



Friends of Toppenish Creek

February 28, 2025

WA State Dept. of Ecology
300 Desmond Drive, SE
Lacey, WA 98503

Dear Dept. of Ecology,

Friends of Toppenish Creek is a 501(C)(3) non-profit group in Yakima County with a mission to protect the natural environment.

Friends of Toppenish Creek is dedicated to protecting the rights of rural communities and improving oversight of industrial agriculture. FOTC operates under the simple principle that all people deserve clean air, clean water and protection from abuse that results when profit is favored over people. FOTC works through public education, citizen investigations, research, legislation, special events, and direct action.

Please consider our comments regarding the rulemaking to implement RCW 70A.65.020.

1. Without provisions for citizen enforcement, this rulemaking will be a useless exercise. FOTC knows this because we live in Yakima County where those who are supposed to address concerns about air pollution ignore citizen complaints, abuse the Open Public Meetings Act, and stack advisory boards in favor of polluting industry. Please see the attached letter from FOTC to the WA State Dept. of Ecology (Ecology).¹
2. Yakima County is unique among Washington Counties in that our air pollution is mostly due to agriculture, which is treated differently under Washington laws. We hope that this new rule will include provisions to address agricultural pollution in ways that protect both agriculture and the environment.
3. About 36% of all Washington dairy cows are housed in the Lower Yakima Valley (LYV). Dairies are the most significant source of air pollution in LYV because there are so many cows confined in a small area. Ecology must address emissions from dairies if the agency wishes to solve pollution problems in this overburdened and underserved community.

¹ Attachment 1, Letter to Ecology Air Division

Discussion

Many people want to know the volume of emissions from dairies in Yakima. The answer is usually “that depends on your data source”. But it is important to at least have an estimate as a starting point for discussions.

We propose the use of data from 2010 research conducted on a LYV dairy for the National Air Emissions Monitoring Study (NAEMS)², as well as data that the U.S. Environmental Protection Agency provides to states ³, as a reasonable starting point. Here are the estimates of emissions we have made based on that data.⁴

Pollutant		Grams/cow/day	Lbs./cow/day
Methane (Manure Mgmt. + Enteric)		839.76	1.849692
Ammonia		56.50	0.124449
Hydrogen Sulfide		1.12	0.002467
Volatile Organic Compounds (VOCs)		116.19	0.255925
PM 2.5		3.58	0.007885
PM 10		8.47	0.018656

Based on these estimates and the fact that 100,000 milk cows are housed in Yakima County, FOTC projects the emissions below for dairies in Yakima, mostly in the LYV overburdened community, and most within the 273 square mile Lower Yakima Valley Groundwater Management Area where over 80% of the people are people of color.

Pollutant		Metric tons per year	Tons per year
Methane		30,651	33,716
Ammonia		2,062	2,270
Hydrogen Sulfide		41	45
VOCs		4,241	4,665
PM 2.5		131	144

Hazardous Air Pollutants: If the forty LYV dairies were considered together this would constitute a Title V source of air emissions. The larger LYV CAFO dairies individually meet

² *Emissions Data from Two Dairy Freestall Barns in Washington* – National Air Emissions Monitoring Study available at [ASAE Journal | US EPA ARCHIVE DOCUMENT](#)

³ U.S. Environmental Protection Agency. State Inventory and Projection Tool. Available at [State Inventory and Projection Tool | US EPA](#)

⁴ See Attachment 2 for more details

the criteria for Title V sources. Yet dairies are not regulated by the Yakima Regional Clean Air Agency and are not mentioned in Ecology's 2023 Report: *Improving Air Quality in Overburdened Communities Highly Impacted by Air Pollution*.

The fact that Ecology and the YRCAA do not address the largest source of air pollution in this Black, Indigenous, People of Color (BIPOC) community is an Environmental Justice issue.

Greenhouse Gases: Washington requires state agencies and applicable facilities, fuel suppliers, and electric power entities that produce over 10,000 metric tons of carbon dioxide equivalent (MT CO₂e) per year to annually report their GHG emissions to Ecology's Greenhouse Gas Reporting Program.

FOTC estimates that dairies emit 30,651 metric tons of methane per year in Yakima County. This equals 858,228 metric tons per year of CO₂ equivalents or 21,456 metric tons per year per LYV dairy of CO₂ equivalents.

There are 40 dairies in Yakima County that could be required to report methane emissions, except for the fact that they have received a special exemption. If dairies were treated like other industries, this information would be included in Ecology's reporting under the WA Climate Commitment Act. That is not the case.

