

On-Site Sewage Systems

Lawn

Industrial facilities

Atmospheric deposition

Private Wells

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

Where drinking water in private wells contains nitrate above the MCL, EPA may determine that such an imminent and substantial danger exists.

UIC (underground injection control)

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

Underground Injection control: Part C of the Federal Safe Drinking Water Act (SDWA), 42 U.S.C. §300h-3 Most UIC's are road based and county-owned. WAC 173-218, 173-200

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).*

Yakima County has prohibited certain uses in critical aquifer recharge areas. YCC. 16C.09.07. Currently, those limitations include underground Injection Wells. Class I, III and IV wells and subclasses 5F01, 5D03, 5F04, 5W09, 5W10, 5W11, 5W31, 5X13, 5X14, 5X15, 5W20, 5X28, and 5N24 of Class V wells

Municipal facilities

Washington Department of Health. RCW 42.30.050 (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 construction 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."*

Nitrate levels (concentrations) (as N) in Class A public water systems may not exceed the maximum contaminant level ("MCL") of 10 mg/L. Nitrite levels (concentrations) may not exceed the MCL of 1 mg/L. WAC 246-290-310(3)(Table 4). The requirements for Class B public water systems are the same. WAC 246-291-170 (2)(b)

Compost/biosolids

Department of Ecology Solid Waste disposal regulation. RCW 70.90 through 70.95J.

Biosolids are a nutrient rich soil amendment. The Department of Ecology's biosolid program is administered independently of other agencies, but coordinated with health districts. As used in the Department of Ecology's regulations, "biosolids" is the term used to refer to sewage sludge or septage that has been or is being treated to meet standards so that it can be applied to the land. Sewage sludge is the solid, semisolid, or liquid residue generated during the treatment of domestic sewage in a treatment works. Biosolids are produced by treating sewage sludge to meet certain quality standards that allow it to be applied to the land for beneficial use. Septage is a class of biosolids that comes from septic tanks and similar systems receiving domestic wastes. WAC 173-308-050. Land application of biosolids requires pre-approval of application rates that are based upon agronomic crop requirements. Permittees receive coverage under a statewide general permit. Permit coverage is mandated for those who produce and/or land apply biosolids. The Department of Ecology's regulatory program incorporates site specific approvals with specific testing and analysis procedures, development of land application plans that prescribe specific practices and prohibitions, and a review and approval process for land application of the wastewater solids. Land application may only occur on permitted sites with pre-established buffers and setbacks. Application rates require advance approval based on pre-plant soil tests, evaluation of crop type and yield estimates, soil types, use of irrigation. Intermittent post-harvest tests are also conducted.

Dairy

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

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)

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 ground waters 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).

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 phosphorus, 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) .

<p>Yakima County, Washington State Growth Management Act, primarily codified in Ch. 36.70A RCW, Yakima County Code, Planning, Permitting. Relevant purposes:</p> <p>1) <i>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.</i></p> <p>2) <i>Maintain and enhance natural resource-based industries, including . . . agricultural . . . industries. Encourage the conservation of . . . productive agricultural lands, and discourage incompatible uses.</i></p> <p>3) <i>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:</i></p> <p><i>(a) In which open space, the natural landscape, and vegetation predominate over the built environment;</i></p> <p><i>(b) That foster traditional rural lifestyles, rural-based economies, and opportunities to both live and work in rural areas;</i></p> <p><i>(c) That provide visual landscapes that are traditionally found in rural areas and communities;</i></p> <p><i>(d) That are compatible with the use of the land by wildlife and for fish and wildlife habitat;</i></p> <p><i>(e) That reduce the inappropriate conversion of undeveloped land into sprawling, low-density development;</i></p> <p><i>(f) That generally do not require the extension of urban governmental services; and</i></p> <p><i>(g) That are consistent with the protection of natural surface water flows and groundwater and surface water recharge and discharge areas.</i></p>	<p>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 stewardship of the land and preservation of open space; and enhance the rural sense of community and quality of life. (RCW 36.70A.070(5)).</p>
<p>Yakima County Zoning. <i>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.</i></p>	<p>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.</p>

<p><u>Yakima County, Critical Areas, including Critical Aquifer Recharge Areas</u> 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). <i>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).</i></p>	<p>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 36-70A.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).</p>
<p><u>National Environmental Policy Act, 42 U.S.C. 4321, 4331-4335, 40 CFR 1500-1508; State Environmental Policy Act , Ch. 43.21C RCW, Ch. 197-11 WAC.</u> <i>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.</i></p>	<p>Right to Farm Law applicable</p>

