Washington State Dairy Federation (Jay Gordon)

Please See attached comments

Washington State Dairy Federation

August 1, 2025

To: Adam Saul , Climate Pollution Reduction Program, Department of Ecology

Joel Creswell, Climate Policy Section Manager, Department of Ecology

Casey Sixkiller, Director, Department of Ecology

From: Jay Gordon, Policy Director

Dan Wood, Executive Director

Natalie Doelman, Policy Analyst

RE: Chapter 173-424 WAC, CR 102 Clean Fuels Program Rule

Dear Mr. Saul, Creswell and Director Sixkiller,

The Washington State Dairy Federation represented the policy interests of our state dairy farmers since 1892. We thank you for your time and efforts on the low Carbon Fuel Standards and for your consideration of these comments.

The rule language proposed by the Department represents a stark set of choices by the Department. Choices that we submit, as outlined in the following comments, that are moving Washington in the wrong direction when it comes to developing on farm renewable low carbon energy sources and incentivizing GHG reduction in Washington State. The wording of these draft rules will discourage **new** development of farm-based renewable energy sources. The wording will discourage greenhouse gas capture. The wording of this current proposal will IMMEDIATELY or very shortly strip away the renewable energy marketing status of most of our current dairy digesters, leaving them little choice but to cease operation, eliminating that current source of low carbon energy and resulting in methane no longer being captured. The wording in this proposal is mostly divorced from the successful policy choices that California has made. We don't understand why the

Department is not harmonizing with California. California (CARB data) shows that **less than 3 percent** of the state cap and trade funding used as cost share, directed toward renewable dairy biogas **has produced 29%** of the reductions greenhouse gas emission in the transportation sector. Frankly we don't understand why the department is proposing rule language that ignores the tremendous success of de-carbonization in California, that will create such stark disincentives and will result in back-sliding on carbon capture and energy production.

The Department of Ecology rulemaking will impact the ability of dairy farmers in Washington state to engage in producing low carbon energy production. The current language limits dairy farm renewable energy from methane capture to 15 years (after which the farm produce energy would **not** be considered "renewable"). This will severely hamper dairy farmers' ability to find financing to build dairy digesters, or to cover lagoons or manure tanks. We have communicated these concerns for the past 8-10 months and were disappointed to see few changes and few answers why Ecology rule language offers these policy choices.

Here are policy suggestions followed by comments in support of these recommendations:

1. We are asking Ecology to adopt policy language regarding Washington farm digester projects with the same crediting window of 30 years that California used for the past 10 years. These credit periods created incentive opportunities that led hundreds of outstandingly successful California renewable bio energy projects. This crediting window must/should apply to **both current and future** operations with the same "early adopter" incentives of a 30-year crediting period that California had for the past 10 years (until the 20 year rule was implemented a month ago on July 1st, 2025.) Eliminating the renewable crediting status of current digester operations if they are over 15 years old… is simply unconscionable, sends a really bad message to farmers and especially to our early adopters, pioneers in renewable energy, if crediting is limited to 15 years that policy will result in back-sliding on renewable energy and GHG capture.
2. Please harmonize standards with CA, OR including "crediting" policies, pipeline delivery protocols and technology allowances such as linear generators.
3. Don't discriminate against dairy derived electricity with book and claim accounting restrictions requiring power to only come from WA, OR, or ID. Allow electricity from CA and other western states that are part of the WECC grid region.
4. Extend power generation efficiency incentives (book and claim of biomethane for electricity generation and provisional CI scores) for fuel cells to linear generators, as both are super-clean, efficient "non-combustion" technologies.
5. While not in current rules we must ask you to please not undermine co-digestion. We are not asking for special treatment of a CI score on co-digestion products, we simply have seen that co digestion on farms has tremendous benefits that we believe California has not completely recognized or disincentivizes (i.e. additional

methane reductions, additional energy production, nutrient recycling, odor reductions, etc.)

Specific concerns and results if proposed rule language is adopted by Ecology:

I. Department of Ecology current language is:

(*c) Carbon intensities that reflect avoided methane emissions from dairy or swine manure pathways, as described in (a) of this sub-section, or organic waste pathways as described in (b) of this subsection, are subject to the following requirements for credit generation:*
(i) The avoided methane crediting period for projects that break ground on or after January 1, 2023, is limited to two seven and a half year periods, counting from the quarter following ecology approval of the pathway application.
(ii) The avoided methane crediting period for projects that started operations to produce biomethane before January 1, 2023, is subject to the following conditions:
(A) The crediting period for a facility that started operation in 2022 is limited to 14 years.
(B) The crediting period reduces by one year per each year dating back from 2022 that a facility started operations to produce biomethane. For example, a facility that started operation in 2020 is eligible for avoided methane credits for 12 years.
(C) Facilities that started operations to produce biomethane before 2009 are not eligible for avoided methane crediting. See page 91-92 of: https://ecology.wa.gov/getattachment/94a69871-b06b-4b17-8ee2-da0ced1b960e/RDS-6434-2-For-Filing.pdf

Problems and consequences of this wording:

A. 15 years limit on avoided methane energy crediting is an illogical choice by Ecology that will severely limit current and future farm produced, renewable bio-methane generated energy.
    a. Ecology has not explained why they selected two 7.5-year periods.
    b. Why throw incentives for methane capture out the door after 15 years?
    c. Current digester operators report low to negative returns on current energy production, this policy creates further damaging disincentives to the financial viability of farm based biomethane energy production.