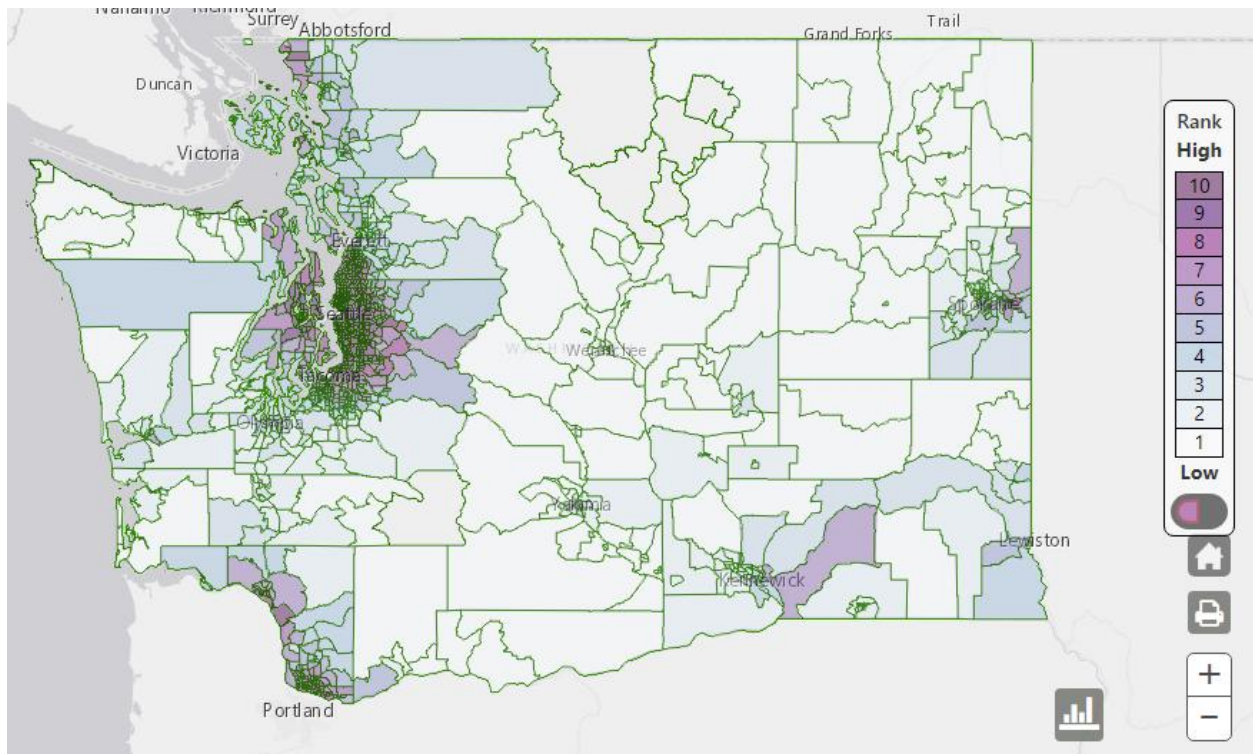
FOTC proposes that dairying brings much more environmental harm than other forms of agriculture such as row crops, mint, hops, and tree fruit. The volume of emissions from milk cows should be quantified,

Writing Rules:

There are challenges to writing clear and effective rules to implement RCW 70A.65.020.

- Figures 7 & 8 on page 62 of the 2023 Report *Improving Air Quality in Overburdened Communities Highly Impacted by Air Pollution* are highly inaccurate and misleading with respect to livestock.
- RCW 70A.65.020 (2) (b) requires Ecology to collaborate with local clean air agencies such as the YRCAA. In our experience the YRCAA Board of Directors does not subscribe to the principles of Environmental Justice and attempts at collaboration could be met with resistance, passive or otherwise.
- The Yakima Clean Air Agency will likely respond to the requirement for collaboration that there are no funds to pay for the time and resources needed to do this work. Every year the YRCAA struggles to budget for mandated services and is seldom able to provide other services.

- Agriculture is complex. We know that emissions from agriculture contribute to global warming. Many farmers actively experiment with techniques that reduce emission of greenhouse gases (GHG). A prime example is no-till farming that reduces plowing and thus reduces emission of nitrous oxide. There are benefits as well as unexpected side effects. The baseline for related GHG emissions from agriculture is constantly changing. How can Ecology effectively regulate an evolving situation?
- Nevertheless, there must be some accounting for agricultural air emissions, since they strongly impact human health. Consider this Environmental Health Disparities Map for Toxic Releases from Facilities.



The Yakima Valley appears quite safe because toxic releases from CAFO dairies are not counted and not mapped. This is wrong.

