

A Summary of the Laws, Programs & Regulations that Relate to CAFO/Livestock Operations
Lower Yakima Valley Groundwater Management Regulatory Group

August, 2016

CAFO/Livestock in General

The Clean Water Act (CWA), 33 U.S.C. §1251 et seq. The CWA makes it unlawful to discharge any pollutant from a point source into navigable waters, unless a National Pollutant Discharge Elimination System (“NPDES”) permit is obtained (33 U.S.C. 1342) NPDES permitting authority has been delegated to Washington State department of Ecology. (33 U.S.C. 1342 (b)).

Federal regulations promulgated pursuant to the Clean Water Act (40 CFR, Part 122) define dairies with 750 or more animals and feedlots with 1000 or more animals as Large Concentrated Animal Feeding Operations (CAFO). Large CAFOs are defined as point sources of water pollution and subject to requirement to obtain an NPDES permit if they have a discharge or potential to discharge. The Washington Department of Ecology develops and administers the CAFO permit, decides when a facility is required to apply for a permit, approves the nutrient management plan that is required under the permit and is responsible for enforcing the permit.

Summary of the Clean Water Act <https://www.epa.gov/laws-regulations/summary-clean-water-act>

40 CFR, Part 122 <http://www.epw.senate.gov/water.pdf>

33 U.S.C. 1251

<http://uscode.house.gov/view.xhtml?path=/prelim@title33/chapter26&edition=prelim>

33 U.S.C. 1342 <https://www.law.cornell.edu/uscode/text/33/1342>

Washington Department of Health, RCW 43.20.050 (2) (b), (c). Department of Health establishes rules as necessary for group B public water systems, as defined in RCW 70.119A.020, which rules “shall at a minimum, establish requirements regarding the initial design and constructin of a public water system” and “rules and standards for prevention, control, and abatement of health hazards and nuisances related to the disposal of human and animal excreta and animal remains.”

The regulations do not apply to: (a) contaminated concentrations found in saturated soils where those contaminants are chemicals or nutrients that have been applied at agronomic rates for agricultural purpose if those contaminants will not cause pollution of any ground waters below the root zone; (b) contaminant concentrations found in saturated soils where those contaminants are constituents that have been applied at approved rates and under approved methods of land treatment if those contaminants will not cause pollution of any ground waters below the root zone.

RCW 43.20.050 <http://app.leg.wa.gov/RCW/default.aspx?cite=43.20.050>

(Note: The July Meeting Summary says that the group wanted to edit this piece. I don't remember the discussion so I am waiting for clarification from Bobbie.)

National Environmental Policy Act, 42 U.S.C. 4321, 4331-4335, 40 CFR 1500-1508; State Environmental Policy Act, Ch. 43.21C RCW, Ch. 197-11WAC. Federal and state procedural statutes that require consideration of complex of environmental media by governmental entities when making permitting or project decisions. Utilizing a checklist of environmental factors, governmental officials must consider the threshold question whether a potential action has “a probable significant, adverse environmental impact.” RCW 43.21C.031(a). If not, an environmental assessment or determination of non-significance may be published. If so, then an environmental impact statement is required. The environmental impact disclosure process imposed by these requirements is utilized by local governments exercising their police power in zoning, subdivision or other permitting actions to identify factors militating toward denial of specific development proposals or conditions that may be attached to the approval of those proposals. As for example, upon receipt of an application for approval of particular activities under the Yakima County Code, the Yakima County Planning Department circulates completed checklist for environmental factors to other government agencies with jurisdiction of the potential activities in order to solicit their expertise with respect to the anticipated action. Whenever such agencies suggest concerns, those concerns may be incorporated as basis for denial or imposition of conditions upon approval of proposed actions.

New or expanding CAFOs, feedlots and other agricultural uses may be subject to environmental review under the State Environmental Policy Act (SEPA) depending upon the size of the proposal and whether the project falls below SEPA's flexible exemption thresholds.

