February 7, 2025

Dear YRCAA Board of Directors:

This is a response to the statement by Executive Director Thornsbury in your February YRCAA board meeting packet regarding my complaint that the YRCAA likely violated the WA State Open Public Meetings Act (OPMA) and YRCAA Administrative Code A at the December 2024 YRCAA Board Meeting. These are written comments for the February 13, 2025 YRCAA Board Meeting as permitted by YRCAA Administrative Code A, part 2.

My complaints were not spurious, as implied by Mr. Thornsbury in his review. I request justification for this allegation.

Among other things, Mr. Thornsbury stated that I had not cited specific sections of the OPMA. I will do so now. See Attachment 2, page 12, below for full text of the statutes.

1. The YRCAA violated the spirit and the intent of RCW 42.30.010 Legislative Declaration.

The approval of the recommendation of Dr. Steven Jones for re-appointment to the YRCAA Board of Directors was orchestrated in such a way that the public was unaware until the very last minute when it was too late to evaluate that action or prepare public comments.

2. The YRCAA violated RCW 42.30.060 Ordinances, rules, resolutions, regulations, etc., adopted at public meetings—Notice

The recommendation was not properly posted on the agenda. Notice was not properly given in accordance with the provisions in the OPMA. There is no acceptable reason for this delay except to steer the YRCAA into a decision that was not well thought out, without public input.

3. The YRCAA violated RCW 42.30.077 Agendas of regular meetings

The YRCAA could have posted a notice of this addition to the agenda 24 hours ahead of the Dec. 12 meeting, unless the request from Yakima County came between 2 PM on December 11 and 2 PM on December 12. An important request with less than 24 hours to respond is not timely.

This recommendation was an illegal action. The YRCAA has no power, authorization, or duty to recommend a candidate for this position. See No. 5 below.

4. The YRCAA violated RCW 42.30.240 Public comment.

The public could not reasonably comment on this agency action because the public was unaware of the proposed action until after the beginning of the meeting.

5. The YRCAA does not have the power and authority to recommend candidates for the YRCAA Board of Directors. The only possible authorization is RCW 70A.15.2040 Air pollution control authority—Powers and duties of activated authority Section 10 that authorizes the YRCAA to advise *other political subdivisions, industries, other states, interstate or interlocal agencies, and the United States government, and interested persons or groups.* A recommendation and evaluation with fifteen minutes of forethought cannot be considered sound advice.

Sincerely,

Jean Mendoza

Jean Mendoza

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

Attachment 1: Response to YRCAA Review

STAFF REPORT

January 13, 2025

To YRCAA Board of Directors

From Marc Thornsbury, Executive Director

Subject: Investigation of Mendoza Claims

Summary

In public comments submitted to the Board and made at the January 9, 2025, board meeting, Ms. Mendoza charged the Agency, certain members of the board, and certain staff members with a number of violations involving the Open Public Meetings Act, parliamentary procedure, the eligibility of a city representative member, and the unlawful practice of law in addition to demanding a review by the Agency Director. In response, the claims were investigated—at the cost of delays to other work—and found to be without merit. Issues with the Administrative Code discovered during this review have prompted staff to schedule a review of the Code with a report to be provided at a future meeting.

Recommendation

None.

Background

In a letter dated January 5, 2025 (see attached), Ms. Jean Mendoza demanded an investigation of her claims set forth in the same pursuant to that portion of the YRCAA Administrative Code Part A Section 2 that reads, "Any Board Member or person who suspects the Board has violated the Open Public Meeting Law is requested to advise the Chair in writing within thirty (30) days of the time that the alleged violation occurred. The Chair, upon receiving such notice, will direct the Executive Director to review the issue and provide recommendations as may be appropriate to the Board at the next available meeting of the Board which will assure the Agency maintains substantial compliance with the Open Public Meeting Law."

The Agency has no desire to embarrass any member of the public and, to that end, would not have addressed the issues herein were it not for the public insistence of Ms. Mendoza that her claims be investigated.

