

August 6, 2021

Dear WA State Dept. of Ecology.

Please consider these comments regarding the Yakima Regional Clean Air Agency State Implementation Plan from the Friends of Toppenish Creek.

These are the facts:

Air quality in Yakima County is worsening

Concentrated animal feeding operations (CAFOs), mostly dairies, are significant contributors to Yakima County air pollution

The Yakima Regional Clean Air Agency does not regulate CAFO dairies as required by Washington air laws (See Attachment A)

The Yakima Regional Clean Air Agency ignores citizen complaints related to dairy CAFOs.

For these reasons FOTC requests these additions to the YRCAA SIP:

1. A delineation of qualifications for the position of Air Pollution Control Officer. The person who holds this position must have enough knowledge to lead Yakima County in addressing air pollution. Over the years citizens have asked the YRCAA to address climate change. At one time FOTC asked the agency to discuss reactive nitrogen in the atmosphere. The man who was director at that time laughed at us and told the board – everyone knows that the atmosphere is 80% nitrogen. End of story. I hope you agree that denial is no longer an adequate response to global warming and stonewalling is not a required skill for the APCO.
2. A statement that the YRCAA will address climate change in Yakima County as required by RCW 70A.45 and environmental justice as required by E2SSB 5141, the HEAL Act.
3. A requirement in the SIP for YRCAA to either perform the research needed to understand dairy emissions, or accept research performed by citizens or research institutions.
4. A requirement in the SIP for YRCAA to characterize emission of volatile organic compounds in Yakima County – because research confirms VOC emissions from LYV dairies exceed statutory thresholds under both WAC 173-400 and WAC 173-460.
5. A policy that addresses emissions from dairies as required by RCW 70A.15.1005, RCW 70A.15.3050 & WAC 173-400-100 (1) (j).
6. A policy that addresses emissions from composting operations, as required by WAC 173-400-100 (1) (l).
7. A statement that the YRCAA shall enforce the laws, as opposed to the current statement that YRCAA may enforce the laws. See Section 2.01 B & Section 2.01 E. FOTC made this request in July 2020 during the first review of YRCAA Regulation 1. YRCAA replied, “Enforcement discretion is and should remain with the duly appointed APCO.” What this means in fact is that the decision whether to investigate a complaint lies entirely with one

man. The current APCO has no training in the law, in science, in public health or in agriculture. If citizens go to court to complain about lack of investigation, there is a legal defense imbedded in the proposed SIP, that says the YRCAA regulations allow the APCO to choose which air quality violations to address. This probably could not stand up in court, but citizens would have to struggle through years of litigation to secure justice. Why not do the right thing at the start and write a SIP that is not arbitrary and capricious?

8. A change to Section 2.05 Appeals. Delete Section C and replace it with a process in which the YRCAA Board of Directors hears appeals of YRCAA action. This is more appropriate than forcing citizens to appeal to the WA State Pollution Control Hearings Board over complaints that can easily be addressed at the local level. Let us explain.

YRCAA Administrative Code Part B instructs YRCAA staff on decision making when responding to a citizen complaint about poor air quality. There are four levels of response.

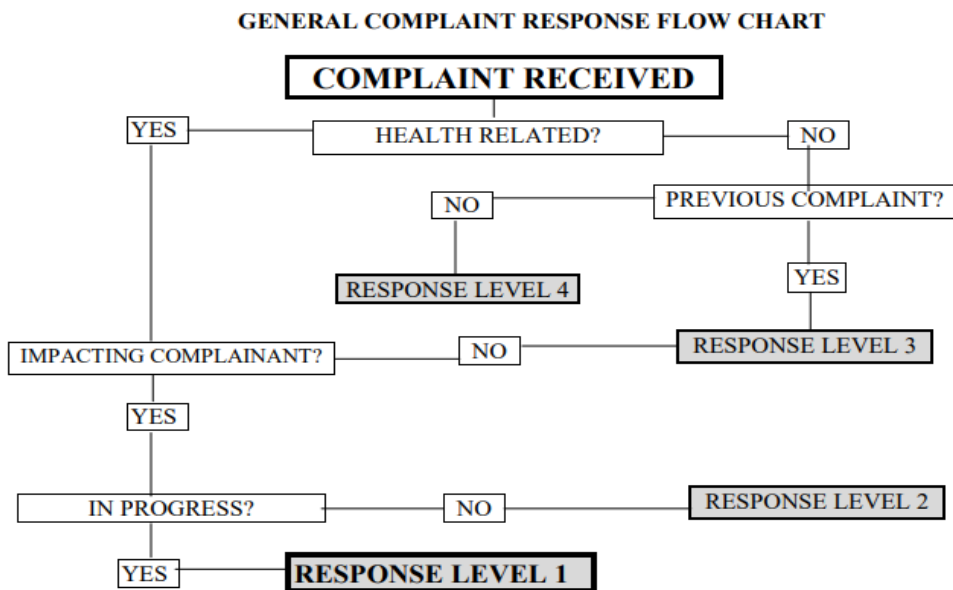
Level 1 Attempt same day site inspection. Request backup if not available for same day response.

