

YAKIMA REGIONAL CLEAN AIR AGENCY Non-Discrimination Plan

August 19th, 2020



YRCAA Notice of Non-Discrimination

The Yakima Regional Clean Air Agency (YRCAA) does not discriminate on the basis of race, color, national origin, disability, age, or sex in administration of its services, programs or activities, and the YRCAA does not intimidate, threaten, coerce or discriminate against any individual or group because they have exercised their rights to participate in actions protected, or oppose actions prohibited by the EPA's nondiscrimination regulation, or for the purpose of interfering with such rights that are guaranteed by 40 C.F.R. Parts 5 and 7, or the Acts (Title VI of the Civil Right Act of 1964, as amended; Section 504 of the Rehabilitation Act 1973; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972; and Section 13 of the Federal Water Pollution Control Act Amendments of 1972 (collectively as the federal non-discrimination statutes)).

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YRCAA Language Access Plan

I. Introduction

The Yakima Regional Clean Air Agency (YRCAA) recognizes the importance of effective and accurate communication with the public it serves. In accordance with Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, this plan ensures that individuals with limited English proficiency are provided meaningful access to all YRCAA services, programs and activities consistent with, and without unduly burdening, the fundamental mission of the agency.

It is the policy of the YRCAA to provide timely and meaningful access for individuals with limited English proficiency to all agency services, programs and activities. YRCAA staff shall provide free language assistance services to individuals with limited English proficiency whenever requested. YRCAA will inform members of the public that language assistance services are available free of charge.

II. Applicability

This plan applies to all YRCAA services, programs and activities.

III. Establishing Language Access Obligation

As a recipient of federal funding, the YRCAA is required to take reasonable steps to ensure meaningful access to all services, programs and activities to individuals with limited English proficiency. This Language Access Plan (LAP) is designed to strengthen and promote equitable access to YRCAA's services, by removing, to the greatest extent possible, the barriers that people with limited English proficiency may face when accessing agency services, programs or activities.

In order for the agency to determine its obligation to provide individuals with limited English proficiency meaningful access to all services, program or activities, the YRCAA conducted an individualized assessment that balances the following four factors:

- i. The number or proportion of individuals with limited English proficiency eligible served or likely to be encountered within the eligible service population of the YRCAA.
- ii. The frequency with which individuals with limited English proficiency come in contact with the YRCAA program, activity or service.
- iii. The nature and importance of the program, activity or service provided by the YRCAA.
- iv. The resources available to the YRCAA and the costs.

Analysis of Population Served or likely to be encountered (Appendix A)

An analysis using data from the United States Environmental Protection Agency's (USEPA) EJ Screen database revealed the population eligible to be served or likely to be

encountered by any YRCAA program is comprised of 45% Hispanics and 48% Non-Hispanic. The Non-Hispanic population further breaks down into the following populations: White Alone (48%), Black Alone (1%), American Indian (4%) and Non-Hispanic Asian Alone (1%). Additionally, 6,988 Spanish speaking households were identified as “linguistically isolated”, meaning no one 14 years of age and over speaks English “very well” or speaks English only.

Other than the linguistically isolated group above, the YRCAA has identified no additional limited English proficient language groups that constitutes five percent or includes 1,000 members, whichever is less, of the population eligible to be served or likely to be affected or encountered

IV. Notice of Language Assistance (Appendix B)

Appendix B contains the YRCAA Notice of Language Assistance. This notice is posted in English and Spanish on the YRCAA’s website at <https://www.yakimacleanair.org> and within the YRCAA office.

V. Oral & Written (Interpretation & Translation) Services

Translation Services

The YRCAA maintains a bilingual website at <https://www.yakimacleanair.org>. The site has a Spanish translation button, titled Español, located in the top right margin of the home page. If selected, this button will convert the webpage to the Spanish language. The agency website provides Spanish translation of vital documents of general interest.