Analysis

Though Ms. Mendoza refers to that portion of the YRCAA Administrative Code pertaining to the Open Public Meetings Act (OPMA), she does not provide any applicable reference to a provision of Chapter 42.30 RCW (which contains the OPMA), the violation of which would trigger a review under Part A Section 2 of the Code.

The violations of the OPMA seemed obvious to me. The sections I suggest were violated are: **RCW** 42.30.060 , **RCW** 42.30.077 , **RCW** 42.30.240 , and **RCW** 70A.15.2040

RCW 42.30.077(1) states, "Public agencies with governing bodies must make the agenda of each regular meeting of the governing body available online no later than 24 hours in advance of the published start time of the meeting.... Nothing in this section prohibits subsequent modifications to agendas nor invalidates any otherwise legal action taken at a meeting where the agenda was not posted in accordance with this section [emphasis supplied]." While there are limits concerning changes to the agenda for special meetings, they do not apply to regular meetings and the Board is not bound by the published agenda.

RCW 42.30.240(1) states, "…the governing body of a public agency shall provide an opportunity at or before every regular meeting at which final action is taken for public comment."

In its "OPMA – Developing and Modifying Agendas" document

(mrsc.org/getmedia/9418eea3-b1a0 4ad2-857b-3205d5773305/OPMA-Agendas-Practice-Tips.pdf), the Municipal Research and Services Center (MRSC) states an agenda may be modified, "Before the meeting, as provided for by rule of the governing body" as well as "during the meeting, upon a motion and majority vote of the governing body or by consensus if that is the agency practice." It adds, "Often, the vote to modify the agenda will occur at the outset of the meeting when the final agenda is being approved, although it can happen at any point during the meeting, unless otherwise limited by local rule."

Because the meeting in question was held at its regularly scheduled time and location, the Board properly amended its agenda before inviting public comment, and subsequently allowed said comment, no violation of the OPMA occurred and the review demanded by Ms. Mendoza was without cause.

I believe these statutes support my contention. The last paragraph is deceptive at the least and devious at the worst. Presenting an addition to the agenda at the last possible minute, with no time for the public or board members to think about the issue, conflicts with the intent of the OPMA.

Regulation/Rule

Ms. Mendoza treats the various provisions of the YRCAA Administrative Code as regulations or rules with which the Agency is legally obligated to comply—hence her claims the Agency has "violated" a provision of the Code. However, the "Purpose" section of the introduction to Part A of the Code states, in part, "Agency policies and procedures are subject to change and exception without prior notice at the discretion of the Board of Directors" [emphasis supplied]. Likewise, the introduction to Part B of the Code states, in part, "**Our policies and procedures are subject to change and exception without prior notice at our discretion** [emphasis supplied]."

But . . . . the YRCAA board did not change the code. Unless the board collectively imagined and agreed upon a change. I don't think the YRCAA can change the code after the fact.

When the YRCAA reviews Administrative Code A, I believe the agency should talk about this provision. It sounds illegal to me.

Furthermore, an administrative "rule" is defined under RCW 34.05.010(16) as "any agency order, directive, or regulation of general applicability (a) the violation of which subjects a

person to a penalty or administrative sanction; (b) which establishes, alters, or revokes any procedure, practice, or requirement relating to agency hearings; (c) which establishes, alters, or revokes any qualification or requirement relating to the enjoyment of benefits or privileges conferred by law; (d) which establishes, alters, or revokes any qualifications or standards for the issuance, suspension, or revocation of licenses to pursue any commercial activity, trade, or profession; or (e) which establishes, alters, or revokes any mandatory standards for any product or material which must be met before distribution or sale. The term…**does not include (i) statements concerning only the internal management of an agency and not affecting private rights or procedures available to the public**… [emphasis supplied]."

This section affects the public.