B. California started their program 10 years ago with a 30-year crediting period until July 2025 when they changed to a 20-year window. California created an early incentive for digester completion in the first ten years (by early 2025) therefore those early adopted have a 30-year crediting period. This is consistent with a biological and chemical science that getting ghg reductions such as short-lived potent gases like methane out of the atmosphere early. Contrast that California incentive program of encouraging digesters with a 30-year credit window with the policy proposed by Ecology that will immediately terminate renewable status for any current digester older than 15 years and only granting new digesters that same 15-year horizon. This is a terrible message. It is appalling that the department would immediately strip renewable status from these early adopters who are the leaders and pioneers in renewable energy production, other farmers look to these fellow

farmers for suggestions and guidance on digester development. Stripping renewable status from these farms - in stark contrast to California – will leave these leaders embittered, prospective farm digester operators disillusioned, their bankers less than supportive of farm digesters and certainly tells investors their investment can be put at risk by the state at any time. WHY????. That California would allow a glide pathway of 30 years, and the Department of Ecology simply cuts off current digester projects is a terrible message to farmers not to engage in a game where your investments can become worthless overnight. WHY is Ecology proposing such a step backward?

C. Why is Washington not harmonizing with California policies- other divisions of Ecology are working to harmonize with California carbon programs? **Why is Ecology setting a different policy for Washington dairy farms than California offered and is offering to their dairy farms? Again, look at the obvious success in California, 3% of total state expenses as incentives get 29% ghg reduction is not hard to see as an outstanding success.**

D. A fifteen-year window on projects with infrastructure that have a productive life of 25-35 years or more years means financing will be hard or impossible to find. California began their program with a 30-year crediting period. Why would Ecology not offer the same 30-year period as California – the 30-year window has led to significant new bio energy production in California. Is Washington not interested in new or additional bio energy investment? A 15-year crediting window sends a loud message to farmers, their investor partners and professional digester developers, that message is "DO NOT invest in digester projects!" This short window results in digester projects saddled with little chance of full return on investment.

E. Why throw up barriers to the adoption of a very effective method to reduce GhG's and produce very renewable energy? California data shows dairy farm methane capture and energy production is one of the most cost-effective carbon reduction programs ($9 state cost share /MT CO2e) over the past 10 years. (see https://www.cdfa.ca.gov/oefi/ddrdp/docs/2023_ddrdp_legislative_report.pdf)

Consequences of this 15-year policy choice:

1. Dairy farmers will be discouraged from participating in producing renewable energy and reducing their carbon footprint. Dairy farms share a common interest in GHG reductions with the state, many of our customers have carbon reduction pledges that align with state goals. This rule moves the state significantly farther away from being a partner in GHG reductions.
2. Little to no farm digester construction will occur, which means:
    a. Little to no new renewable farm energy production.
    b. These rules will lessen the digester infrastructure that has the ability to co-digest food waste. Precisely when Ecology is being tasked with increasing

food recycling, this policy wording will result in less infrastructure to achieve food waste recycling goals. Co-digestion on dairy farms is proven process to recycle food waste for energy production and nutrient recovery and reuse. (see California example: https://calrecycle.ca.gov/organics/slcp/foodrecovery/)

c. If dairy digesters **are** developed, the renewable energy products will be marketed in other states or to other entities that recognize the benefits of bio methane sourced energy. Washington State loses out on this renewable energy source.

d. Existing dairy digesters will have every reason to shut down if they have been in operation for more than 15 years. Methane capture will cease. How is it beneficial to shutter a perfectly functional digester capturing methane and making renewable energy? Again why is the department not harmonizing with California's successful practices and policies??

3. Why would the state disincentivize the dairy sector from participating in catching methane? Environmentally it makes sense to reduce potent short lived greenhouse gas emissions such as methane. California recognized this fact years ago. This rule language flies in the face of proven GhG mitigation strategies. See: https://ww2.arb.ca.gov/our-work/programs/slcp/about
4. This disincentive means it will be harder for both farmers and the state to meet its GHG reduction and low carbon fuel goals. Current Washington and California digester projects show that state cost share incentives in combination with private sector investment on farms, make methane capture and renewable energy production exceptionally innovative, and very efficient and effective.