Level 2 Attempt inspection within 48 hours. Request backup if not available for 48 hour response

Level 3 Attempt site inspection within 7 days. Request backup if not available for 7 day response.

Level 4 Site inspection not required. Correspond with the source to advise of the complaint, to inform of the applicable rules and to discuss the potential for enforcement action. A phone call or a fax may be helpful but, it should be followed up in writing.

Here is the Decision Tree.



You can see that the only time there should be a level 4 response is when there is no threat to the citizen's health and there have been no previous complaints about the facility. In fact, the YRCAA staff frequently log a level 4 response when citizens complain of physical symptoms and there are previous complaints against the facility. (See Attachment B

What can citizens do when our legitimate concerns are dismissed so easily? The APCO ridicules our protests. It is hard to complain to the board of directors due to the complicated rules for public comments and the board's policy of not responding to citizen comments. Under the current policy the only option is for the citizen to lodge a complaint with the WA State Pollution Control Hearings Board. No one will go to the trouble of hiring an attorney and appealing to the PCHB over an issue like this. Would the PCHB even accept such an appeal? The YRCAA Board of Directors has the power, and we believe the duty, under RCW 70A.15.2040 (2) to "hold hearings relating to any aspect of or matter in the administration of this chapter." This makes for better government and keeps local issues at the local level where the people affected can participate.

9. Finally, FOTC believes that the YRCAA misinterprets RCW 70A.15.4530, the exemption for odor and fugitive dust. YRCAA claims the agency cannot regulate odor and dust from agriculture in any manner whatsoever, because of this law. That is incorrect. Ecology does this all the time in other parts of the state. To rectify that mis-interpretation we ask for additional language in the SIP that requires YRCAA to spell out what are acceptable agricultural practices and what are not. We ask the SIP to require a health screening process to be used by inspectors when responding to a dust or odor complaint.

YRCAA must decide whether it is an acceptable agricultural practice to:

- a. Spray manure into the ambient air during an inversion, when the air is unhealthy
- b. Compost manure inside the pens and corrals where animals live
- c. Compost hundreds of animal carcasses in one place at one time.
- d. Store lime uncovered in the open air
- e. Stack and stockpile manure untreated for years at a time
- f. Turn compost during windy days
- g. Ignore nutrient management plans

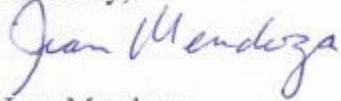
We suggest that YRCAA staff should screen for health risks by asking citizens the following questions when they complain of air pollution:

- a. What symptoms are you experiencing? (headache, nausea, watering eyes, shortness of breath, chest pain, rash, etc.)
- b. Do you have any chronic illnesses? (asthma, emphysema, heart disease, organ transplant)
- c. Have you had to take medication because of the poor air quality? (nitroglycerin, inhaler, Tylenol, steroids)

- d. Do you have the ability to measure your pulse oximetry or inhaled volume using an incentive spirometer? Are their changes from your baseline?
- e. Are there small children in your home?
- f. Do the children show symptoms of respiratory distress?

We live in an area of intensified, technology dependent farming, but the current regulations are designed for farming fifty years ago. YRCAA Regulation 1 must demonstrate the capacity to address and manage intensive farming and public health in a technological age.

Sincerely,



Jean Mendoza

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