Examples of such documents are;

- YRCAA Complaint Form
- Permit Applications
- Board Meeting announcements
- Board Meeting Agendas
- Board Meeting Announcements
- Community Forum Announcement
- Community Forum Agenda
- Burn Ban Information
- YRCAA Non-Discrimination Plan translated

Translation of vital documents of individual interest to limited English proficient individuals within any language group is accomplished through the use of the agency’s third party translation service upon request.

Interpretation Services

YRCAA has the ability to provide Interpretive Services for approximately 70 languages through the use of the agency’s third party Interpretive service provider. The agency can provide simultaneous interpretation at Board or Community Forum meetings for

individuals with limited English proficiency upon request. In order to fulfill any such request, YRCAA requires the request be received a minimum of seven (7) business days prior to the event in order to ensure adequate time to make the appropriate arrangements.

The YRCAA also employs a certified Spanish staff interpreter who provides real time interpretation services for individuals with limited English proficiency within the office environment.

Sign Language Services for individuals with limited English proficiency

YRCAA has the ability to provide Sign Language Services through the use of the agency's third party interpretive service provider as well. The agency can provide simultaneous Sign interpretation of Board or Community Forum meetings for individuals requiring such support upon request. YRCAA requires the request be received a minimum of seven (7) business days prior to the event in order to ensure adequate time to make the appropriate arrangements.

VI. Federal Laws and Guidance

The following federal laws, implementing regulations, and guidance are relevant to the agency's responsibility to not discriminate based on language, and outline basic measures to support a standard of meaningful access:

Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d.

40 CFR, Part 7- Nondiscrimination in Programs or Activities Receiving Federal Assistance from the Environmental Protection Agency

40 CFR, Part 5- Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance

Federal Register Volume 65, Number 159 (Aug. 16, 2000), Department of Justice. Enforcement of Title VI of the Civil Rights Act of 1964—National Origin Discrimination Against Persons with Limited English Proficiency; Policy Guidance

Federal Register Volumes 69, Number 122, (June 25, 2004), Environmental Protection Agency. Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons

Federal Register Volumes 71, Number 54, (March 21, 2006), Environmental Protection Agency. Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs (Recipient Guidance)

YRCAA Public Involvement Plan

I. Overview

This Plan outlines the public involvement strategies used by the YRCAA. In addition to the guidance found at 69 FR 14207, 14210 (March 21, 2006), the YRCAA also complies with the applicable state requirements contained within Chapter 34.05 of the Revised Code of Washington (RCW) and Chapter 42.30 RCW. Chapter 34.05 RCW is known as the Washington State Administrative Procedures Act (APA) and Chapter 42.30 is known as the Washington State Open Public Meetings Act (OPMA). YRCAA will ensure that its public involvement process is available to all persons regardless of race, color, national origin, disability, age, sex or prior exercise of rights or opposition to actions protected under federal nondiscrimination laws, and will ensure that the factors used to determine the appropriate time, place, location, duration, and security at public meetings are developed and applied in a non-discriminatory manner.

II. Agency History & Community Demographics

The Yakima Regional Clean Air Agency (YRCAA) is a municipal corporation created in July 1967. The Agency's jurisdictional boundaries encompass the entirety of Yakima County, minus lands located wholly within the tribal boundaries of the Yakama Indian Nation. The Agency is staffed by ten employees and has a total annual budget of approximately one million dollars. The United States Environmental Protection Agency (USEPA), in conjunction with the Yakama Nation Environmental Protection Program (YNEP), has air pollution jurisdictional responsibility within the boundaries of the Yakama Nation.

The YRCAA is governed by a board of Directors, which is comprised of elected officials from Yakima County and the surrounding legally designated component cities and towns. The Board of Directors meets monthly to provide direction on policy, make budgetary decisions, and take action on other items such as adopting regulations.