Shared Sustainability Interests

Dairy farms are interested in reducing greenhouse gas emissions for a variety of reasons. Here's a few reasons dairy farm's view GHG reduction activities in their best interest:

- Our customers from individuals to large national and international customers are asking for "lower carbon intensity" dairy products…so from a customer retention and satisfaction perspective, our producers are for obvious reasons interested in meeting customers interest whenever possible. Actions that can reduce carbon scores include changes to increase efficiency (i.e. higher energy efficient pumps, lighting, cooling, precision or low till crop farming, carbon sequestration, increased nutrient efficiency) system changes such as diesel to electric conversions on equipment, methane capture for destruction or energy production, etc.)
- There are variety of on-farm benefits from carbon reduction activities – some very direct in terms of tangible, measurable reductions in greenhouse gas emissions – and some are ancillary or secondary. Examples of carbon reduction activities:

  ➢ Installing a traditional tank digester, covering a dairy lagoon or manure tank captures methane results in elimination of a potent short lived greenhouse gas it

also can reduce the carbon score of the farm's dairy products or generate energy and carbon credits.

- If the carbon reduction – such as from flaring biogas or farm use of renewable energy - is applied internally (insets) the farm and/or supply chain benefits from lower, inset carbon scores. Some customers are paying premiums for lower carbon scored milk, so farms have financial incentives to lower their score.

- If energy is produced from the methane, there are markets that will pay for renewable energy and the associated carbon credits. Currently that market is terribly depressed. Our farmers with digesters are reporting negative returns from energy and carbon markets. We had and have hopes the Washington state LCFS will brighten the chance at better returns from renewable farm-based Bio energy.

- Covering a lagoon or tank or a heated digester – especially in Western Washington results in excluding rain fall from the manure storage systems. Several direct and indirect benefits result such as less rainfall captured means less water to handle, pump or haul with trucks and tractors. (lowering carbon score with less electricity and diesel needed to pump that water).

Secondary but important impacts from covering lagoons or tanks.

- Digesters significantly reduce odors!
- Added substrates (recycled food waste) add nutrients to recycle and replace expensive synthetic fertilizers for crop production.
- Rainwater exclusion- Less water stored means more capacity (example- Whatcom County typically gets 36-48 inches of winter rain, meaning a 10-foot-deep lagoon needs up to 4 vertical feet of the lagoon capacity just to hold winter rainfall. Excluding the rain means the farm has more space for longer storage times and less manure to haul. Data on ever changing climate patterns show trends of earlier fall and more mid spring rainfall patterns - today as compared to 30- 40 years ago. Benefits of covered lagoons or tanks mean farms can store manure longer when needed in a wet spring and meet crop nutrient needs better, all while reducing energy use and environmental risk.

Myth busting allegations about dairy farms, digesters and bio methane sourced energy production.

Anti-Dairy activists are testifying with frankly defamatory comments if not outright falsehoods about dairy farms to buttress their opposition to animal sourced energy from captured farm methane. Here are our perspectives on some allegations and concerns:

- **<u>Do dairy digesters result in the dairy expanding?</u>** No. While it is a fact farms do expand and grow, that trend is unabated since milking machines were invented in the early 1900's (Try milking a few cows by hand and you will understand why nobody wanted to milk more than one or two cows!). Farm growth is one technique to stay profitable through gains in economy of scale. This is not unique to dairy, many if not all businesses grow to increase cash flow and hopefully net revenue through gains in efficiency. The activists opposing digesters on dairy simply don't like dairy farming, some want changes and some simply want us out of business, so any excuse to vilify dairy farmers is fair game– even if logically or factually deceitful. Claims of digesters causing growth confuses correlation with causation. For example, the cities of Lacey, Olympia, Tumwater joint wastewater treatment coalition (LOTT) built four digesters to digest sewage in the 1980's when the population of these three cities was around 56,500. In 2025 the population was estimated at 143,000. Did the population grow ***because*** there were digesters added to the wastewater treatment plant? Obviously not! Nobody moved to Olympia or Lacey or Tumwater because they found out their sewage was going to be treated by a digester or that the LOTT plant would make energy from human sewage. Yet the population increased almost three-fold hence. Dairy farms grow, having a digester or not has nothing to do with that current and historical trend anymore than it does with the growth of a city with a digester.

- **<u>Are digesters hugely profitable or make renewable gas production so lucrative as to drive growth for methane production or incentivize farm buyouts by oil and gas corporations?</u>** No. We know of no oil companies interested in buying dairy farms for methane gas (if you hear of some, please let us know, we may have some farms who would entertain selling to Shell oil just to watch a corporate oil company milk cows).

