

WSR 26-07-023

NOTICE OF APPEAL

OFFICE OF THE GOVERNOR

[Filed March 9, 2026, 4:11 p.m.]

NOTICE OF APPEAL

RCW 34.05.330(3)

Pursuant to RCW 34.05.330(3), you are hereby notified for publication in the Washington State Register that:

On January 21, 2026, the Governor's Office received an appeal from Jean Mendoza, relating to the Washington State Department of Ecology's denial of a petition to amend or repeal ch. 173-424 WAC (*Clean Fuels Program Rule*). The Governor denied the appeal on March 9, 2026.

DATE: March 9, 2026

Kristin Beneski
Chief Legal Counsel to the Governor

March 9, 2026

Jean Mendoza, Executive Director of Friends of Toppenish Creek
Via email: jeanrmendoza@icloud.com

Re: APA Appeal - Washington Administrative Code (WAC) 173-424

Dear Jean Mendoza:

On January 21, 2026, the Governor's Office received the appeal you filed in response to the Washington State Department of Ecology's decision to deny your petition to repeal the "Avoided methane crediting" rules under WAC 173-424-610(16). Under RCW 34.05.330(3), an agency's denial of a petition to repeal or amend a rule may be appealed to the Governor.

Chapter 173-424 WAC governs the Clean Fuels Program. The avoided methane crediting provisions in WAC 173-424-610(16) establish Clean Fuel Standard credits for capturing dairy or swine manure or organic waste diverted from landfills and converting it to biogas for use in powering Washington's transportation system. The rule also establishes detailed eligibility, compliance, and temporal requirements for the credits. WAC 173-424-610 (16) (a), (c).

Your petition asked the Washington State Department of Ecology to rescind WAC 173-424-610(16). Petition at 1. Your petition argues that chapter 173-424 WAC "is about transportation fuels" and "should not include a rider that subsidizes polluting agricultural practices and punishes alternatives." Petition at 1. Your petition alleges that "WAC 173-424-610(16) is not necessary to reduce greenhouse gas emissions from vehicle or air traffic" and that it "favors large CAFO [(concentrated animal feeding operation)] dairies." Petition at 12.

The Department of Ecology denied your petition on December 22, 2025. The Department acknowledged that your petition requests rulemaking to eliminate or substantially restrict avoided methane crediting and seeks to prevent the Department from assigning carbon intensity values that reflect avoided methane emissions from dairy manure management. Ecology's Response at 1-2. The Department explained that avoided methane crediting is an incentive mechanism intended to reduce methane emissions by encouraging the capture and use of methane that would otherwise be released to the atmosphere. Ecology's Response at 2. The crediting program is modeled after similar provisions in other jurisdictions, such as California. Ecology's Response at 2. The pro-

gram is voluntary and does not require any dairy to install a digester or to adopt liquid manure management. Ecology's Response at 1-2. The Department further explained that "allowance of avoided methane crediting for dairy biogas only applies to facilities already utilizing liquid manure management systems and does not punish dairies for using alternative manure management methods, nor does it incentivize farms to switch to higher-emitting practices." Ecology's Response at 2. It also noted that "Ecology received no comments or feedback from small dairies or dairy associations opposing the avoided methane crediting language." Ecology's Response at 11.

The Department of Ecology indicated that it will likely engage in future rulemaking regarding the lifecycle emissions accounting for fuel pathways using dairy renewable natural gas. Ecology's Response at 5. The Department also explained that, in adopting the avoided methane provisions, it complied with applicable procedural requirements, including environmental review under the State Environmental Policy Act (SEPA). Ecology's Response at 9-10.

You appealed the Department of Ecology's denial of your petition to the Governor's Office on January 21, 2026. Your appeal petition also requests that the Governor instruct the Department to either rescind WAC 173-424-610(16) or re-initiate rulemaking for the following alleged reasons: 1) Ecology made misleading and false claims in their rejection of your appeal; 2) Ecology failed to address important elements of our appeal; 3) a SEPA Determination of Significance is in order due to the complexity of this issue; 4) avoided methane leads to an artificially low carbon intensity score for biomethane from manure that is not based on reality or science; and 5) biomethane from manure is nearly irrelevant regarding transportation fuels. Appeal Petition at 1.

Your appeal requests that the Governor's Office review procedural and ethical deficiencies in the Department of Ecology's handling of your petition. Appeal Petition at 1. However, the materials submitted in support of the appeal do not demonstrate that the Department failed to follow applicable legal requirements or that the Department failed to address important elements of your petition. In addition, the petition's assertions regarding how the rule could shift dairies' future behavior are speculative and unsupported. The Department appropriately exercised its discretion in promulgating the regulation at issue, and in declining to repeal that regulation shortly after its promulgation.

The Department of Ecology denied your petition to amend WAC 173-424-610(16) after careful consideration, and I am not persuaded that it erred in doing so. Your petition is denied.

Sincerely,

Bob Ferguson
Governor of Washington