

Darin Henry (DARIN HENRY)

To Whom it concerns, July 30,2025

RE: Chapter 173-424 WAC, Clean Fuels Program Rule

My name is Darin Henry. I have been a dairy consultant and veterinarian in WA for the past 30 years and currently assist a number of the most progressive and environmentally conscious dairy families in the State advance their sustainability through amongst other things development, finance, commissioning and operational decision making as they contemplate and incorporate technology, systems and management practices to reduce/avoid methane emissions and create value for the farm and the entire consumer facing value chain. Within this spectrum I am involved with several very large anaerobic digester projects that are in production or advanced stages of development.

I am writing to request that the WA Dept of Ecology pause and reconsider the rulemaking, and language associated the Ecology proposed policy rules that affect dairy and swine as those have been lumped together in the rule making language. There are a couple of elements in particular that create a huge amount of concern and quite likely lead to a complete abandonment of development in the State of Washington should the proposed rule language become final.

1. The idea of limiting any renewable energy from dairy farms as "renewable" for a maximum of 15 years, will likely kill future private investment in renewable biogas energy projects in Washington State. More importantly those of us that currently have significant time and capital invested in projects that are in construction or at or near Final Investment Decision will likely face bankruptcy given our inability to get private equity and debt financing for these projects. The main drivers are plenty:

a. Current merchant market pricing almost exclusively requires projects to engage in long term fixed price contracts that are very thin at best and largely incapable of standing on their own for equity participants. As such stronger and more stable pricing and incentives and tax breaks are essential for the survival of these types of investments.

b. In all cases today, given the weakness overall in the merchant renewable credit marketplace, if a project has not already been safe harbored under the Inflation Reduction Act Investment Tax Credit Programs such as 45Z prior to Dec 31, 2024, no new investments are even being considered due to complete failure to meet financial metrics required to secure debt and/or equity.

c. All current renewable offtake offerings for dairy RNG that have a sliver of a chance to be funded in this space are a minimum of 10 years. The issue is financing. All equity investors that are even considering dairy RNG are layering in significant debt into the pro-forma equations. As such, while 10-year terms do exist on institutional debt, nearly every one of those is structured on a 20-year amortization schedule. Additionally, the expected useful life of the facility is a minimum of 20 and in most cases 25 years with options to extend for an additional 15 years. In other words, there is an expectation with investors that the useful life far exceeds the 15 years proposed by Ecology as to the ability for a project to earn credits in the WA market as written today.

d. As for current digesters in operation. These facilities have already stepped up as entities embracing their role to reduce/avoid emissions and have invested heavily to preserve and earn their social licenses to operate. This language puts that into extreme jeopardy and stands to put them in harm's way of then being targeted as offenders as opposed to the environmental stewards, which they truly are, leading the way to a more carbon friendly and conscientious business in Washington State.

e. Assuring Washington farmers have a permanent ability to participate in State sponsored markets and incentives in the effort to reduce the overall environmental footprint seems not only logical but should be the priority and basis upon which Ecology and beyond look at addressing GHG emissions generated inside our State borders. There should not be a cap on funding or a timeline under which our dairy and swine producers would otherwise be disincentivized or worse yet financially harmed or eliminated because of a program that prevents them from taking positive climate action.

f. These rules will not only lessen the infrastructure that will likely be built, most with outside money that is then spent and invested in our state, the further reaching impact on losing jobs and revenues for the rural communities in which the vast majority would operate is irreparably harmed.

g. By creating these barriers for dairy specifically, the clear ability to upcycle and co digest food waste in key areas where major food processors and dairies co-exist is lost. A major element and tenet of Ecology is the task of increasing food upcycling/recycling. Either through dairy co-digestion or sharing gas upgrading facilities on the same digester site is a well proven process to recycle food waste for energy production and nutrient recovery and reuse in other regions of the country. Dairies serve as the best location for these pre-consumption food wastes to be cycled through of all possible entities and for multiple beneficial reasons:

i. Major aid to food processors and the State in addressing Landfill Diversion as a priority platform to reduce GHG emissions.

ii. Ability to act as both feed for animals and food/feedstock in the form of manure and upcycled waste through anaerobic digestion

iii. Both of these situations have the ability to increase profits, reduce environmental impact by reducing/avoiding millions of tons of CO₂e, enhancing access/creating more natural fertilizer and soil amendments and preserving/creating new jobs. A closed loop plan that promotes sustainable environmental and economic prosperity in our communities.

h. Dairy and Swine manure and compost along with digested food waste streams through an anaerobic digester have many positive impacts on the environment beyond that ability to sell credits into the RNG space. The ability to increase nutrient availability through digestion allows for more prescriptive applications to crops to enhance yields and be applied to more acres. In doing this we dramatically reduce our reliance on foreign synthetic fertilizers and the associated carbon footprint they create. In addition, our post digester co-streams of nutrient rich water and compost come out as pasteurized creating an ecosystem whereby natural soil microbes can thrive. Couple this with the ability to increase soil water holding capacity by adding these fiber rich co-streams to fields allowing additional carbon sequestration to occur, it is easy to see that putting constraints on dairy and swine RNG to not only participate in but to be a major investment target by the State of

WA and the department of Ecology has far reaching impacts and the opportunity cost losses may be more significant than any other area being considered for reaching state carbon goals .

i. If we mute or kill dairy and swine RNG project opportunities, we also eliminate the ability to create a closed loop system to capture other co-products such as CO₂. This is becoming increasingly important as it relates to the multiple revenue stream models that are emerging to encourage investment in the dairy and swine RNG space and effectively eliminates this as an option to strengthen dairy and swine-based financials.

j. Please note, there is strong regional demand for renewable CO₂ in the food and beverage carbonation market , CPG space for use as a preservative for fresh packaged meats and produce, refrigeration in the form of dry ice as well as opportunities in the industrial and health care spaces that will not be available if investment is curtailed as a result of actions that create risk in the WA marketplace to attract investment.

k. The WA Dairy Industry specifically, directly and indirectly employees more than 18,000 individuals and families. This is just the tip of the iceberg. Because our dairy sheds reside in rural communities nearly every business in the counties in which they reside rely heavily and in most instances primarily on the revenues generated from dairy farms to sustain their own small businesses and families. It is therefore essential that we protect dairy and provide incentives and markets that reward their stewardship, not exclude them. With dairy being the second largest agricultural commodity produced in the State with over \$5B in direct annual revenues from milk products and the fact that they make up over 50% of the Beef Industry in WA State to the tune of another \$3B while supporting many of our row crop enterprises with fertilizer and compost, not only their continued existence but viewing them as a major cog in the wheel of closed loop sustainability is essential.

❖ On behalf of many of us that have all of our assets pledged to feed the world in the most environmentally sustainable way and to do our part to assist the United States in its goals of energy independence through renewable platforms we humbly thank you for your serious consideration in taking a hard look at the suggested language and rulemaking consequences that ensure to have an irreversible negative impact on not only the State GHG goals, but a devastating impact on one of the most important agriculture sectors to each of us as consumers of fresh, abundant and affordably grown local animal proteins, fruits, vegetables and beyond.

Sincerely,

Darin L. Henry, DVM
AgEnergy Solutions, Inc
13409 E Heroy Ave
Spokane Valley, WA 99216
360-931-5951