Analysis of Population Served or likely to be encountered

See Appendix A

III. Contacts

For questions concerning this plan or any other issues relating to public involvement, customers of the YRCAA may contact the following individuals:

YRCAA

Office of the Director

186 Iron Horse Court, Suite 101

Yakima, WA 98901

(509) 834-2050

apco@yrcaa.org

Public Records Officer (PRO)
186 Iron Horse Court, Suite 101
Yakima, WA 98901
(509) 834-2050
pro@yrcaa.org

For questions concerning any Environmental issues within the boundaries of the Yakama Nation, members of the public may contact:

Yakama Nation Environmental Protection Program (YNEP)
Air Quality Section
401 Fort Road
P.O. Box 151
Toppenish, WA 98948
(509) 865-5121

Members of the public may also contact the following offices for any question or issue concerning Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d :

Washington State Department of Ecology (WSDOE)
Environmental Justice Coordinator
P.O. Box 47663
Lacey, WA 98504-7663
(360) 407-6177
millie.piazza@ecy.wa.gov

U.S. Environmental Protection Agency
Mail Code (2310A)
1200 Pennsylvania Ave, NW
Washington, D.C. 20460
Fax: (202) 564-0196
Email: Title VI Complaints@epa.gov

For any other inquiries, please write to ECRCO at the above address or call ECRCO at (202) 564-3316

IV. Past & Present Community Concerns

Over the course of the 52 year history of the agency, YRCAA has been the subject of one discrimination complaint. The complaint was filed on June 11, 2016 by the Friends of Toppenish Creek (FOTC), a non-profit corporation, created in 2009. The complaint alleged 6 violations of Title VI of the Civil Rights Act of 1964 and EPA's nondiscrimination regulation found at 40 C.F.R. Part 7. The External Civil Rights Compliance Office (ECRCO) of the USEPA accepted for investigation two of the original allegations. The initiation of the investigation of the two issues was not a decision on the merits. On August 9th, 2019 YRCAA and ECRCO entered into an Informal Resolution Agreement. In consideration of the YRCAA's ongoing commitments

and actions described within the agreement, the EPA ended its investigation, considered the complaint resolved, and did not issue a decision on the merits of the complaint. The ECRCO's notification document of the complaint against YRCAA, their acceptance letter and the Informal Resolution Agreement are located in Appendix C. Over the course of their 11 year existence, FOTC has made two requests of the Washington State Department of Ecology to conduct a formal review of the YRCAA. The first request was made on June 10th, 2016 and the subsequent request was made on January 31st, 2019. Both requests were denied and the WSDOE response letters can be viewed in Appendix D.

V. **Public Involvement Strategies**

Public Meetings & Notification

All Board of Directors meetings are held in the City Council Chambers at Yakima City Hall, located at 129 N. 2nd Street, Yakima, WA 98901. City Hall is accessible to persons with disabilities and is accessible to people who rely on public transportation.

Notifications for Board of Directors meetings are published in English and Spanish on the agency website. Agendas and minutes/summaries for all Board of Directors meetings are also available in both English and Spanish on the agency website at <https://www.yakimacleanair.org>.

The YRCAA regularly notifies the public, interested community groups and the local media when there are opportunities for public involvement. The method by which the Agency notifies the public includes email notifications, public announcements on the agency website, and announcements/ads in traditional media such as print, radio and television.

Outreach Activities

Community Air Quality Forum:

The YRCAA conducts outreach in many forms and for myriad reasons. The agency conducts a quarterly Community Air Quality Forum designed to provide a means for informational exchange between the Yakima Regional Clean Air Agency and community members with questions or concerns regarding air quality issues. All meetings are open to the public and invite public participation. The dates for forum meetings are posted at the beginning of each calendar year on the agency website, under the "Resources" tab. Forums are traditionally held on the Monday immediately following the regularly scheduled Board meeting for January, April, July, and October.

Woodstove Change-out Program:

When state funds are made available through a competitive grant process, and YRCAA is chosen for a grant award, the agency provides the community the opportunity to participate in a Woodstove Change-out Program. YRCAA announces the program on the agency website and places ads in traditional media such as print, radio and television. Ads are placed on English and Spanish media within the community.

Community Outreach Presentations:

Throughout any given year the agency entertains numerous requests for presentations at various community organizations and school districts. When requested, the agency conducts the presentations in Spanish through the use of the staff interpreter. Although the agency has never received a request to conduct a presentation in any other languages, if requested the agency is able to arrange for the presentation to be given in one of 70 different languages through the use of our third party translation service provider.