National Environmental Policy Act 42 U.S.C. 4321, 4331 – 4335

http://www.fsa.usda.gov/Internet/FSA_File/nepa_statute.pdf

National Environmental Policy Act 40 CFR 1500 – 1508

http://energy.gov/sites/prod/files/NEPA-40CFR1500_1508.pdf

Washington State Environmental Policy Act RCW 43.21C

<http://apps.leg.wa.gov/rcw/default.aspx?cite=43.21c>

Washington State Environmental Policy Act WAC 197 – 11

<http://apps.leg.wa.gov/WAC/default.aspx?cite=197-11>

Dairy

Safe Drinking Water Act, 42 U.S.C. 300g–2(a), 300h–1, 40 CFR §131.4(a), Chapter 173–200 WAC

Safe Drinking Water Act Summary <https://www.epa.gov/laws-regulations/summary-safe-drinking-water-act>

Safe Drinking Water Act <http://www.epw.senate.gov/sdwa.pdf>

The Ecology/WSDA MOU requires that both agencies provide the other all livestock related records that either may possess as necessary to fulfill state and federal requirements for livestock under the Clean Water Act (MOU ¶ C.2), and that the two agencies will coordinate in response to public disclosure requests for aFOs, CAFOs and dairies (MOU ¶C.4)

Memorandum of Understanding WSDA & Ecology

<http://www.ecy.wa.gov/programs/wq/permits/cafo/docs/11152011MouEcyWsd.pdf>

Washington State Department of Agriculture Regulations Implementing the Dairy Nutrient Management Act, chapter 16-611 WAC

In Washington State, dairies that are licensed to sell Grade A milk and who generate large quantities of animal waste that can pollute surface water and groundwater must have an “approved” Nutrient Management Plan (NMP) on site within 6 months after licensing, which plan must be “certified” within two years after licensing. (RCW 90.64.026) The purpose of such plans is to prevent the discharge of livestock nutrients to surface and groundwaters of the state. An employee of the South Yakima Conservation District often writes the NMP. “Approved” means the local conservation district has determined that the facility’s plan to manage nutrients meets all the elements identified on a checklist established by the Washington Conservation

Commission. Certified means the local conservation district has determined all plan elements are in place and implemented as described in the plan. To be certified, both the dairy operator and an authorized representative of the local conservation district must sign the plan. Dairies whose NPDES permits require dairy nutrient management plans need not be otherwise “certified.” “Farm Plans,” developed by conservation districts for farmers, must include “livestock nutrient management measures.” RCW 89.08.560.

The elements of a dairy nutrient management plan must include methods and technologies of the nature prescribed by the Natural Resources Conservation Service, a department of the U.S. Department of Agriculture. RCW 90.64.026(3)

RCW 89.08 <http://app.leg.wa.gov/RCW/default.aspx?cite=89.08>

RCW 90.64 <http://apps.leg.wa.gov/RCW/default.aspx?cite=90.64>

WAC 16-611 <http://apps.leg.wa.gov/wac/default.aspx?cite=16-611&full=true>

South Yakima Conservation District Local Conservation Districts, RCW 89.08.560

In accordance with RCW 90.64.010 (17) (C) and 90.64.102, dairy producers must maintain records to demonstrate that applications of nutrients to crop land are within acceptable agronomic rates. WAC 16-611-020(1). Dairy producers must maintain the following records to demonstrate that applications of nutrients to the land were within acceptable agronomic rates. Requirements include 1) soils analysis records (annual analysis of postharvest soil nitrate nitrogen; triennial analysis of organic matter, pH, ammonium nitrogen, phosphorous, potassium, electrical conductivity) 2) nutrient analysis records for all sources of organic and inorganic nutrients, including but not limited to manure and commercial fertilizer supplied for crop uptake. Manure and other organic sources must be analyzed annually for organic nitrogen, ammonia nitrogen and phosphorous, 3) application records (field application and year of application; crops grown in each field where application occurred; crop nutrient needs based on expected crop yield; nutrient sources available from residual soil nitrogen including contributions from soil organic matter, previous legume crop, and previous organic nutrients applied; date and manner of application, nutrient sources, nutrient analysis, amount of nitrogen and phosphorous applied and available for each source, total amount of nitrogen and phosphorous applied to each field each year, and weather conditions 24 hours before and after application); 4) manure transfer records (both export and import)(date of manure transfer, amount of nutrients transferred, name of person supplying or transferring nutrient, nutrient analysis of manure transferred) and 5) irrigation water management records (field identification, amount of irrigation water applied to each field).