Lagoons, Dairy

<p>Washington Department of Health. RCW 42.30.050 (2) (b), (c). <i>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 construction 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.”</i></p>	<p>The regulations do not apply to: (a) contaminant 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.</p>
<p>South Yakima Conservation District Local Conservation Districts, RCW 89.08.560</p>	<p>"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 plant nutrients including, but not limited to, manure or commercial fertilizer. WAC 16-611-010</p>
<p>Natural Resources Conservation Service, a department of the U.S. Department of Agriculture. <i>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 that 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.</i></p>	<p>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 phosphorus as well as preventing bacteria and other pollutants, such as sediment, from reaching surface or ground water. Excess nutrients must be exported off site.</p>
<p>Resource Conservation and Recovery Act (RCRA)1976 (Pub. L. No. 94-590, 90 Stat 2795, 42 U.S.C. §§6901-6987, 9001-9010). <i>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).</i></p>	<p>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).</p>

Settling ponds, Dairy

<p>Washington Department of Health. RCW 42.30.050 (2) (b), (c). <i>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 construction 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.”</i></p>	<p>The regulations do not apply to: (a) contaminant 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.</p>
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<p>Natural Resources Conservation Service, a department of the U.S. Department of Agriculture. <i>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 that 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.</i></p>	<p>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 ground waters 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.</p>
<p>Resource Conservation and Recovery Act (RCRA)1976 (Pub. L. No. 94-590, 90 Stat 2795, 42 U.S.C. §§6901-6987, 9001-9010). <i>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).</i></p>	<p>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 construction of the facility.</p>

Pens and corrals, Dairy	
<p>Washington Department of Health. RCW 42.30.050 (2) (b), (c). <i>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 construction 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."</i></p>	<p>The regulations do not apply to: (a) contaminant 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.</p>
<p>Washington State Department of Agriculture Regulations implementing the Dairy Nutrient Management Act, chapter 16-611 WAC</p>	<p>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 sanitary 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.</p>

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).*

[1] Referred to in the Yakima County Code as “Senate Bill 5428.” See also, Laws of 2011, c. 360.

Livestock/CAFOs

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.

Washington Department of Health. RCW 42.30.050 (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 construction 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) contaminant 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.

<p>National Environmental Policy Act, 42 U.S.C. 4321, 4331-4335, 40 CFR 1500-1508; State Environmental Policy Act, Ch. 43.21C RCW, Ch. 197-11 WAC. <i>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.</i></p>	<p>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.</p>
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Fertilized agriculture	
<p>Washington Department of Health. RCW 42.30.050 (2) (b), (c). <i>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 construction 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.”</i></p>	
<p>South Yakima Conservation District Local Conservation Districts, RCW 89.08.560</p>	<p>"Agronomic rate" means the application of nutrients to supply crop or plant nutrient needs to achieve realistic yields and minimize the movements of nutrients to surface and ground waters. "Nutrient," means any product or combination of products used to supply crops with plant nutrients including, but not limited to, manure or commercial fertilizer. WAC 16-611-010</p>
<p>Resource Conservation and Recovery Act (RCRA)1976 (Pub. L. No. 94-590, 90 Stat 2795, 42 U.S.C. §§6901-6987, 9001-9010). <i>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).</i></p>	<p>NRCS offers voluntary programs to eligible landowners and agricultural producers to provide financial and technical assistance to help manage natural resources in a sustainable manner. Those who are under contract with NRCS must adhere to relevant standards for the projects that are being funded. Current Washington state Financial Assistance program include:</p> <ul style="list-style-type: none"> • Agricultural Management Assistance (AMA) helps agricultural producers use conservation to manage risk and solve natural resource issues through natural resources conservation. • Conservation Stewardship Program (CSP) helps agricultural producers maintain and improve their existing conservation systems and adopt additional conservation activities to address priority resources concerns. • Environmental Quality Incentives Program (EQIP) provides financial and technical assistance to agricultural producers in order to address natural resource concerns and deliver environmental benefits such as improved water and air quality, conserved ground and surface water, reduced soil erosion and sedimentation or improved or created wildlife habitat.