Information Repository

The primary information repository is located at the YRCAA Office at 186 Iron Horse Court, Suite 101, Yakima WA, 98901. The Central Region Branch of the State Archive acts as the final information repository for all YRCAA public records requiring archiving. These records are selected for their value as legal and historical evidence of policy development, implementation, and effect. The transfer of records to the archive is an ongoing process. The Central Region Branch of the State Archive is located at:

State Archives Central Branch
Bledsoe & Washington Archives Bldg.
400 E. University Way
Mail Stop 7547
Ellensburg, WA 98926-7547
(509) 963-2136
CEBranchArchives@sos.wa.gov

Local Media Contacts

Based on the agency's individual analysis of the cultural and linguistic needs of the population served or likely to be encountered, the following English and Spanish media contacts are regularly used by the agency:

KIMA TV
2801 Terrace Heights Dr.
Yakima WA 98901
Office 509-575-0029
Contact: Jake Taylor
jbtaylor@kimatv.com
509-895-8030

Fox 41 TV
1205 West Lincoln Ave.
Yakima WA 98902
509-574-4141
Contact: Jana Gray
jana.gray@nbcrightnow.com

KNDO TV
3312 W. Kennewick Avenue
Kennewick WA 99336
509-737-6725
news@kndu.com

KAPP TV
PO Box 1749
Yakima WA 98907
509-453-0351
Contact: Matt Van Slyke
news@kappkview.com

Townsquare Media Radio
4010 Summitview Ave
Yakima WA 98908
509-972-3461
Sarah Johnson
sarah.johnson@townsquaremedia.com

Stephens Media Group (radio)
17 N. 3rd Street #103
Yakima WA 98901
509-248-2900
Contact: Justin Henriksen
Justin.henriksen@smgnational.com

Spanish Media Contacts
Busto's Media,
Radio KZTA FM KYXE FM
PO box 2888
Yakima WA 98901
509-457-1000
Contact: Betty Castillo
lapikosita@bustosmedia.com

Radio KDNA
1040 S. Henderson Street, Seattle WA 98108
509-854-2222
Contact: Francisco Rios
frios@knda.org

KUNW-TV
Sinclair Broadcast Group Inc.
PO Box 206270 Dallas TX
Yakima office Phone: 509-575-0029
Contact: Martin Ortiz
509-895-8004
mortiz@sbgvtv.com

Telemundo
4600 S Regal St. Spokane WA 99223
Yakima 509-574-4141
Contact: Star Rosales
star.rosales@nbcrightnow.com

Hispanavision Television
715 W. Yakima Ave.
Yakima WA. 98902
509-452-8817
hispanavision39@gmail.com

Local Translation/Interpretation Resources

Listed below are the contacts for obtaining language assistance services for individuals with limited English proficiency. The specific service provided is listed under the contact's name:

Centerpoint Language Services
Translators & Interpreters
6 S. 2nd St.
Yakima, WA 98901
(509) 457-2870

Cts Interpreting Inc.
Translators
6 S. 2nd St.
Yakima, WA 98901
(509) 424-3162

Castro Interpreting Inc.
Translators & Interpreters
2811 Birchfield Rd.
Yakima, WA 98901
(509)469-6127

Sanchez Interpreter Services
Translators & Interpreters
841 N. Corriedale Rd.
Yakima, WA 98901
(509) 469-4338

Francisca Interpreting Services
Translators & Interpreters
2807 W. Washington Ave.
Yakima, WA 98903
(509) 469-5557

Leticia's Spanish Interpreting Service
Translators & Interpreters
1411 S. 11th Ave.
Yakima, WA 98902
(509) 901-7177

Kendra Zazueta Interpreting
Translators & Interpreters
1013 S. 3rd Ave.
Yakima, WA 98902
(509) 833-6155

Apple Valley Interpreting
Translators & Interpreters
807 Cascade Ave.
Moxee, WA 98936
(509) 248-3880

Lozas Interpreting
Translators & Interpreters
5120 Lateral A Rd.
Wapato, WA 98951
(509) 480-6600

J. Quintero
Translators & Interpreters
310 Nash Rd.
Tieton, WA 98947
(206) 501-0442

Ramirez Interpreting Service
Translators & Interpreters
415 Leland St.
Zillah, WA 98953
(509) 985-8282

YRCAA Disability Nondiscrimination Plan

The Yakima Regional Clean Air Agency (YRCAA) is committed to providing individuals with disabilities the opportunity for full participation in its programs, services, and activities through its compliance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act (ADA) of 1990, as amended by the ADA Amendments Act of 2008.