RCW 90.64 <http://apps.leg.wa.gov/RCW/default.aspx?cite=90.64>

WAC 16 – 611 <http://apps.leg.wa.gov/wac/default.aspx?cite=16-611&full=true>

(Note: The July meeting summary says: “Laurie Crowe believed that some of the record-keeping requirements for the South Yakima Conservation District may have changed because of the Department of Agriculture. She will research this and let the group know if there were changes and their nature.” Laurie just got back from vacation and has not had time to do this. She will provide the information when she is able.

Yakima County, Washington State Growth Management Act, primarily codified in Ch. 36.70A RCW, Yakima County Code, Planning, Permitting. Relevant purposes:

- 1) Encourage economic development . . . that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of this state, especially for unemployed and for disadvantaged persons, promote the retention and expansion of existing businesses and recruitment of new businesses, recognize regional differences impacting economic development opportunities, and encourage growth in areas experiencing insufficient economic growth , all within the capacities of the state’s natural resources, public services, and public facilities.
- 2) Maintain and enhance natural resource-based industries, including . . . agriculture . . . industries. Encourage the conservation of . . . productive agricultural lands, and discourage incompatible uses.
- 3) Protect the environment and enhance the state’s high quality of life, including air and water quality, and the availability of water. RCW 36.70A.020 RCW 36.70A.030 (15) defines “Rural character” as the patterns of land use and development established by a county in the rural element of its comprehensive plan:
 - (a) In which open space, the natural landscape, and vegetation predominate over the built environment;
 - (b) That foster traditional rural lifestyles, rural-based economies, and opportunities to both live and work in rural areas;
 - (c) That provide visual landscapes that are traditionally found in rural areas and communities;
 - (d) That are compatible with the use of the land by wildlife and for fish and wildlife habitat;
 - € That reduce the inappropriate conversion of undeveloped land into sprawling, low density development;
 - (f) That generally do not require the extension of urban governmental services; and

(g) That are consistent with the protection of natural surface water flows and groundwater and surface water recharge and discharge areas.

When defining the county's rural element, a county should foster land use patterns and develop a local vision of rural character that will: help preserve rural-based economies and traditional rural lifestyles; encourage the economic prosperity of rural residents; foster opportunities for small-scale, rural-based employment and self-employment; permit the operation of rural-based agricultural, commercial, recreational, and tourist businesses that are consistent with existing and planned land use patterns; be compatible with the use of the land by wildlife and for fish and wildlife habitat; foster the private stewardships of the land and preservation of open space; and enhance the rural sense of community and quality of life. (RCW 36.70A.070(5)).

RCW 36.70 <http://app.leg.wa.gov/rcw/default.aspx?cite=36.70>

RCW 36.70A <http://apps.leg.wa.gov/rcw/default.aspx?cite=36.70A>

Yakima County Zoning. Plan 2015's goals and policies are implemented through various titles of Yakima County Code. Yakima County's zoning code, YCC Title 19(1), applies to all of unincorporated Yakima County. Table 19.10.020-1 lists the zoning classifications applicable throughout the unincorporated areas. Table 19.14-1 lists which specific land uses are allowed within particular zoning districts. Each permitted use is subject to a particular level of review: Type 1 – permitted; Type 2 – administrative review; Type 3 – conditional; Type 4 – quasi-judicial review. YCC 19.30.030.

The Agriculture (AG) Zoning District is by far the most prevalent use district in the Lower Yakima Valley, followed by the Remote/Extremely Limited Development Potential (R/ELDP) district on the ridges and along the Yakima River, and some Rural Transitional (RT) Zoning Districts near the cities and towns. The AG zone allows a broad array of agricultural uses under Type 1 review, including: Animal Feeding Operations, land application of soil amendments or agricultural waste at agronomic rates. CAFOs are allowed in the AG and R/ELDP zones under Type 2 review.

