



October 10, 2022

Dear Yakima County Commissioners:

Please consider this message from Friends of Toppenish Creek (FOTC) a non-profit organization that incorporated in the state of Washington in April of 2009.

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.

Because air pollution is a major component of climate change, because Washington is a local control state, and because recent legislation does not apply to regional clean air agencies, the Climate Commitment Act (RCW 70A.65) and the Healthy Environment for All Act (RCW 70A.02) may not benefit counties such as Yakima where many communities are likely to be classified as overburdened. Community engagement may be a myth in Yakima County.

For example, there is a good chance that investors will build digesters to produce renewable natural gas from the large quantities of cow manure that is produced in Yakima County. With approximately 90,000 milk cows and 16,000 beef animals in the Lower Yakima Valley (LYV), methane emissions from animal agriculture here are over 29,000 metric tons per year or about 0.737 million metric tons (MMT) of CO₂ equivalents per year.

In theory, the CCA, HEAL and SEPA require input from people who live near projected sites. Because the Yakima Regional Clean Air Agency avoids community engagement (FOTC opinion based on experience), impacted people may not know about these projects until after they are approved.

Sincerely,

Executive Director, Friends of Toppenish Creek
3142 Signal Peak Road
White Swan, WA 98952

Air Quality Regulation

Washington air quality is regulated by local air agencies in some counties and by the WA State Dept. of Ecology in other counties. See RCW 70A.15.1500 to 70A.15.2060 for authority and mandates.



Map showing jurisdiction of clean air agencies in Washington by county. Or visit [Washington clean air agencies](https://www.wa.gov/air-quality). From The Environmental Protection Agency: Delegations of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) in Washington, at <https://www.epa.gov/caa-permitting/delegations-new-source-performance-standards-nsps-and-national-emission-standards-3>

Climate Control Act – RCW 70A.65

RCW 70A.65.005 Findings—Intent.

(1) The legislature finds that climate change is one of the greatest challenges facing our state and the world today, an existential crisis with major negative impacts on environmental and human health. Washington is experiencing environmental and community impacts due to climate change through increasingly devastating wildfires, flooding, droughts, rising temperatures and sea levels, and ocean acidification. Greenhouse gas emissions already in the atmosphere will increase impacts for some period of time. Actions to increase resilience of our communities, natural resource lands, and ecosystems can prevent and reduce impacts to communities and our environment and improve their ability to recover.

(7) Under the program, the legislature intends to identify overburdened communities where the highest concentrations of criteria pollutants occur, determine the sources of those emissions and pollutants, and pursue significant reductions of emissions and pollutants in those communities. The legislature further intends for the department of ecology to conduct environmental justice assessments to ensure that funds and programs created under this chapter provide direct and meaningful benefits to vulnerable populations and overburdened communities. Additionally, the legislature intends to prevent job loss and provide protective measures if workers are adversely impacted by the transition to a clean energy economy through transition and assistance programs, worker-support projects, and workforce development and other activities designed to grow and expand the clean manufacturing sector in communities across Washington state.

Yakima Regional Clean Air Agency Perception of the CCA

From the YRCAA Complete Board Packet for October 2022, page 52/58. Available at https://www.yakimacleanair.org/site/files/file_manager/page/shared/October_2022_Complete_Board_Packet.pdf

Is the Agency subject to the Climate Commitment Act?

No. The Climate Commitment Act, codified in Chapter 70A.65 RCW, establishes a statewide “cap and invest” program to be managed by the Wash. Dept. of Ecology. In RCW 70A.65.005(7) the Legislature makes clear that “under the program, the legislature intends to identify overburdened communities where the highest concentrations of criteria pollutants occur, determine the sources of those emissions and pollutants, and pursue significant reductions of emissions and pollutants in those communities” and adds “the legislature further intends for the department of ecology to conduct environmental justice assessments to ensure that funds and programs created under this chapter provide direct and meaningful benefits to vulnerable populations and overburdened communities [emphasis supplied].”

While this is likely to bring additional state funds into the Yakima region through Wash. Dept. of Ecology projects and programs to improve air quality, the Chapter does not make reference to local clean air agencies (such as the YRCAA) and does not apply to them. Furthermore, local clean air agencies neither receive and disburse funds collected as a result of, nor control the programs created by, this statute.

Healthy Environment for All Act – RCW 70A.02

RCW 70A.02.005 Purpose.