Finally, where the Code and an applicable statute or regulation are in disagreement, the latter prevails as set forth in the "Content" section of the introduction to Part A of the Code which states, in part, "The requirements of the Washington Administrative Code and Revised Code of Washington applicable to public agencies, and all amendments thereto, whether now or hereinafter adopted, are incorporated herein by reference and made part of this code**. In the event of an inconsistency, unless otherwise specified, the provisions of the aforementioned codes [WAC and RCW] shall govern [emphasis supplied**]."

Based on the above, YRCAA Regulation 1 comprises the "rules and regulations" of the Agency subject to Chapter 34.05 RCW, not the Administrative Code. Although Ms. Mendoza may be accurate when noting a deviation from a provision of the Code, such deviations are permitted by the Code itself (as noted above) and do not constitute a "violation".

The YRCAA is authorized to "Adopt, amend and repeal its own rules and regulations". See **RCW 70A.15.2040**. YRCAA rules and regulations can be more stringent than state laws. I do not see any inconsistency between the YRCAA Administrative Code A, Section 2, and the WA Administrative Code or the Revised Code of Washington.

Board Chairperson Voting

With respect to voting by the Board Chairperson, under the commonly accepted Robert's Rules of Order:

> "If the president is a member of the voting body, he or she has exactly the same rights and privileges as all other members have, including the right to make motions, to speak in debate, and to vote on all questions. So, in meetings of a small board (where there are not more than about a dozen board members present), and in

> meetings of a committee, the presiding officer may exercise these rights and privileges as fully as any other member. However, the impartiality required of the presiding officer of any other type of assembly (especially a large one) precludes exercising the rights to make motions or speak in debate while presiding, and also requires refraining from voting except (i) when the vote is by ballot, or (ii) whenever his or her vote will affect the result.
>
> …On a vote that is not by ballot, if a majority vote is required and there is a tie, he or she may vote in the affirmative to cause the motion to prevail. If there is one more in the affirmative than in the negative, the chair can create a tie by voting in the negative to cause the motion to fail. Similarly, if a two-thirds vote is required, he or she may vote either to cause, or to block, attainment of the necessary two thirds."

Under the circumstances, two of the five board members present abstained from voting. If a majority vote were defined as a majority of the votes cast, the vote of the chairperson would have been unnecessary (though not improper under Robert's Rules of Order given the board has less than a dozen members). Neither the Code nor Chapter 42.30 RCW defines what constitutes a majority vote, but the former does make reference to "the consent of a majority of the Board members present" in Section 2.11.7 and RCW 42.30.020(3) describes "an actual vote by a majority of the members of a governing body when sitting as a body or entity…."

If a majority vote is a vote of the majority of the members present as suggested by the above, in the case in question, the vote of the chairperson was required in order to achieve a majority. Were the chairperson prohibited from voting with two other members abstaining, a motion would never be approved as the two voting members could never constitute a majority. This would have required one of the abstaining members to vote. However, had that occurred, it would have simply prompted a complaint a member involved in the matter being considered had failed to recuse themselves and abstain from voting.

The provision of the Code highlighted by Ms. Mendoza addresses the prospect of a tie, but does not contemplate the situation wherein participation by the chairperson would be needed to allow for a majority vote. As a result, no basis exists for a finding the Chairperson acted improperly.

<u>Conflict of Interest/Abstentions</u>

Regarding the participation of McKinney in discussion and her subsequent abstention from voting, board members are allowed to engage in discussion regarding matters before the Board unless a conflict of interest arises (and may do so even then if announced and the

board does not vote to force recusal). However, no such conflict of interest exists under the circumstance in question as McKinney did not have a contractual or remote interest in, would receive no special privilege or exemption through, did not obtain any compensation, gift, or gratuity to secure, and does not receive significant income from any party that would benefit from, the appointment of Jones as set forth in Chapter 42.23 RCW.