Yakima County Code Title 19 <http://www.codepublishing.com/WA/YakimaCounty/>

Yakima County, Critical Areas, Including Critical Aquifer Recharge Areas A “critical aquifer recharge area” is an area “with a critical recharging effect on aquifers used for potable water, including areas where an aquifer that is a source of drinking water is vulnerable to contamination that would affect the potability of the water, or is susceptible to reduced recharge.” WAC 365-

190-030(3). The Growth Management Act requires counties to designate critical areas (RCW 36.70A.060(2), .170(d)). “Critical areas include the following areas and ecosystems: (a) wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas. “Fish and wildlife habitat conservation areas” does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company. RCW 36.70A.030(5). “Development regulations” may be established for critical areas so as to prohibit or refine permitted uses under existing zoning requirements. RCW 36.70A.172(1)). The Growth Management Act requires local jurisdictions to designate and protect areas with a critical recharging effect on aquifers used for potable water, or areas where a drinking aquifer is vulnerable to contamination that would affect the potability of the water. RCW 36.70A. YCC 16C.09.01(1). “Susceptible Groundwater Management Areas,” defined as “areas that have been designated as moderately or highly vulnerable or susceptible in an adopted groundwater management program developed pursuant to Chapter 173-100,” are among those designated CARAs. YCC 16C.09.02(3).

As amended by Yakima County Ordinance 13-2007, the Yakima County Code now addresses regulation of land use within critical areas in Ch. 16C. Application of that chapter to agricultural activities defined in YCC 16C.01.050 (3)(a) is limited due to the provisions of RCW 36.70A 700-760. (1) Regulation of agricultural activities on designated agricultural and rural lands is retained in Ch. 16A. RCW 3670A.700 through .760 establish a “Voluntary Stewardship Program” under which counties may choose to adopt a voluntary practices approach in lieu of protecting critical areas in areas used for agricultural activities through development regulations adopted under RCW 36.70A.060. Yakima County adopted the voluntary practices approach by ordinance (citation) This approach involves the establishment of a “watershed group” to develop a “work plan to protect critical areas while maintaining the viability of agriculture in the watershed.” RCW 36.70A.720(1)

RCW 36.70 <http://app.leg.wa.gov/rcw/default.aspx?cite=36.70>

RCW 36.70A <http://apps.leg.wa.gov/rcw/default.aspx?cite=36.70A>

WAC 365 – 190 <http://apps.leg.wa.gov/WAC/default.aspx?cite=365-190>

Yakima County Code Title 16a and 16c

<http://www.codepublishing.com/WA/YakimaCounty/>

RCW 36.70A.705 Voluntary stewardship program established—Administered by commission—Agency participation.

<http://apps.leg.wa.gov/rcw/default.aspx?cite=36.70A.705>

WA State Conservation Commission <http://scc.wa.gov/vsp/>

National Environmental Policy Act, 42 U.S.C. 4321, 4331-4335, 40 CFT 1500-1508; State Environmental Policy Act, Ch. 43.21C RCW, Ch. 197-11 WAC. Federal and state procedural statutes that require consideration of complex of environmental media by governmental entities when making, permitting or project decisions. Utilizing a check list of environmental factors, governmental officials must consider the threshold question whether a potential action has “a probable significant, adverse environmental impact.” RCW 43.21C.031 (a). If not, an environmental assessment or determination of non-significance may be published. If so, then an environmental impact statement is required. The environmental impact disclosure process imposed by these requirements is utilized by local governments exercising their police power in zoning, subdivision or other permitting actions to identify factors militating toward denial of specific development proposals or conditions that may be attached to the approval of those proposals. As for example, upon receipt of an application for approval of particular activities under the Yakima County Code, the Yakima County Planning Department circulates completed checklist for environmental factors to other governmental agencies with jurisdiction of the potential activities in order to solicit their expertise with respect to the anticipated action. Whenever such agencies suggest concerns, those concerns may be incorporated as basis for denial or imposition of conditions upon approval of proposed actions.