(1) The purpose of this chapter is to reduce environmental and health disparities in Washington state and improve the health of all Washington state residents. This chapter implements the recommendations of the environmental justice task force established in section 221(48), chapter 415, Laws of 2019 entitled "Report to the Washington state governor and

legislature, Environmental Justice Task Force: Recommendations for Prioritizing EJ in Washington State Government (October 2020)."

Yakima Regional Clean Air Agency Perception of the HEAL Act

From the YRCAA Complete Board Packet for October 2022, page 52/58. Available at https://www.yakimacleanair.org/site/files/file_manager/page/shared/October_2022_Complete_Board_Packet.pdf

Is the Agency subject to the HEAL Act?

No. The Healthy Environment for All (HEAL) Act, codified in Chapter 70A.02 RCW, states “Covered agencies are required to comply with all provisions of this chapter” (RCW 70A.02.020) and a “Covered agency” means the [state] departments of ecology, health, natural resources, commerce, agriculture, and transportation, the Puget Sound partnership, and any agency that opts to assume all of the obligations [of this chapter]” (RCW 70A.02.010[2]). However, RCW 70A.02.030(1) limits the other agencies that may “opt in” to those state agencies “defined in RCW 34.05.010” and explicitly “exclud[es] local governmental entities.” As such, the HEAL Act is not applicable to the YRCAA and the latter is statutorily prohibited from voluntarily adopting its requirements.

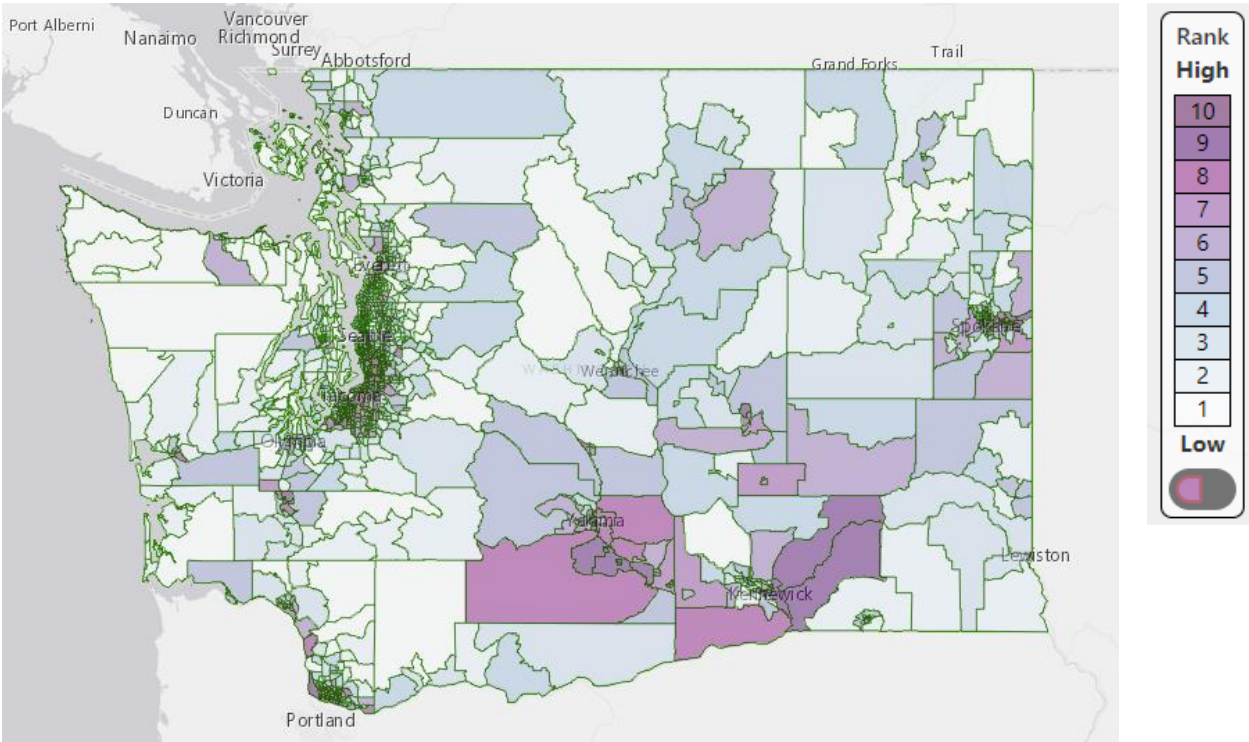
FOTC disagrees with the last sentence. The YRCAA has the authority to adopt, amend, and repeals its own rules and regulations pursuant to RCW 70A.15.2040(1) and can certainly incorporate HEAL guidelines.

