

To: Environmental Quality Commission

**From: Kevin Maas and Daryl Maas
Farm Power Northwest, LLC; Farm Power Tillamook, LLC; Farm Power Misty Meadow, LLC**

Date: January 25, 2019

Re: Comments on the Composting Program proposed temporary rule regarding pathogen reduction limitations as applied to liquid digestate from off-farm digesters, OAR 340-096-0140

1. **The temporary rule eliminating the pathogen requirement will NOT create equality between on-farm digesters and off-farm digesters, contrary to the statement by DEQ.**
 - a. It is true that on-farm digesters, which are regulated by ODA under the host farm's CAFO permit, do not have a pathogen limitation requirement.
 - b. However, on-farm digesters are subject to a number of other requirements that do not apply to off-farm digesters, most notably a limitation in the amount of non-manure feedstocks that they can accept. To put it another way, on-farm digesters **MUST** operate primarily on manure.
 - c. The modified permit issued by DEQ to POTB does not place any restrictions on the amount of Type 3 feedstocks that the POTB facility can accept. To put it another way, the modified permit allows the POTB facility to run on 0% manure and 100% putrescible urban or industrial waste. The distinction between "on-farm" and "off-farm" becomes meaningless with no requirement for a permitted digester to operate primarily on farm feedstock.
 - d. Non-manure feedstocks result in new pathogens and higher bacteria levels. Type 3 feedstocks include putrescent meat and egg disposal, compostable food from curbside bins, slaughterhouse waste, and almost any other organic material short of diseased cow bodies. Adding non-manure feedstock also increases quantities of liquid digestate in an area that already has a limited agronomic land base.
 - e. **If DEQ wants to create equity between the on-farm and off-farm digesters, the rules should be thoroughly updated to include all the other protections and rules that apply to on-farm digesters.**
 - i. Most importantly, off-farm digesters should have a limitation of Type 3 feedstock to 10-15% by volume, which is the requirement for on-farm digesters.
 - ii. Off-farm digesters should also be required to demonstrate adequate winter storage capacity for extra effluent gallons, adequate land availability for the extra nutrients, and ODA pre-approval of the permit.
 - f. DEQ's proposed temporary rule would simply give off-farm digesters all the benefits associated with being co-located on a farm, with none of limitations and protections that apply to on-farm digesters. **This approach does not achieve equity.**

2. **DEQ's temporary rule emphasizes the anaerobic digestion of manure, but disregards the impact of non-manure Type 3 feedstocks, such as creamery wastes, on digestate.**
 - a. The POTB obtained the most recent version of its manure-only permit in 2016; this permit was to remain in effect until 2025. The digestion of manure is not at issue, nor does it drive the need for a modified permit.
 - b. There is no shortage of manure in Tillamook County, nor the plant nutrients it contains. Type 3 feedstocks add new gallons to a digester and generally have higher contents of plant nutrients. A digester must dispose of all its gallons; to the degree that these gallons come from imported Type 3 feedstocks, the impact on farmland will be higher than only manure.
3. **DEQ claims that a temporary rule is necessary to prevent serious prejudice, presumably to POTB. This is not accurate.**
 - a. As stated earlier, **the POTB already has a valid permit to digest manure**, which was most recently updated in 2016.
 - b. POTB wants to introduce non-manure Type 3 feedstocks, which is the basis for POTB's requested permit modification.
 - c. Despite our repeated records requests to DEQ and our additional willingness to accept redacted documents, we have seen no evidence that ANY manure is firmly committed to the POTB digester. Given that the POTB digester has been shut down twice since 2012, and the lack of committed supply, it is unlikely any dairy farmer is depending on it for manure management.
 - d. The POTB digester previously supplied green power to Portland General Electric until shutting down in 2016. Neither PGE nor the Tillamook PUD are depending on this source of green power.
 - e. POTB's inability to meet the pathogen limitation requirement is just one problem with this permit modification.
 - f. If DEQ wants to change its rules to make this modified permit legally valid, it should not do so in a rushed process. It should take the time to hear from stake holders and adjust the law in ways that are fair and equitable to all affected parties.