National Environmental Policy Act 42 U.S.C. 4321, 4331 – 4335

http://www.fsa.usda.gov/Internet/FSA_File/nepa_statute.pdf

National Environmental Policy Act 40 CFR 1500 – 1508

http://energy.gov/sites/prod/files/NEPA-40CFR1500_1508.pdf

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Right to Farm law applicable: RCW 7.48.300 to 7.48.320 prohibits nuisance lawsuits against farmers engage in “agricultural activities conducted on farmland and forest practices, if consistent with good agricultural and forest practices and established prior to surrounding nonagricultural and non-forestry activities, are presumed to be reasonable and shall not be found

to constitute a nuisance unless the activity or practice has a substantial adverse effect on public health and safety.”

RCW 7.48.300 to 7.48.320 <http://app.leg.wa.gov/RCW/default.aspx?cite=7.48>

Dairy Lagoons, Ponds & Settling Ponds

South Yakima Conservation District Local Conservation Districts, RCW 89.08.560

“Dairy nutrient management plan” means a plan meeting the requirements established under RCW 90.64.026. “Nutrient” means any product or combination of products used to supply crops with plan nutrients including, but not limited to manure or commercial fertilizer. WAC 16-611-010

Local Conservation Districts are authorized to provide dairies and other farms with technical assistance and planning services (RCW 89.08.560) and are required to approve and certify all dairy nutrient management plans. The required elements of the plans address the collection, storage, transfer and application of manure, waste feed and litter, and any potentially contaminated runoff at the site. Plans focus on management of nitrogen, and phosphorous as well as preventing bacteria and other pollutants, such as sediment, from reaching surface or ground water. Excess nutrients must be exported off site.

RCW 89.08.560 <http://app.leg.wa.gov/rcw/default.aspx?cite=89.08.560>

WAC 16 – 611 <http://apps.leg.wa.gov/wac/default.aspx?cite=16-611&full=true>

Natural Resources Conservation Service, a department of the U.S. Department of Agriculture. NRCS’ Conservation Practice standards are included in a National Handbook of Conservation Practices NRCS General Manual, Title 450, Part 401. NRCS believes that Nutrient Management for the protection of groundwater, although different on each farm, is best accomplished through best management practices. Each conservation practice standard contains information on why and where the practice is applied, and sets forth the minimum quality criteria that must be met during the application of the practice. State conservation practice standards are available through the Field Office Technical Guide (FOTG). All NRCS actions approving contracts for the distribution of funds must comply with the National Environmental Policy Act. All contracts are for reimbursement of expenses at a range from 25 – 75% of the cost of the improvement.

RCW 89.08.560 <http://app.leg.wa.gov/rcw/default.aspx?cite=89.08.560>

Anaerobic Digester 366

https://efotg.sc.egov.usda.gov/references/public/WA/366_stnd_100915.pdf

Animal Mortality 316

https://efotg.sc.egov.usda.gov/references/public/WA/316_stnd_100915.pdf

Filter Strip Code 393

https://efotg.sc.egov.usda.gov/references/public/WA/317_stnd_100915.pdf

Nutrient Mangement 590

https://efotg.sc.egov.usda.gov/references/public/WA/590_stnd_021814.pdf

Pond Sealing or Lining Bentonite Treatment 591C

https://efotg.sc.egov.usda.gov/references/public/WA/521C_stnd_100915.pdf

Pond Sealing or Lining Compacted Clay Treatment 521D

https://efotg.sc.egov.usda.gov/references/public/WA/521D_stnd_100915.pdf

Pond Sealing or lining Flexible Membrane 521A

https://efotg.sc.egov.usda.gov/references/public/WA/521A_stnd_012213.pdf

Waste Separation Facility 632

https://efotg.sc.egov.usda.gov/references/public/WA/632_stnd_012214.pdf

Waste Treatment Lagoon 359

https://efotg.sc.egov.usda.gov/references/public/WA/359_stnd_012213.pdf

Precision Nutrient Management Planning, Agronomy Technical Note #3.

http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1043477.pdf

Dairies that are licensed to sell Grade A milk and who generate large quantities of animal waste that can pollute surface water and groundwater must have an “approved” Nutrient Management Plan (NMP) on site within 6 months after licensing, which plan must be “certified” within two years after licensing. (RCW 90.64.026) The purpose of such plans is to prevent the discharge of livestock nutrients to surface and groundwaters of the state. An employee of the South Yakima Conservation District often writes the NMP. “Approved” means the local conservation district has determined that the facility’s plan to manage nutrients meets all the elements identified on a checklist established by the Washington Conservation Commission. Certified means the local conservation district has determined all plan elements are in place and implemented as described in the plan. To be certified, both the dairy operator and an authorized representative of the local conservation district must sign the plan. Dairies whose NPDES permits require dairy nutrient management plans need not be otherwise “certified.” “Farm Plans,” developed by conservation districts for farmers, must include “livestock nutrient management measures.” RCW 89.08.560.