Furthermore, there is no prohibition against a board member voluntarily abstaining from a vote (or, in the opposite, no requirement a member vote on any or all matters). Robert's Rules of Order lists several (non-exclusive) reasons a member might choose to abstain: (a) The presence or appearance of a conflict of interest; (b) A desire to avoid a lone or minority vote; (c) A desire to avoid disagreement within the Board; (d) An internal (to the member) conflict regarding the matter that cannot be resolved; and (e) An inability to come to a firm decision regarding the matter due to insufficient information. In addition, a member might choose to abstain if voting might create difficulty in otherwise discharging their duties or create a conflict of interest in another forum.

An abstention from voting, even when done due to concern over a potential conflict of interest, does not, in and of itself, establish the presence of a conflict of interest (and such is the case here). As a result, there is no basis for finding the participation of McKinney in the discussion to have been improper.

City Representative Appointment

Ms. Mendoza opines the January 2, 2025, staff report concerning board appointments for city representatives "unnecessarily muddies the waters." However, Section 1.3 to which she points as "provid[ing] clarification" includes the statement "RCW 70.94.110 creates a city selection committee consisting of the mayors of each incorporated city and town, excluding the mayor of the city with the most population [emphasis supplied]." This statement is in error and conflicts with the actual language used in RCW 70.94.110 (now RCW 70A.15.2020).

That provision states, in part, "The membership of [the city selection] committee shall consist of the mayor of each incorporated city and town within such county, except that the mayors of the cities, with the most population in a county, having already designated appointees to the board of an air pollution control authority comprised of a single county shall not be members of the committee." As noted in the staff report, the mayors of the cities (plural) with the most population in a county, having already designated appointees to the board…shall not be members…." Because mayors do not appoint members to the board of an air pollution control authority within a single county where the population is less than 400,000, the exclusion does not apply.

This error, in tandem with other suspected inaccuracies, calls into question the veracity of the Code sections concerning appointments by the city selection committee—substantially undermining its ability to deliver the "clarification" to which Ms. Mendoza points and prompting an assessment of the matter and subsequent staff report.

As to Mr. Trevino's service, RCW 70A.15.2000(4) states, "The terms of office of board members shall be four years" and Part A Section 1.2 of the Code states, "...the term of office for a member of the Board shall be four years from initial appointment." Yet Ms. Mendoza—having previously argued the staff report "muddies the waters" while the Code provides sufficient "clarification"—argues the staff report is correct and the Code is in error such that Mr. Trevino should have been removed from the board when his elected service concluded despite the fact it occurred before four years had elapsed from his initial appointment (as stated in the Code).

WAC 173-400-220 (to which Ms. Mendoza points) states, "A majority of the members of any ecology or authority board shall represent the public interest [and] a majority of the members of such boards, shall not derive any significant portion of their income from persons subject to enforcement orders pursuant to the state and federal clean air acts." It adds, "An elected public official and the board shall be presumed to represent the public interest."

Mr. Trevino is employed by the State of Washington and does not "derive any significant portion of [his] income from persons subject to enforcement orders...." Furthermore, while WAC 173 400-220 presumes an elected public official represents the public interest, it does not state only an elected official can represent the public interest. As a result, his continued membership on the Board did not constitute a violation of this regulation.

It would help to see any other legal definitions of a person acting "in the public interest".

Nevertheless, the Agency concurs with Ms. Mendoza that the two city representatives appointed to the board should be elected public officials, but this conclusion was reached based on the statutory language in Chapter 70A.15 RCW, not WAC 173-400-220, and the assessment ultimately conducted and upon which said concurrence is based had not yet occurred—and was not available—at the time Mr. Trevino left office.

Unlawful Practice of Law

In public comments made at the regular board meeting held January 9, 2025, Ms. Mendoza suggested the Agency Director had practiced law without a license in providing an analysis of the statutory requirements concerning the appointment of board members by the city selection committee.

Rules concerning the unlawful practice of law are grounded in consumer fraud protection with the objective of preventing persons from being harmed by others who misrepresent their ability to properly act, draft/file documents, and/or appear in court, on their behalf in exchange for a fee. As Washington courts have pointed out, the "victims of [the] unlicensed practice of law have faced deportation; had money misappropriated; and…have been arrested and jailed" (e.g. State v. Janda, 298 P.3d 751, 174 Wash. App. 229 [2012]; Tegman v. Accident & Med. Investigations, Inc., 150 Wash. 2d 102, 75 P.3d 497 [2003]).