<p>Yakima County, Washington State Growth Management Act, primarily codified in Ch. 36.70A RCW, Yakima County Code, Planning, Permitting. Relevant purposes:</p> <p>1) <i>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.</i></p> <p>2) <i>Maintain and enhance natural resource-based industries, including . . . agricultural . . . industries. Encourage the conservation of . . . productive agricultural lands, and discourage incompatible uses.</i></p> <p>3) <i>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:</i></p> <p><i>(a) In which open space, the natural landscape, and vegetation predominate over the built environment;</i></p> <p><i>(b) That foster traditional rural lifestyles, rural-based economies, and opportunities to both live and work in rural areas;</i></p> <p><i>(c) That provide visual landscapes that are traditionally found in rural areas and communities;</i></p> <p><i>(d) That are compatible with the use of the land by wildlife and for fish and wildlife habitat;</i></p> <p><i>(e) That reduce the inappropriate conversion of undeveloped land into sprawling, low-density development;</i></p> <p><i>(f) That generally do not require the extension of urban governmental services; and</i></p> <p><i>(g) That are consistent with the protection of natural surface water flows and groundwater and surface water recharge and discharge areas.</i></p>	<p>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 stewardship of the land and preservation of open space; and enhance the rural sense of community and quality of life. (RCW 36.70A.070(5)).</p>
<p>Yakima County Zoning. <i>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.</i></p>	<p>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.</p>

<p><u>Yakima County, Critical Areas, including Critical Aquifer Recharge Areas</u> 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). <i>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).</i></p>	<p>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</p>
<p><u>National Environmental Policy Act, 42 U.S.C. 4321, 4331-4335, 40 CFR 1500-1508; State Environmental Policy Act , Ch. 43.21C RCW, Ch. 197-11 WAC.</u> <i>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.</i></p>	<p>Right to Farm Law applicable</p>

Manure land application

<p>Washington Department of Health. RCW 42.30.050 (2) (b), (c). <i>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 construction 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.”</i></p>	<p>The regulations do not apply to: (a) contaminant 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.</p>
<p>South Yakima Conservation District Local Conservation Districts, RCW 89.08.560</p>	<p>"Transfer of manure" means the transfer of manure, litter or process waste water to other persons when the receiving facility is in direct control of (a) application acreage, (b) application rate, (c) application times; and (d) transfer rate and time. WAC 16-611-010</p>
<p>Resource Conservation and Recovery Act (RCRA)1976 (Pub. L. No. 94-590, 90 Stat 2795, 42 U.S.C. §§6901-6987, 9001-9010). <i>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).</i></p>	<p>Standard 590 – Nutrient Management, focuses on managing the amount (rate), source, placement (method of application), and timing of plant nutrients and soil amendments. This practice applies to all lands where plant nutrients and soil amendments are applied. This standard does not apply to one-time nutrient applications to establish perennial crops. The purpose of this standard is: to budget, supply, and conserve nutrients for plant production; to minimize agricultural nonpoint source pollution of surface and groundwater resources; to properly utilize manure or organic by-products as a plant nutrient source; to protect air quality by reducing odors, nitrogen emissions (ammonia, oxides of nitrogen), and the formation of atmospheric particulates; and to maintain or improve the physical, chemical, and biological condition of soil.</p>
<p>Yakama Nation. <i>A tribe retains “inherent power to exercise civil authority over the conduct of non-Indians on fee lands within its reservation when that conduct threatens or has some direct effect on the political integrity, the economic security, or the health or welfare of the tribe.” Montana v. United States, 450 US. 544, 565-66 (1981)</i></p>	<p>The application of bovine manure as an agricultural nutrient constitutes a disposal of solid waste if the amount applied is greater than an appropriate agronomic amount. CARE v. Cow Palace, LLC, (E.D. WA, CV 13-cv-03016-TOR). The application of inorganic materials as agricultural nutrients in amounts greater than an appropriate agronomic amount might also constitute a disposal of solid waste.</p>

Irrigation Management

<p>Resource Conservation and Recovery Act (RCRA)1976 (Pub. L. No. 94-590, 90 Stat 2795, 42 U.S.C. §§6901-6987, 9001-9010). <i>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).</i></p>	<p>Standard 449 – Irrigation Water Management. Outlines the process of determining and controlling the volume, frequency, and application rate of irrigation water. Applicable to all irrigated lands. Its purposes include: improvement of irrigation water use efficiency; minimization of irrigation induced soil erosion; decreasing degradation of surface and groundwater resource; managing salts in the crop root zone; managing air, soil, or plant micro-climate; reducing energy use.</p>
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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).*

[1] Referred to in the Yakima County Code as “Senate Bill 5428.” See also, Laws of 2011, c. 360.