RCW 89.08 <http://app.leg.wa.gov/RCW/default.aspx?cite=89.08>

RCW 90.64 <http://apps.leg.wa.gov/RCW/default.aspx?cite=90.64>

WAC 16-611 <http://apps.leg.wa.gov/wac/default.aspx?cite=16-611&full=true>

Resource Conservation and Recovery Act (RCRA)1976(pub.L.No.94-590, 90 Stat 2795, 42 U.S.C. RCRA contains both regulatory standards and remedial provisions to achieve goals of conservation, reducing waste disposal, and minimizing the present and future threat to human health and the environment. RCRA provides a comprehensive national regulatory structure for the management of nonhazardous solid wastes (subtitle D, 42 U.S.C. §§ 6941/y-6949a) and hazardous solid wastes (subtitle C, 42 U.S.C. §§6921/y-6939b). “Solid waste” is defined as “any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities” 42 U.S.C. §6903(27).

90 Stat 2795 Solid Waste Utilization Act <https://www.gpo.gov/fdsys/granule/STATUTE-90/STATUTE-90-Pg2795/content-detail.html>

Public Law No. 94 – 580 <https://www.gpo.gov/fdsys/pkg/STATUTE-90/pdf/STATUTE-90-Pg2795.pdf>

42 U.S.C. 6901 – 6987 <https://www.gpo.gov/fdsys/pkg/USCODE-2011-title42/html/USCODE-2011-title42-chap82.htm>

RCW 90.64 <http://apps.leg.wa.gov/RCW/default.aspx?cite=90.64>

Standard 313 - Waste Storage Facility which is defined as a waste storage impoundment made by constructing an embankment and/or excavating a pit or dugout, or by fabricating a structure. The purpose of the practice is to temporarily store wastes such as manure, wastewater, and contaminated runoff as a storage function component of an agricultural waste management system. This practice applies to facilities utilizing embankments with an effective height of 35 feet or less where damage resulting from failure would be limited to damage of farm buildings, agricultural land, or township and country roads and to fabricated structures including tanks, stacking facilities, and pond appurtenances: where the storage facility is a component of a planned agricultural waste management system; where temporary storage is needed for organic wastes generated by agricultural production or processing; where the storage facility can be

constructed, operated and maintained without polluting air or water resources; where site conditions are suitable for constructin of the facility.

NRCS Standard 313 Waste Storage Facility

http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/nrcs142p2_024782.pdf

Dairy Pens & Corrals

Washington State Department of Health regulations, WAC 246-203-130, regarding keeping of animals, provides: (1) Any person, firm or corporation is prohibited from keeping or sheltering animals in such a manner that a condition resulting from same shall constitute a nuisance. (2) In populous districts, stable manure must be kept in a covered watertight pit or chamber and shall be removed at least once a week during the period from April 1st to October 1st and, during the other months, at intervals sufficiently frequent to maintain a samitary condition satisfactory to the health officer. Manure on farms or isolated premises other than dairy farms need not be so protected and removed unless ordered by the health officer, (3) Manure shall not be allowed to accumulate in any place where it can prejudicially affect any source of drinking water.