About Yakima County - Demographics

Yakima County Demographics from the U.S. Census at <https://www.census.gov/quickfacts/fact/table/yakimacountywashington/INC110220>

- Median household income = \$54,917 (WA = \$77,006)
- Per capita income = \$24,305 (WA = \$40,837)
- Persons in poverty = 14.8% (WA = 9.9%)
- Median rent is \$868 per month (WA = \$1,337 per month)
- Language other than English spoken at home = 41.2% (WA = 20%)
- High school graduates = 74.3% (WA = 91.7%)
- Bachelor’s degree or higher = 17.6% (WA = 36.7%)
- Without health insurance = 14.8% (WA = 7.5%)
- Analysis of Yakima County demographics by zip code reveals significantly lower levels for income and education, and higher percentages of people of color, and people with limited English proficiency in the Lower Yakima Valley (LYV) when compared to the Upper Yakima Valley (UYV).

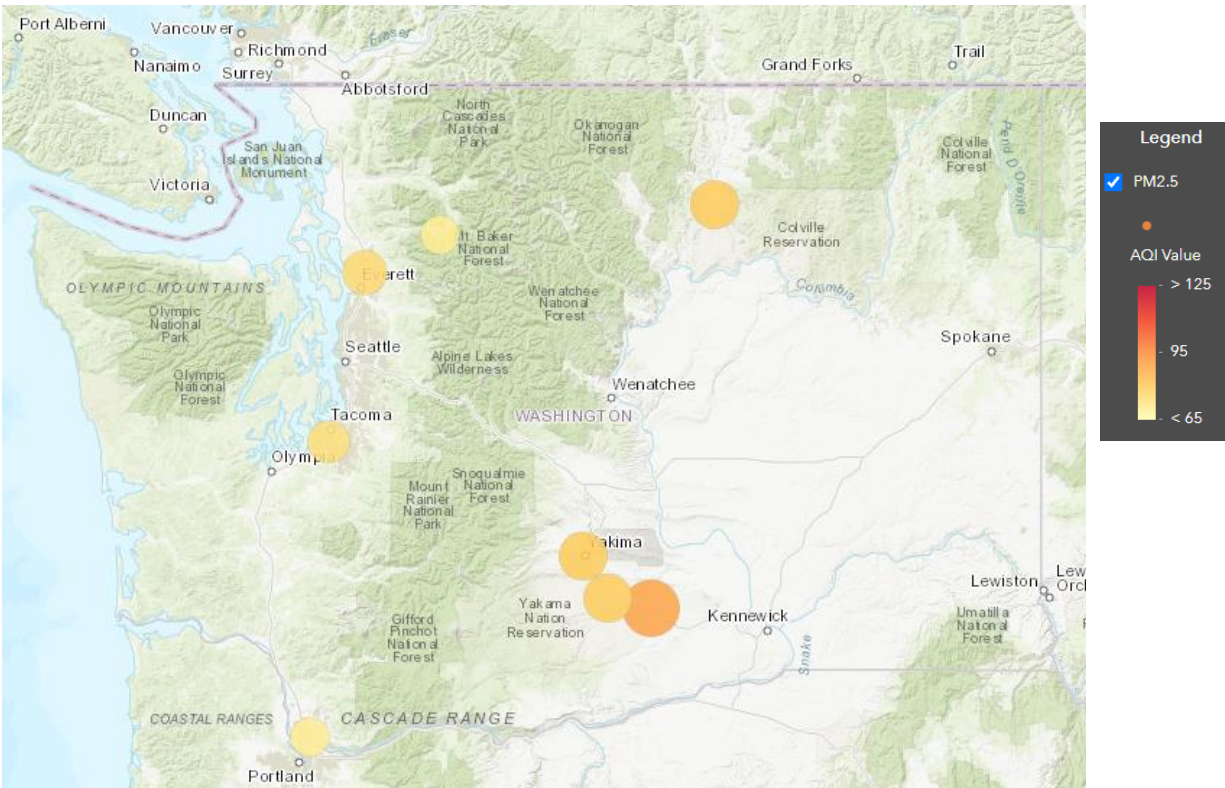
The Washington Environmental Health Disparities Map is an interactive mapping tool that compares communities across our state for environmental health disparities. Available at <https://doh.wa.gov/data-and-statistical-reports/washington-tracking-network-wtn/washington-environmental-health-disparities-map>