They do not make the words and phrases used in the statutes enacted by the legislature, regulations adopted by various agencies, or opinions rendered by the judiciary a special language that can be understood and used only by a select few (as suggested by Ms. Mendoza's remarks).

The term "practice of law" is defined in Washington Court General Rule (GR) 24 (www.courts.wa.gov/court_rules/pdf/GR/GA_GR_24_00_00.pdf) adopted in 2001 and most recently amended in 2023. This rule reads as follows:

(a) General Definition: The practice of law is the application of legal principles and judgment with regard to the circumstances or objectives of another entity or person(s) which require the knowledge and skill of a person trained in the law. This includes but is not limited to:

> (1) Giving advice or counsel to others as to their legal rights or the legal rights or responsibilities of others for fees or other consideration.
>
> (2) Selection, drafting, or completion of legal documents or agreements which affect the legal rights of an entity or person(s).
>
> (3) Representation of another entity or person(s) in a court, or in a formal administrative adjudicative proceeding or other formal dispute resolution process or in an administrative adjudicative proceeding in which legal pleadings are filed or a record is established as the basis for judicial review.
>
> (4) Negotiation of legal rights or responsibilities on behalf of another entity or person(s).

(b) Exceptions and Exclusions: Whether or not they constitute the practice of law, the following are permitted:

> (1) Practicing law authorized by a limited license to practice pursuant to Admission and Practice Rules 3(g) (pro bono admission), 8 (limited admissions for: a particular

action or proceeding; indigent representation; house counsel), 9 (licensed legal interns), 12 (limited practice officers), 14 (foreign law consultants), or 28 (limited license legal technicians).

(2) Serving as a courthouse facilitator pursuant to court rule.

(3) Acting as a lay representative authorized by administrative agencies or tribunals.

(4) Serving in a neutral capacity as a mediator, arbitrator, conciliator, or facilitator.

(5) Participation in labor negotiations, arbitrations or conciliations arising under collective bargaining rights or agreements.

(6) Providing assistance to another to complete a form provided by a court for protection under RCW chapters 10.14 (harassment) or 26.50 (domestic violence prevention) when no fee is charged to do so.

(7) Acting as a legislative lobbyist.

(8) Sale of legal forms in any format.

(9) Activities which are preempted by Federal law.

(10) Serving in a neutral capacity as a clerk or court employee providing information to the public pursuant to Supreme Court Order.

(11) Such other activities that the Supreme Court has determined by published opinion do not constitute the unlicensed or unauthorized practice of law or that have been permitted under a regulatory system established by the Supreme Court.

The only possible exception is "Acting as a lay representative authorized by administrative agencies or tribunals"

(c) Nonlawyer Assistants: Nothing in this rule shall affect the ability of nonlawyer assistants to act under the supervision of a lawyer in compliance with Rule 5.3 of the Rules of Professional Conduct.

(d) General Information: Nothing in this rule shall affect the ability of a person or entity to provide information of a general nature about the law and legal procedures to members of the public.

Probably does not apply. The information about the small city representative was technical in nature, not general information about the law.

(e) Governmental agencies: Nothing in this rule shall affect the ability of a governmental agency to carry out responsibilities provided by law.

Might apply. The YRCAA needs to know the law to carry it out. Is it sufficient for a lay person (the executive director) to interpret the law for the board? Just asking.

(f) Professional Standards: Nothing in this rule shall be taken to define or affect standards for civil liability or professional responsibility.

Prima facie, the actions of the Director do not fall within the general definition set forth in GR 24 because the Director did not:

1. Give advice or counsel to others as to their rights or responsibilities for fees or other consideration;

2. Draft a legal document that affects the legal rights of an entity or person(s);

3. Represent another entity or person(s) in a court, an adjudicative proceeding, or a dispute resolution process; or

4. Negotiate on behalf of another entity or person(s);

The Executive Director did, in fact, interpret the law for the YRCAA Board of Directors.