The YRCAA recognizes that individuals with disabilities may need accommodations or modifications to have equal opportunities to participate in or benefit from the YRCAA's programs, services and activities.

It is the YRCAA's policy that no otherwise qualified individual with a disability will be denied access to or participation in any program, service, or activity offered by the YRCAA. The YRCAA will administer programs, services, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.

The YRCAA will provide at no cost appropriate auxiliary aids and services including, for example, qualified interpreters to individuals who are deaf or hard of hearing, and to other individuals as necessary to ensure effective communication or an equal opportunity to participate fully in the programs, services, and activities provided by the YRCAA in a timely manner and in such a way as to protect the privacy and independence of the individual.

Individuals with disabilities have a right to request accommodations. Individuals will receive accommodations appropriate to their needs in order to fully participate in or benefit from the YRCAA's services and activities in a non-discriminatory, integrated setting.

The YRCAA will not coerce, intimidate, retaliate against, or discriminate against any individual for exercising a right under the ADA or Section 504, or for assisting or supporting another to exercise a right under the ADA or Section 504.

This plan applies to all of the YRCAA's sub-recipients, agents and contractors.

Definitions

- A. With respect to an individual, Disability means:
 - 1. a physical or mental impairment that substantially limits one or more of the person's major life activities;
 - 2. a history of such an impairment; or
 - 3. being regarded as having such impairment.
- B. Qualified Individual with a Disability is someone who (with or without accommodations) meets the essential eligibility requirements for participating in the YRCAA's programs, services, and activities.
- C. Accommodation means adjustments including reasonable modifications to rules,

policies, or practices; environmental adjustments such as the removal of architectural, communication, or transportation barriers; or auxiliary aids and services. Examples of accommodations include, but are not limited to: scribe, interpreter, environment free of distractions, material in Braille, tapes, and computer-assisted instruction.

Facility Accessibility

Consistent with the YRCAA's self-assessment, the YRCAA will operate its programs, services and activities out of its facilities consistent with 40 C.F.R. § 7.65 so that, when each program, service or activity is viewed in its entirety, it is readily accessible to and usable by individuals with disabilities.

A. Existing Facility:

1. Structural changes in existing facilities are not required when other methods provide program accessibility. Such methods include:
2. Redesigning equipment or the facility after case review.
3. Providing appropriate signage directing people to accessible features.
4. Reassigning staff, or services to accessible sites.

Accommodations:

No participant with a disability in any YRCAA program, service or activity will be denied the benefits of, be excluded from participation in, or be otherwise discriminated against in the provision of services available to all individuals in general.

Each individual is responsible for making requests regarding accommodations to meet his or her particular needs in order to enable the YRCAA to provide an appropriate response to the accommodation request.

All auxiliary aids, services, or other accommodations used by individuals with disabilities to provide access to the YRCAA's programs, services, and activities need not be on hand or present at all times.

Accommodations are not required that fundamentally alter the nature of the program, service, or activity; require waiver of essential program or licensure requirements; violate accreditation requirements; or pose an undue fiscal or administrative burden on the YRCAA.

In determining appropriate accommodations, the YRCAA shall give consideration to the wishes of the individual. The YRCAA will not require an individual with a disability to accept an accommodation, aid, service, opportunity or benefit under any circumstances.



EJSCREEN ACS Summary Report



Location: User-specified polygonal location

Ring (buffer): Yakima County, WA

Description: YRCAA individualized assessment to determine language services for limited English proficient individuals served or likely to be encountered.

