

On March 19, 2021 at 4:38 PM, APCO <apco@yrcaa.org> wrote:

Ms. Mendoza,

I have been asked to take this opportunity to address some of the issues that you mentioned within your letter to the YRCAA Board of Directors dated March 12, 2021. Specifically I will address those issues which appear to be within the purview of this agency. All other issues raised should be addressed by the agency or government with the appropriate responsibility.

A review of our database shows only a single complaint filed with this agency concerning Riverview Dairy. The complaint was filed by Mr. Kenneth Holestine, who spoke at the March 11, 2021 Board meeting during the public comment period. The Complaint was filed on October 29, 2020 at 12pm and it also shows that Mr. Holestine was contacted by Kelsey Sanford, a YRCAA Field Agent, at 12:15pm that very same day. Kelsey understood Mr. Holestine to be complaining not solely about the Riverview Dairy but also about the general dust within his neighborhood. There were no pictures filed with the complaint. In reviewing the complaint with Kelsey, she informed me that Mr. Holestine did not allege that any fugitive dust emissions from the dairy specifically were impacting his property or health. After her interview of Mr. Holestine, and in compliance with this agency's procedures, Kelsey identified the complaint's Response Level (RL) as a 4. This means that no site visit was required. Kelsey did, however, choose to visit the site the very next day despite being an individual at high risk for COVID-19. She felt safe enough to conduct a visit and did so. I should point out that, in accordance with this agency's Compliance Assurance procedures, not all complaints require a site visit and not all site visits require an immediate visit. In this age of COVID-19, this agency still conducts site visits on almost all complaints unless one is not required and the workload of the agent would preclude a visit from being practical.

You also attached three pictures from October of 2017 showing a school bus traveling down what is presumed to be Vance Road from west to east. This agency has no record of any complaint filed at that time. The school bus appears to be approaching the intersection of Vance Road and the road immediately to the west of Ferry Road, prior to actually reaching Ferry Road. There appears to be some dust blowing across Vance Road in the distant background but the origination point is not clearly identifiable nor is the intensity/opacity. Riverview Dairy sits on the Northwest corner of Vance Road and Ferry Road. Vance Road is a public road owned/operated by Yakima County. It is a gravel road and the county has responsibility for dust suppression in times of excessive dust. If the agency receives dust complaints concerning public roads the agency records the complaint, calls the responsible entity and asks them to address the situation. In this particular instance that responsible entity would have been Yakima County. Over the past 15 years it has been my experience that our component cities, towns and the county are very responsive to these types of fugitive dust complaints, depending on resources available to address the situation. You seem to suggest that the dust is not coming from Vance Road but instead is being generated by Riverview Dairy. The Washington State Clean Air Act, (chapter [70A.15](#) Revised Code of Washington (RCW)) is quite clear on Fugitive Dust and Odor emissions from agricultural activities. The applicable section is inserted below.

"Chapter 70A.15.4530 RCW

Odors or fugitive dust caused by agricultural activities consistent with good agricultural practices exempt from chapter.

(1) Odors or fugitive dust caused by agricultural activity consistent with good agricultural practices on agricultural land are exempt from the requirements of this chapter unless they have a substantial adverse effect on public health. In determining whether agricultural activity is consistent with good agricultural practices, the department of ecology or board of any authority shall consult with a recognized third-party expert in the activity prior to issuing any notice of violation.

(2) Any notice of violation issued under this chapter pertaining to odors or fugitive dust caused by agricultural activity shall include a detailed statement with evidence as to why the activity is inconsistent with good agricultural practices, or a detailed statement with evidence that the odors or fugitive dust have substantial adverse effect on public health.

(3) In any appeal to the pollution control hearings board or any judicial appeal, the agency issuing a final order pertaining to odors or fugitive dust caused by agricultural activity shall prove the activity is inconsistent with good agricultural practices or that the odors or fugitive dust have a substantial adverse impact on public health.”

If this complaint concerning Riverview Dairy had been filed in 2017 the agency would have contacted the dairy and asked them to address any fugitive dust emissions. This is something we routinely do. Again, over the past 15 years it has been my experience that owners of agricultural activates are usually very responsive to these types of fugitive dust complaints and usually take some actions to address the situation.

Let me close by saying that this agency’s procedures are designed to assure the effective utilization of all public resources while still accomplishing the agency’s responsibilities. The agency will continue to respond to citizen complaints, even in these difficult times of COVID-19, while minimizing the risk to our staff. We do comply with our Compliance Assurance procedures and we do issue Notice of Violations (NOVs) and Notice of Penalties (NOPs) when those action are appropriate.

Respectfully,

Keith M. Hurley

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