  Current dairy digester operators are struggling to make any net returns under current state and federal policies that drive the economics of digesters. Reasons include:
  - The Federal EPA has not approved the RIN's pathway for renewable electrical generation/distribution thus revenue potential from transportation renewable electricity sales is lessened.
  - Wind power has depressed market prices for renewable electrical energy prices.
  - Washington has long had among the lowest base "electron" costs due to abundant supply of hydro power resources.
  - California renewable natural gas market prohibits co-digestion when selling into California renewable gas markets…so no RNG digester projects selling into CA must forego meaningful revenue opportunities and not add substrates to digesters.

  Do we hope digesters will be a profitable option for dairy farmers and if they choose their investment partners? Absolutely and it is imperative to develop this infrastructure. However, we are concerned, to build more digesters there needs to be a better return/profitability scenario with stable policies and an adequate, reliable economic

signal (short term and long term!!!) to farmers and private investors, a signal that says go forth and develop new digester infrastructure. Profitability limitations today mean attracting investors and investment faces an uphill battle. **Policy signals like the rule language Ecology is proposing - is the opposite of what is needed for the state to attract interested parties and partners.**

- **Do digesters only benefit large and/or "corporate" farms?** No to both. First of all, Washington State, by our estimate, has around 250 dairy farms, 99.2% of these are family-owned farms. When surveyed in 2024 over 30 dairy farms responded they were interested in carbon reduction projects including tank style or covered lagoon style digesters to catch methane to flare or for energy production. These farms ranged from smaller farms to larger farms from both eastern and western Washington.

- **Most dairy farms have some form of liquid manure storage.** Dairy farms across the state and nation have used manure lagoons designed to USDA NRCS standards since the early 1970's as a way to ensure manure is stored safely until crops need nutrient applications. Washington State passed laws in the 1990's that essentially require lagoons on most farms in order to protect surface and groundwater resources. These lagoons are a successful technique to protect surface and groundwater (rather than dairy farms spreading on manure on fields - as was the case in the 1950-1980's - fields that are then subject to run off from rain, floods or snowmelt.) Liquid storage does result in anerobic conditions that result in methane production. Capture and destruction of that methane is an effective way to reduce GHG's and potentially for energy production. Destruction by combustion in motors or fuel cells, or flares, turns that methane back into the same CO_2 that it was before our crops took it from the air via photosynthesis (conversion back to CO_2 creates a one year or less CO_2 life cycle). (CO_2>> photosynthesis+ Nutrients + Water >>plant/feed/crop growth >>producing carbohydrates and protein >> crops fed to cows >> Milk, meat and manure >> methane >> CH_4 destruction = CO_2 + H_2O >farmers and plants then repeat with the next cropping cycle.)

- **Are Washington Dairy farms polluters? And do digesters increase pollution?** Again, no to both. Dairy farmers in Washington State are the most regulated sector of agriculture or rural land use in the state. Our farms are regulated for manure use in crop production, animal waste management (including containment and storage), timing and volume of nutrient applications and irrigation water management to ensure protection for the waters of the state. Dairy farmers are required by state law to have a nutrient management plan; they undergo routine inspections by the Washington Department of Agriculture for compliance to ensure they are using their nutrients appropriately and have all measures in place to ensure surface or groundwater is not contaminated. Digester operators have additional requirements to account for any inflow and utilization of nutrients from added substrates.

(https://agr.wa.gov/departments/land-and-water/livestock-nutrients/dairy-nutrient-management-plans-and-inspections) Dairy farms are also regulated and subject to regulatory oversight as well as occasional or random inspections by the Department of Ecology and or the US Environmental Protection Agency (EPA) for compliance with more state and national environmental laws. The compliance rate on dairy farms is outstanding. (see: https://cms.agr.wa.gov/WSDAKentico/Documents/Pubs/AGR2-2501-001-NMTSAnnualImpactReport2024.pdf?_gl=1*vj14fy*_ga*Nzg2OTUxODcxLjE3NTM3MjMwMDQ.*_ga_9JCK8SVQPE*czE3NTM3NDQ4NDckbzEkZzEkdDE3NTM3NDY0NjckajE3JGwwJGgw)

From a benefit perspective. Covering lagoons or tanks significantly reduces odors from manure because emissions are captured and destroyed or filtered. Traditional heated digesters result in at least 95% reduction in pathogens which further reduces risk of pathogens transfer to wildlife and better assurances of water quality protection.

Methane digesters covered lagoons or manure tanks are great practices we should be encouraging dairy farmers to adopt. Will they work on every farm? No. But consideration and adoption depends on a reasonable set of policies and incentives that encourage farmers to consider engaging in adoption and implementation of these methane capture technologies. Ecology needs to revise their wording to lengthen avoided methane crediting to 30 years – which is consistent with California's proven successful Ghg reduction policies. Regarding language in other areas, we support the comments, concerns and suggestions of other folks such as Promus energy and Maas Energy.