



Washington State Dairy Federation

Washington State Department of Ecology

Attn: CAFO Permit Program

P.O. Box 47696

Olympia, WA 98504-7696

Re: Comments on Washington State CAFO General Permit Framework

Dear Director and CAFO Program Staff,

Thank you for the opportunity to provide comments on the implementation and ongoing development of Washington's Concentrated Animal Feeding Operation (CAFO) general permit. These comments are submitted with respect for the Department's statutory responsibilities and with a shared commitment to protecting Washington's groundwater and surface waters.

The purpose of this letter is to offer a dairy perspective regarding areas where the current CAFO permitting framework presents implementation challenges, and to suggest opportunities for improvement that could better advance both environmental outcomes and hopefully improve the acceptance of the CAFO permit. Right now, most dairy producers view this permit as unacceptably complex, unnecessarily expensive and in many areas a waste of their precious time and resources. For all but the largest farms, this permit is impossible to implement. If mandated, it would result in many farms exiting the business.

I. Shared Goals - Dairy producers recognize and support Ecology's obligation to implement state and federal water quality laws. Washington's dairies depend on clean water for their operations, their communities, and their long-term viability. Producers do not oppose environmental protection; rather, they seek a permitting system that is **predictable, technically sound, and focused on measurable and useful environmental outcomes.**

II. Regulatory Stability and Predictability - Repeated revisions to CAFO permits over the past decade—driven by litigation, court decisions, and subsequent permit rewrites—have created uncertainty for regulated operations. It is frustrating that there can be years of work in developing a permit, with extensive input from experts to guide Ecology staff decisions and permit choices to only then have judges—who are not experts in complex environmental processes—make decisions that have no benefit for the environment. Specifically, we are referring to the mandate to install groundwater monitoring systems when in many cases those systems produce no useful

information because water quality issues originate up-gradient from active dairy operations or are legacy issues from activities taken years or decades ago.

Dairies are required to make capital-intensive investments in infrastructure, monitoring, and planning on timelines that often span decades. Frequent or mid-cycle changes to permit expectations make it difficult for operators to:

- Plan long-term investments with confidence
- Secure financing for compliance-related improvements
- Ensure that corrective actions taken under one permit remain sufficient under subsequent revisions

We encourage Ecology to prioritize **regulatory durability and clarity** in future CAFO permit development, so that operators can invest with confidence that permit expectations will remain stable for the duration of the permit term.

III. Emphasis on Outcomes Rather Than Process - Many dairies report that a significant portion of compliance costs and staff time is dedicated to **documentation, reporting, and plan revisions**, rather than to on-the-ground practices that reduce nutrient loss risk.

While planning and monitoring are essential tools, an administration-heavy framework requires staff and expenses that most farms, and especially smaller farms, do not have. They also divert limited resources from actions that protect water quality.

IV. Site-Specific Conditions and Adaptive Management - Washington's dairy operations exist across a wide array of soils, climates, and hydrogeologic settings. Producers have expressed concern that uniform permit requirements do not adequately reflect these differences, particularly where site-specific conditions lower the risk of nutrient migration and leaching to groundwater.

We encourage Ecology to continue exploring methods to address the fact that the fall and spring soil testing in the current permit is still not aligned well with reasonable and prudent time frames. We ask that you recognize existing conservation investments and best management practices. Farmers, Conservation Districts, University experts and USDA NRCS staff have all contributed to assisting dairy farmers in building their nutrient management systems over the past 30-60 years. We ask and hope that those practices and standards that have been effectively implemented to protect groundwater and other resources are carefully considered in the next iteration of the permit.

A permitting framework that is tied to site-specific conditions can improve environmental protection and compliance efficiency.

V. Groundwater Monitoring and Data Interpretation - Dairy operators support groundwater monitoring as a tool to protect public health and guide adaptive management.

However, clarity is needed regarding how monitoring data—particularly nitrate detections—will be interpreted over time.

Operators are concerned about situations in which:

- Monitoring wells reflect historic or regional nitrate conditions rather than any on-farm practices.
- Dairy producers with a CAFO permit are the only rural sector of land owners required to install and routinely test groundwater. This does create a bit of bitterness, since there are many potential sources of nitrogen in the ecosystem.
- Groundwater exceedances are treated as presumptive evidence of a discharge and treated as a violation, when facts may be missing to inform where and when the contaminants originated.
- Monitoring is expensive – it is really expensive if the data is not useful.

We respectfully request that Ecology clearly articulate how groundwater monitoring results will be used to:

- Distinguish legacy impacts from current management
- Guide corrective actions in a manner proportional to demonstrated risk
- Support improvement rather than serve solely as an enforcement trigger

VI. Transparency and Public Engagement - Producers appreciate the importance of public confidence and transparency in environmental regulation. At the same time, CAFO permit materials often involve highly technical data that can be easily misunderstood without context.

We encourage Ecology to consider:

- Providing explanatory context alongside publicly available technical documents
- While the public in Washington state has a right and an expectation that there will be public comments, changes in the permit terms and conditions should rely on professional expertise, not public perception or sentiment. Permits are complex – Farms are even more complex. Farmers are experts on their own farming activities and properties. It is farmers who are asked to implement or consider implementing this CAFO permit – above and beyond the work they already do within the requirements of the State Dairy Nutrient Management Act. We ask for robust outreach to ensure dairy farmers have their concerns heard on the specifics of this permit iteration.

VII. Recommendations In summary, we respectfully request that Ecology consider the following in ongoing and future CAFO permit work:

1. **Enhance regulatory stability** to support long-term on-farm planning
2. **Prioritize performance-based outcomes** over procedural burdens

3. **Expand site-specific and adaptive management opportunities** to account for differences between farms, climate and geography
4. **Clarify groundwater monitoring system expectations and interpretations**
5. **Provide robust opportunities for comments and input, especially for and from the farmers that may have to implement the terms and conditions of this permit.**
6. **Please advise what are the steps and timing of the permit development process.**

In addition to the above, specific concerns regarding the current permit include:

- **A phosphorous index should be considered. A yearly limit based on nitrogen and Phosphorous is not workable on most farms. Please consider alternatives.**
- **The spreading prohibition date of October 1 is inappropriate and untenable.**
- **The use of t-sum 200 on the East side of the State is not scientifically defensible or agronomically workable.**

Conclusion A CAFO permitting framework that is predictable, site-specific, and outcome-oriented will better support both Ecology's mission to protect Washington's natural resources and the long-term viability of Washington's dairy sector.

We appreciate the Department's ongoing engagement and welcome continued dialogue on how to structure this permit program for the benefit of Washington's environment, rural communities, and dairy farm families.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jay Gordon". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Jay Gordon, Policy Director