Clean Energy

Mr. Adam Saul
Washington Department of Ecology
Climate Pollution Reduction Program
PO BOX 47600
Olympia, WA 98504-7600

Re: Proposed Amendments to Washington Clean Fuel Standard: Rule Proposal Phase (CR-102)

Dear Mr. Saul:

I write on behalf of Clean Energy to emphasize our continued support for the Washington Clean Fuel Standard (CFS), but opposition to several proposed amendments that would disincentivize investment in renewable natural gas (RNG) production projects.

Clean Energy was a strong supporter of the CFS bills and has been active in many other states pursuing adoption of similar programs to achieve climate and clean air goals. We are the largest provider of RNG for the transportation industry in North America. We produce RNG at dairy farms nationwide and then distribute it through our extensive network of 600+ fueling stations, ensuring convenient access for the 50,000-plus heavy-duty trucks, buses, and large vehicles running on RNG daily.

Clean Energy has been a clean air partner to environmental regulatory agencies at the federal, state and local levels since its founding in 1997, and is an original supporter of California's Low Carbon Fuel Standard (LCFS), which is one of the most cost-effective regulations to decarbonize the transportation space.

Clean Energy also continues to make strategic investments in the hydrogen space to support transit agencies and other like-minded fleets with the use of RNG-based hydrogen from dairy farms and landfills.

With deep expertise in the RNG market, we offer these concerns with the proposed amendments:

- **Remove 15-Year Crediting Period**

  Removing this from the proposed rule would prevent any dramatic reduction in market value that enables methane capture and beneficial use projects. Project investments depend on an expected revenue stream and market certainty, and projects such as dairy digesters will not be able to be financed or implemented with this punitive condition. The development of dairy

digesters is widely recognized by the California Air Resources Board[1] and the California Legislative Analyst's Office[2] as the most productive and cost-effective climate investment currently being implemented. Without long-term avoided methane crediting, new projects will not be developed, and any existing projects will not remain economical and will likely cease operating. We therefore strongly recommend that Washington use a 30-year crediting period to ensure that the state can effectively mitigate methane emissions from dairies.

- **Book and Claim is Industry Standard**

  Book-and-claim is the preferred method for delivering RNG in North American clean fuel programs, including EPA's Renewable Fuel Standard,[3] the Canadian Clean Fuel Regulation, the Oregon Clean Fuels Program, and California's LCFS, as well as for electricity and hydrogen projects. Gas utility procurement programs for RNG also primarily use similar concepts, and Europe's Renewable Energy Directive requires book-and-claim for successful RNG project buildout in the European Union.

  Abandoning book-and-claim for deliverability requirements would be disastrous for the RNG industry. On paper the California Renewable Portfolio Standard requirements, for example, appear simplistic, but in practice the policy essentially prohibits the use of imported RNG. In fact, no new importing facilities were constructed to serve the RPS after the deliverability language was added in 2012[4]. An RNG project would need to contract with every pipeline company to deliver their product, do daily balancing across the entire pipeline system, and pay tolling fees to all stakeholders in the value chain. The administrative requirements of the RPS present an insurmountable barrier to import RNG, especially for smaller projects like dairy digesters, and do not offer any environmental benefit.

  It's also important to recognize the amount of in-state RNG production has been increasing rapidly in California over the past few years and now enjoys a greater proportionate market share than many other competing forms of energy. California projects produce roughly 20% of the RNG used in California's transportation sector compared to 8 or 9 percent for the biodiesel and renewable diesel sectors, respectively. California is supporting in-state producers without harming out-of-state producers.

  Out-of-state producers will make substantial contributions to Washington's climate and clean air goals. Greenhouse gas emissions do not stop at Washington's borders, and most other states do not have clean fuel programs or come as close to Washington when it comes to tackling our climate crisis. This is even more important with the damaging reversal of climate

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[1] California Air Resources Board, *California Climate Investments 2022 Mid-Year Data Update,* https://ww2.arb.ca.gov/sites/default/files/auction-proceeds/cci_2022_mydu_cumulativeoutcomes.pdf (page 4).
[2] Legislative Analyst Office, *Cap-and-Trade Spending Overview*, March 30, 2023. https://sbud.senate.ca.gov/sites/sbud.senate.ca.gov/files/230238LAO%20Cap%20and%20Trade.pdf
[3] https://www.biocycle.net/biogas-rng-projects/
[4] California Energy Commission RPS data here: https://rps.energy.ca.gov/Pages/Search/SearchApplications.aspx

policies at the federal level. Before any changes are made to the treatment of imported RNG under the CFS, it is imperative that the Department of Ecology fully considers the impacts on the market, industry, and state. We strongly recommend that Washington use book-and-claim deliverability requirements.

- **Likelihood of Exporting CFS to Other States Must be Considered**

  Other states are actively considering adopting similar policies modeled on Washington's CFS program. We urge the Department of Ecology to consider how any significant changes might impact low carbon market development and investment and therefore jeopardize the adoption of CFS policies in other states.

  Consistency in programs and approach will provide market certainty and investment. Expansion of these programs will help achieve methane emission reductions and increase low carbon fuel production across the country, demonstrating nationwide leadership on reducing the climate impacts of agriculture and broadly promoting lower carbon fuels. As these programs are implemented over time, out-of-state RNG supply will gradually shift in order to serve local demand and in-state RNG production will increase.

The success of the CFS will be due to ambitious state goals and targets, backed by science-based, fuel neutral policies, along with a broad portfolio of clean fuel stakeholders working together to decarbonize Washington's transportation sector. The proposed amendments would in effect pick winners and losers, closing off the CFS to investments in RNG production projects. We believe this is contrary to the intent and language of HB 1409.

Sincerely,

Ryan Kenny
Policy Director – Western U.S.
Clean Energy