the draft as Appendix J of the 2023 Ecology funding guideline. Appendix J then imposes the requirements from the recent released Department of Fish and Wildlife (DFW) document; Riparian Ecosystems, Vol. 2 (RE 2) (<https://wdfw.wa.gov/publications/01988>).

Those requirements for any farm in a floodplain would require the farm to stop farming a distance that includes any part of the farm in the entire floodplain plus an additional “site potential tree height” (SPTH) from the outer edge of the flood plain. (A typical SPTH is 230’ in Western WA and 100’ in Eastern WA.) No farm in a flood plain can or would choose this option since they would not be allowed to farm their land and cease to be a farm.

This added option needs to be removed for the following reasons:

- A. We believe this is a violation of some principles and “rules” associated with developing, drafting, including provisions and protocols into a CAFO permit. Ecology staff over the years have explained for example one “rule” in permit drafting and construction is that

permit conditions and requirements should or must be based on quality science. Another principle is that the provisions and practices in the permit are designed to prevent water quality problems and discharges on a CAFO. This added condition does neither. Specifically,

i. It is not science. – The statement at the bottom of page 5 of the DFW - Riparian Ecosystems, Vol. 2 manual (link above) states

“The information presented in this management recommendation document is not, in and of itself, science. Rather, it consists of policy recommendations which are informed by the best available science...”

We submit that if this is the new standard for allowing permit conditions, then anyone can ask to have their opinion included in the permit if they claim their suggestions and opinions are somehow informed by science.

ii. Even if it was science – which it is not – it is not water quality science. It is a collection of suggestions on wildlife buffer recommendations based on opinions of DFW staff. DFW staff are generally not trained on water quality Best Management Practices. Water quality protection practices should be based on appropriate water quality science with at least the best professional judgement of individuals trained in water quality protection rather than wildlife biology or the best riparian buffer for a bear or salmon migration.

iii. Finally, RE, Vol.2 dictates - as mentioned - that the riparian buffer shall include all the active flood plain (See page 8 of RE, Vol. 2) PLUS the distance of a 200-year-old site potential tree height. So, for example, every farm in a flood plain (i.e., Nooksack, Chehalis, or Snohomish Valley) - if they choose this option - would have to stop farming all their land in flood plain plus around another 230' and replant it back to native vegetation. Now the farm doesn't have land to spread nutrients and grow crops on. If the farm is out of the crop and dairy business, then it's not a CAFO anymore. Why would the department include an option that puts a crop and livestock farm out of business if it complies? We strongly question why this is being included in a Water Quality permit for livestock agriculture?

Suggested change –Eliminate the Language in S4.N3.a!!! It is wrong for all the reasons above.

5. Pages 22,24. S4. K.Sub.1- the Draft uses the word “nutrient” too loosely- from S4.K. Sub. 1- *“the permittee shall ensure plant available nutrients do not exceed nutrients required to reach crop estimated yield.”* We ask Ecology to clarify, better define and improve consistency in language in the permit around what “nutrients” you all are referring to. Does the above referenced language mean all known Macro and Micronutrients or just nitrogen? Balancing for every nutrient on every crop, every year, for expected yield is impossible.

Suggested change – Clarify or improve the consistency in the use of the word “nutrient”.