	2012 - 2016 ACS Estimates	Percent	MOE (±)
Population 25+ by Educational Attainment			
Total	162,582	100%	130
Less than 9th Grade	25,241	16%	1,108
9th - 12th Grade, No Diploma	17,526	11%	909
High School Graduate	46,022	28%	1,014
Some College, No Degree	47,866	29%	1,353
Associate Degree	13,150	8%	695
Bachelor's Degree or more	25,928	16%	912
Population Age 5+ Years by Ability to Speak English			
Total	245,224	100%	83
Speak only English	152,016	62%	1,119
Non-English at Home ¹⁺²⁺³⁺⁴	93,209	38%	1,142
¹ Speak English "very well"	55,916	23%	1,505
² Speak English "well"	12,028	5%	834
³ Speak English "not well"	13,122	5%	781
⁴ Speak English "not at all"	12,142	5%	964
³⁺⁴ Speak English "less than well"	25,264	10%	1,240
²⁺³⁺⁴ Speak English "less than very well"	37,292	15%	1,494
Linguistically Isolated Households*			
Total	7,275	100%	592
Speak Spanish	6,988	96%	585
Speak Other Indo-European Languages	49	1%	30
Speak Asian-Pacific Island Languages	184	3%	70
Speak Other Languages	53	1%	45
Households by Household Income			
Household Income Base	88,752	100%	710
< \$15,000	11,025	12%	745
\$15,000 - \$25,000	10,647	12%	777
\$25,000 - \$50,000	26,459	30%	1,002
\$50,000 - \$75,000	17,791	20%	831
\$75,000 +	22,831	26%	865
Occupied Housing Units by Tenure			
Total	88,752	100%	710
Owner Occupied	56,030	63%	829
Renter Occupied	32,722	37%	823
Employed Population Age 16+ Years			
Total	196,840	100%	328
In Labor Force	119,934	61%	1,486
Civilian Unemployed in Labor Force	9,817	5%	800
Not In Labor Force	76,906	39%	1,454

Data Note: Detail may not sum to totals due to rounding. Hispanic population can be of any race.

N/A means not available. Source: U.S. Census Bureau, American Community Survey (ACS)

*Households in which no one 14 and over speaks English "very well" or speaks English only.

Location: User-specified polygonal location

Ring (buffer): Yakima County, WA

Description: YRCAA individualized assessment to determine language services for limited English proficient individuals served or likely to be encountered.

	2012 - 2016 ACS Estimates	Percent	MOE (±)
Population by Language Spoken at Home*			
Total (persons age 5 and above)	245,224	100%	83
English	152,016	62%	1,153
Spanish	89,381	36%	1,130
French	184	0%	134
French Creole	N/A	N/A	N/A
Italian	N/A	N/A	N/A
Portuguese	N/A	N/A	N/A
German	560	0%	177
Yiddish	N/A	N/A	N/A
Other West Germanic	N/A	N/A	N/A
Scandinavian	N/A	N/A	N/A
Greek	N/A	N/A	N/A
Russian	N/A	N/A	N/A
Polish	N/A	N/A	N/A
Serbo-Croatian	N/A	N/A	N/A
Other Slavic	N/A	N/A	N/A
Armenian	N/A	N/A	N/A
Persian	N/A	N/A	N/A
Gujarathi	N/A	N/A	N/A
Hindi	N/A	N/A	N/A
Urdu	N/A	N/A	N/A
Other Indic	N/A	N/A	N/A
Other Indo-European	354	0%	143
Chinese	241	0%	263
Japanese	N/A	N/A	N/A
Korean	258	0%	143
Mon-Khmer, Cambodian	N/A	N/A	N/A
Hmong	N/A	N/A	N/A
Thai	N/A	N/A	N/A
Laotian	N/A	N/A	N/A
Vietnamese	344	0%	200
Other Asian	542	0%	161
Tagalog	389	0%	196
Other Pacific Island	N/A	N/A	N/A
Navajo	N/A	N/A	N/A
Other Native American	N/A	N/A	N/A
Hungarian	N/A	N/A	N/A
Arabic	134	0%	123
Hebrew	N/A	N/A	N/A
African	N/A	N/A	N/A
Other and non-specified	678	0%	201
Total Non-English	93,209	38%	1,153

Data Note: Detail may not sum to totals due to rounding. Hispanic population can be of any race.