The above notwithstanding, the work of the Agency Director is covered under the "Governmental Agencies" exemption, set forth in GR 24, that states, "Nothing in this rule shall affect the ability of a governmental agency to carry out responsibilities provided by law." In the circumstance in question, the Director was acting for the Agency which is obligated to conduct itself in compliance with Chapter 70A.15 RCW and is responsible for convening the city selection committee under its auspices as well as managing the appointment process (e.g. notification, nominations, balloting) pursuant to RCW 70A.15.2020.

Finally, an independent review by legal counsel for the Agency found no conflict with GR 24.

It would help if the executive director provided this documentation. Who was the legal counsel? What exactly did he/she say?

Impact

Responding to claims—no matter how well intentioned—such as those put forth by Ms. Mendoza consumes resources that would otherwise have been used to pursue the mission and objectives of the Agency. Time, in particular, is an irreplaceable commodity that cannot be recovered once spent and work that would have been performed during that time can only be accomplished by pushing it into the future. For example, the time

expended on this review was to have been used to assess where technology could be employed to improve inspection quality, frequency, and documentation. Given other obligations and deadlines, it is unknown when that work will now occur.

There are approximately 230,000 persons within the service area of the Agency and it has an obligation to respond to complaints having merit. However, responding to spurious complaints denies the resources thus consumed to others with equal claim to them who also have an expectation the Agency will act for their benefit.

My complaints were not spurious. My complaints address the failure of the YRCAA to comply with the WA OPMA. I provided evidence. This is serious and important.

Ironically, while Ms. Mendoza (along with others) has argued for additional work by Agency staff to provide more information, produce additional educational materials, increase inspections, expand registration, increase the number of bilingual materials, etc. (all in addition to the existing programs, administrative work, public records requests, etc.), her actions serve to hamper, delay, or prevent the very work sought.

Administrative Code Review

During this review, a number of problems in the Administrative Code were discovered (a couple of which are noted above). This has prompted staff to schedule a review of the Code with a report to be provided at a future meeting including one or more recommendations as to how the Board should address the findings.

Attachment 2: Text of cited statutes

1. RCW 42.30.010 Legislative declaration says:

> *The legislature finds and declares that all public commissions, boards, councils, committees, subcommittees, departments, divisions, offices, and all other public agencies of this state and subdivisions thereof exist to aid in the conduct of the people's business. It is the intent of this chapter that their actions be taken openly and that their deliberations be conducted openly.*
>
> *The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed and informing the people's public servants of their views so that they may retain control over the instruments they have created.*

For these reasons, even when not required by law, public agencies are encouraged to incorporate and accept public comment during their decision-making process.

2. RCW 42.30.060 Ordinances, rules, resolutions, regulations, etc., adopted at public meetings—Notice—Secret voting prohibited says:

> *(1) No governing body of a public agency shall adopt any ordinance, resolution, rule, regulation, order, or directive, except in a meeting open to the public and then only at a meeting, the date of which is fixed by law or rule, or* ***at a meeting of which notice has been given according to the provisions of this chapter****. Any action taken at meetings failing to comply with the provisions of this subsection shall be null and void.*