About Yakima County – Air Quality

Fine Particulate Matter

Particulate matter contains microscopic solids or liquid droplets that are so small that they can be inhaled and cause serious health problems. Some particles less than 10 micrometers in diameter can get deep into your lungs and some may even get into your bloodstream. Of these, particles less than 2.5 micrometers in diameter, also known as fine particles or PM_{2.5}, pose the greatest risk to health. EPA 2022



From Particle Pollution in Washington’s Air – Areas of Concern for Particle Pollution, Available at <https://ecology.wa.gov/Air-Climate/Air-quality/Air-quality-targets/Air-quality-standards/Particle-pollution>

About Yakima County – Air Quality

Greenhouse Gasses – Methane from Cows

With approximately 90,000 milk cows and 16,000 beef animals in the LYV, methane emissions from animal agriculture in the LYV are over 29,000 metric tons per year or about 0.737 million metric tons (MMT) of CO₂ equivalents per year.

Calculations below are based on reported emissions for cows in the LYV using EPA’s State Inventory and Projection Tool. Available at <https://www.epa.gov/statelocalenergy/state-inventory-and-projection-tool>

Enteric Fermentation					
Emissions per Milk Cow	# Milk Cows in WA State	Total Emissions in WA State	# Milk Cows in the LYV	Total Emissions in the LYV	% Emissions from the LYV
150.9 kg/head	275,000	41,497,500	90,000	13,581,000	33%
Emissions per Beef Cow					
Emissions per Beef Cow	# Beef Cows in WA State	Total Emissions in WA State	# Beef Cows in the LYV	Total Emissions in the LYV	
100.5 kg/head	225,000	22,612,500	16,000	1,608,000	7%
Manure Management					
Emissions per Milk Cow	# Milk Cows in WA State	Total Emissions in WA State	# Milk Cows in the LYV	Total Emissions in the LYV	% Emissions from the LYV
156.5 kg/head	275,000	43,037,500	90,000	14,085,000	33%
Emissions per Beef Cow					
Emissions per Beef Cow	# Beef Cows in WA State	Total Emissions in WA State	# Beef Cows in the LYV	Total Emissions in the LYV	
2 kg/head	225,000	450,000	16,000	32,000	7%

Yakima Regional Clean Air Agency Actions

FOTC attends monthly board meetings of the Yakima Regional Clean Air Agency and attempts to speak on behalf of people who live in the Lower Yakima Valley (LYV). The YRCAA allows us three minutes per meeting to share our concerns.

Regulation of air emissions from concentrated animal feeding operations (CAFOs)

RCW 70A.15.1005, the WA Clean Air Act, Declaration of public policies and purpose states:

Paragraph 6: It is the policy of the state that the costs of protecting the air resource and operating state and local air pollution control programs shall be shared as equitably as possible among all sources whose emissions cause air pollution.

Yakima County dairies are a major, probably the largest, emitter of air pollutants in Yakima County. The Yakima Regional Clean Air Agency has the authority and the mandate to monitor and regulate air emissions from CAFO dairies.

YRCAA does not identify, measure, or even estimate emissions from CAFO dairies. YRCAA does not register dairies and does not collect fees to address dairy discharges to the air. YRCAA does not investigate citizen complaints about odor, dust, and other air emissions from CAFO dairies. See documentation at www.friendsoftoppenishcreek.org

Environmental Justice

In the Fall of 2021, the YRCAA began the process of seeking a new Air Pollution Control Officer/Executive Director (APCO/ED). FOTC asked the YRCAA board to add a citizen from the LYV to the search team so the interviews would have input from the most polluted part of the county. The YRCAA board declined but said they would hold meetings in the LYV to introduce candidates for the position to the public.

In June of 2022, after the YRCAA screening committee had narrowed the applicants to two finalists, the YRCAA scheduled a special meeting in the town of Granger for the purpose of allowing LYV residents to ask questions and contribute. The meeting was scheduled for 2 PM on a Thursday when most people are working. The meeting was scheduled with 24 hours' notice and was not advertised. The YRCAA considered it sufficient to inform six LYV residents by email. See documentation at www.friendsoftoppenishcreek.org

This is an example of environmental justice and community engagement by the Yakima Regional Clean Air Agency, the agency in charge of air regulation in Yakima County.

Summary

People who live in the Lower Yakima Valley do not receive the same protection from air pollution as people who live in other parts of Washington State because the Yakima Regional Clean Air agency fails to acknowledge principles of Environmental Justice.