WAC 246-203-130 <http://apps.leg.wa.gov/WAC/default.aspx?cite=246-203-130>

Washington State Department of Agriculture Regulations Implementing the Dairy Nutrient Management Act, chapter 16-611 WAC

WAC 16 – 611 <http://apps.leg.wa.gov/wac/default.aspx?cite=16-611&full=true>

Yakima County, Critical Areas, Including Critical Aquifer Recharge Areas A “critical aquifer recharge area” is an area “with a critical recharging effect on aquifers used for potable water, including areas where an aqifer that is a source of drinking water is vulnerable to contamination that would affect the potability of the water, or is susceptible to reduced recharge.” WAC 365-190-030(3). The Growth Management Act requires counties to designate critical areas (RCW 36.70A.060(2), .170(d)). “Critical areas include the following areas and ecosystems: (a) wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas. “Fish and wildlife habitat conservations areas” does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company. RCW 36.70A.030(5). “Development regulations” may be established for critical areas so as to prohibit or refine permitted uses under existing zoning

requirements. RCW 36.70A.172(1)). The Growth Management Act requires local jurisdictions to designate and protect areas with a critical recharging effect on aquifers used for potable water, or areas where a drinking aquifer is vulnerable to contamination that would affect the potability of the water. RCW 36.70A. YCC 16C.09.01(1). “Susceptible Groundwater Management Areas,” defined as “areas that have been designated as moderately or highly vulnerable or susceptible in an adopted groundwater management program developed pursuant to Chapter 173-100,” are among those designated CARAs. YCC 16C.09.02(3).

WAC 365-190-030 <http://apps.leg.wa.gov/WAC/default.aspx?cite=365-190-030>

RCW 36.70A <http://apps.leg.wa.gov/rcw/default.aspx?cite=36.70A>

Yakima County Code 16C <http://www.codepublishing.com/WA/YakimaCounty/>

Composting Areas

Washington composting law falls under RCW 70.95 Solid Waste Management and WAC 173 – 350 Solid Waste Handling Standards. RCW 70.95 does not apply to

4) Land application of manures and crop residues at agronomic rates;

(5) Agricultural composting when all agricultural wastes are generated, processed, and applied on-farm at agronomic rates in accordance with accepted agricultural practices. This categorical exemption does not apply to producers subject to RCW 70.95.306, composting of bovine and equine carcasses;

Owners and operators of solid waste facilities must “design, construct, operate, and close all facilities in a manner that does not pose a threat to human health or the environment”

WAC 173-350-220 Composting facility applies to “all facilities that treat solid waste by composting”. It does not apply to methods excluded above, composting of bovine and equine carcasses regulated by RCW 70.95.306, biosolids and anaerobic digesters.

There are regulations for conditionally exempt facilities. For example, facilities that manage > 25 cubic yards of agricultural waste and manures must meet the following conditions:

(a) Thirty days prior to operation, facilities must submit a notification of intent to operate as a conditionally exempt facility to the jurisdictional health department and the department. Notification must be submitted on a form provided by the department;

(b) For composting at a dairy, composting must occur as part of an updated dairy nutrient management plan as required by chapter 90.64 RCW, Dairy Nutrient Management Act;

(c) For composting at a farm other than a dairy, composting must occur as part of an updated farm management plan written in conjunction with a conservation district, a qualified engineer, or other agricultural professional able to certify that the plan meets applicable conservation practice standards in the USDA *Washington Field Office Technical Guide*, Code 317, produced by the Natural Resources Conservation Service;

(d) Facilities that distribute composted material off-site must meet the following conditions:

(i) Manage the operation to reduce pathogens to meet limits set by Table 220-B of this section;

(ii) Conduct compost analysis according to the requirements of Table 220-B. Compost testing frequency is based on volume of compost produced annually as required by subsection (4)(a)(x)(B) of this section; and

(iii) Submit annual reports and results of composted material analysis to the department and the jurisdictional health department by April 1st of each calendar year. Annual reports must be submitted on forms provided by the department.

RCW 70.95.306 Composting of bovine and equine carcasses—Guidelines—Exemption from solid waste handling rules describes conditions for this exemption.

WAC 173 – 350 Solid Waste Handling Standards

<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-350>

WAC 173-350-220 Composting facilities

<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-350-220>

RCW 70.95.306 <http://app.leg.wa.gov/RCW/default.aspx?cite=70.95.306>

Composting 317

https://efotg.sc.egov.usda.gov/references/public/WA/317_std_100915.pdf

On Farm Composting of Livestock Mortalities

<https://fortress.wa.gov/ecy/publications/documents/0507034.pdf>