- We do not find good estimates of the costs for air sampling. To comprehensively test the ambient air around dairies, officials would have to test for methane, nitrous oxide, ammonia, hydrogen sulfide, particulate matter, and volatile organic compounds. There are dozens of VOCs. Some are carcinogenic and some are not. Currently the YRCAA only tests for one out of six criteria pollutants in the LYV – fine particulate matter.
- Regarding RCW 70A.65.020 (4)(a):

The department must create and adopt a supplement to the department's community engagement plan developed pursuant to chapter [70A.02](#) RCW. The supplement must describe how the department will engage with overburdened communities and vulnerable populations in:

(i) Identifying emitters in overburdened communities; and

(ii) Monitoring and evaluating criteria pollutant emissions in those areas.

(b) The community engagement plan must include methods for outreach and communication with those who face barriers, language or otherwise, to participation.

- FOTC has shown that CAFO dairies are the major emitters in the LYV, yet Ecology does not acknowledge this fact in summary statistics. Over and over Ecology and YRCAA dismiss citizen complaints about air emissions from dairy.
- FOTC has shown that the YRCAA only monitors fine particulate matter in LYV, and that the YRCAA is not inclined to take any actions that might identify dairies as polluters or quantify pollutants from dairies.
For example, YRCAA ignores well done FOTC research that found ammonia levels in LYV were 63 times higher than ammonia levels in the Upper Yakima Valley (UYV).⁵
- FOTC has shown elsewhere that Ecology participates in discrimination against people of color in LYV.⁶ FOTC has alleged with evidence that the YRCAA discriminates against people of color and people with Limited English-Speaking ability in LYV.⁷
- FOTC has only achieved success when we have shown that the laws are on our side. This frequently involves accessing legal counsel. This is expensive and often prevents marginalized people from exercising our rights.

FOTC suggests that community respect for Ecology and other state agencies would increase dramatically if WAC 173-448 required Ecology to employ attorney ombudsmen that are available to advise people in overburdened communities. Such ombudsmen could guide community members to better understand their rights and how to enforce them.

For example, dairy workers wonder if it is legal for an owners or foreman to join them for work related discussions while wearing a gun. An ombudsman could certainly

⁵ FOTC Study Finds Elevated Ammonia Levels at Lower Yakima Valley Site Near Large CAFO Dairies. Available at [EPA Air Attachment 19 Ammonia Levels in Yakima County FOTC.pdf](#)

⁶ FOTC. Lower Yakima Valley Groundwater Management Area Minority Report. Available at [GWMA MR Plan XV.pdf](#)

⁷ FOTC. Letter to U.S. Environmental Protection Agency Office of Civil Rights. Available at [ECRCO Civil Rights Complaint March 2023 VI.pdf](#)

provide an answer. If it is illegal, the ombudsman could tell workers how to report this offense. If law enforcement does not act effectively, the ombudsman could inform workers about their next legal steps. If workers are fired the ombudsman could explain whistle blower laws.

Suggested Sections in WAC 173-448:

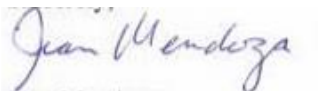
1. Consultation with local clean air agencies may be waived if a local clean air agency declines to participate or if the local clean air agency lacks resources needed to participate. Adequate resources are defined as the ability to dedicate 0.25 FTEs to Environmental Justice and community engagement.
2. Ecology shall hire one attorney-ombudsman for every four overburdened communities to provide legal counsel to people who live in those communities regarding their rights under environmental laws. Attorney-ombudsmen shall provide competent and defensible advice but shall not represent community clients in court proceedings.
3. Ecology shall create a task force to gather data regarding agricultural air emissions, to characterize those emissions, to approve models that predict air emissions from the various agricultural sources and predict impacts on human health. Approved models may be used to report hazardous air pollutants and greenhouse gas emissions for producers and growers, in lieu of air sampling. (Meets requirements in RCW 70A.65.020 (1)(c).

That task force shall include representatives from crop and animal agriculture, agricultural and farmworker health providers, and community representatives from overburdened communities in which agriculture is a major industry. The task force shall complete work by December 31, 2028.

4. Appeals. All final written decisions of the department pertaining to implementation of RCW 70A.65.020 shall be subject to review by the pollution control hearings board under chapter 43.21B RCW.

Thank you for considering these deep concerns from rural Washington.

Sincerely,

A handwritten signature in blue ink that reads "Juan Mendoza".

Executive Director, Friends of Toppenish Creek

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White Swan, WA 98952