3. RCW 42.30.077 Agendas of regular meetings—Online availability says:

> *(1****) Public agencies with governing bodies must make the agenda of each regular meeting of the governing body available online no later than 24 hours in advance of the published start time of the meeting****. An agency subject to provisions of this section may share a website with, or have its website hosted by, another public agency to post meeting agendas, minutes, budgets, contact information, and other records, including any resolution or ordinance adopted by the agency establishing where and how the public agency will meet in the event of an emergency. Nothing in this section prohibits subsequent modifications to agendas nor invalidates* ***any otherwise legal action*** *taken at a meeting where the agenda was not posted in accordance with this section. Nothing in this section modifies notice requirements or shall be construed as establishing that a public body or agency's online posting of an agenda as required by this section is sufficient notice to satisfy public notice requirements established under other laws. Failure to post an agenda in accordance with this section shall not provide a basis for awarding attorney fees under RCW* ***42.30.120*** *or commencing an action for mandamus or injunction under RCW* ***42.30.130****.*
>
> ***Intent—Finding—2014 c 61:*** *"The legislature intends to promote transparency in government and strengthen the Washington's open public meetings act. The legislature finds that it is in the best interest of citizens for public agencies with governing bodies to post meeting agendas on websites before meetings.* ***Full public review and inspection of meeting agendas will promote a greater exchange of information so the public can provide meaningful input related to government decisions."***

4. RCW 42.30.240 Public Comment says.

> *(1) Except in an emergency situation,* ***the governing body of a public agency shall provide an opportunity at or before every regular meeting at which final action is taken for public comment****. The public comment required under this section may be taken orally at a public meeting, or by providing an opportunity for written testimony to be submitted before or at the meeting. If the governing body accepts written testimony, this testimony must be distributed to the governing body. The governing body may set a reasonable deadline for the submission of written testimony before the meeting.*

5. RCW 70A.15.2040 Air pollution control authority—Powers and duties of activated authority says:

> ***The board of any activated authority in addition to any other powers vested in them by law, shall have power to:***
>
> *(1) Adopt, amend and repeal its own rules and regulations, implementing this chapter and consistent with it, after consideration at a public hearing held in accordance with chapter* ***42.30*** *RCW. Rules and regulations shall also be adopted in accordance with the notice and adoption procedures set forth in RCW* ***34.05.320****, those provisions of RCW* ***34.05.325*** *that are not in conflict with chapter* ***42.30*** *RCW, and with the procedures of RCW* ***34.05.340****, * **34.05.355*** *through* ***34.05.380****, and with chapter* ***34.08*** *RCW, except that rules shall not be published in the Washington Administrative Code. Judicial review of rules adopted by an authority shall be in accordance with Part V of chapter* ***34.05*** *RCW. An air pollution control authority shall not be deemed to be a state agency.*
>
> *(2) Hold hearings relating to any aspect of or matter in the administration of this chapter not prohibited by the provisions of chapter 62, Laws of 1970 ex. sess. and in connection therewith issue subpoenas to compel the attendance of witnesses and the production of evidence, administer oaths and take the testimony of any person under oath.*
>
> *(3) Issue such orders as may be necessary to effectuate the purposes of this chapter and enforce the same by all appropriate administrative and judicial proceedings subject to the rights of appeal as provided in chapter 62, Laws of 1970 ex. sess.*
>
> *(4) Require access to records, books, files and other information specific to the control, recovery or release of air contaminants into the atmosphere.*

(5) Secure necessary scientific, technical, administrative and operational services, including laboratory facilities, by contract or otherwise.

(6) Prepare and develop a comprehensive plan or plans for the prevention, abatement and control of air pollution within its jurisdiction.

(7) Encourage voluntary cooperation by persons or affected groups to achieve the purposes of this chapter.

(8) Encourage and conduct studies, investigation and research relating to air pollution and its causes, effects, prevention, abatement and control.

(9) Collect and disseminate information and conduct educational and training programs relating to air pollution.

(10) Advise, consult, cooperate and contract with agencies and departments and the educational institutions of the state, other political subdivisions, industries, other states, interstate or interlocal agencies, and the United States government, and with interested persons or groups.

(11) Consult, upon request, with any person proposing to construct, install, or otherwise acquire an air contaminant source or device or system for the control thereof, concerning the efficacy of such device or system, or the air pollution problems which may be related to the source, device or system. Nothing in any such consultation shall be construed to relieve any person from compliance with this chapter, ordinances, resolutions, rules and regulations in force pursuant thereto, or any other provision of law.

(12) Accept, receive, disburse and administer grants or other funds or gifts from any source, including public and private agencies and the United States government for the purpose of carrying out any of the functions of this chapter.