N/A means not available. Source: U.S. Census Bureau, American Community Survey (ACS) 2012 - 2016.

*Population by Language Spoken at Home is available at the census tract summary level and up.

YRCAA Notice of Language Services

The Yakima Regional Clean Air agency (YRCAA) offers free Interpretation & Translation services for our customers. To request these services or to learn more about what the agency can provide, please call (509) 834-2050, ext. 100.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

August 19, 2020

In Reply Refer to:

EPA Complaint No. 34RNO-16-R10

Keith Hurley, Executive Director
Yakima Regional Clean Air Agency
186 Iron Horse Court
Suite 101
Yakima, Washington 98901

Dear Mr. Hurley:

This letter is to notify you that the Yakima Regional Clean Air Agency (YRCAA), has fully complied with the Informal Resolution Agreement (Agreement), dated August 9, 2019, reached between YRCAA and the U.S. Environmental Protection Agency (EPA) External Civil Rights Compliance Office (ECRCO) in response to Complaint No. 34RNO-16-R10. Accordingly, Complaint No. 34RNO-16-R10 is closed as of the date of this letter.

On February 11, 2019, ECRCO accepted the following issues for investigation:

1. Whether the YRCAA provides meaningful access to information and their programs and activities, to Spanish speaking residents of the Lower Yakima Valley who have limited English proficiency (LEP) as required by Title VI of the Civil Rights Act and EPA's implementing regulation at 40 C.F.R. Part 7.¹
2. Whether YRCAA has and is implementing the procedural safeguards required under 40 C.F.R. Parts 5 and 7 that recipients of federal assistance must have in place to comply with their general nondiscrimination obligations, including specific policies and procedures to ensure meaningful access to YRCAA services, programs and

¹ See Title VI of the Civil Rights Act, 42 U.S.C. 2000(d) (prohibiting discrimination on the basis of national origin); *Lau v. Nichols*, 414 U.S. 563, 568-69 (1974); 40 C.F.R. § 7.35(a). See also EPA's Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons. 69 FR 35602 (June 25, 2004).
<https://www.govinfo.gov/content/pkg/FR-2004-06-25/pdf/04-14464.pdf>

activities for individuals with limited English proficiency and individuals with disabilities, and whether YRCAA's public participation policy and process provide meaningful public involvement that is consistent with federal civil rights laws, including Title VI, and EPA's implementing regulation at 40 C.F.R. Parts 5 and 7.²

On August 9, 2019, the YRCAA entered into an Informal Resolution Agreement (IRA) with ECRCO to resolve the issues accepted for investigation as well as additional concerns identified by ECRCO regarding the YRCAA's nondiscrimination program. Since the signing of the IRA, ECRCO provided technical assistance to the YRCAA and worked collaboratively with the YRCAA to support its development and implementation of the necessary policies, plans and procedures.

To address the primary issue accepted for investigation, the IRA required the YRCAA to translate into Spanish (and other languages as appropriate) and make publicly available any notice and/or documents provided to English-speaking residents both electronically and in hard copies, including any notices and/or documents regarding permitting activity, air quality, and/or other environmental issues (e.g. burn ban announcements). The IRA also required the YRCAA to provide Spanish-speaking residents with LEP meaningful access to the YRCAA's process for filing environmental and public health complaints (both online and via other mechanisms) with the YRCAA. In addition, the YRCAA was required to conduct public meetings and/or outreach regarding its permitting, air quality, and/or other environmental programs, services, or activities in a way that ensures meaningful participation for Spanish-speaking LEP residents.

The IRA also required the YRCAA to develop and implement a nondiscrimination program that contains the procedural safeguards required by EPA's regulations at 40 C.F.R. Parts 5 and 7. These include, for example, items "prominently" posted and accessible to the public (including to persons with limited English proficiency and persons with disabilities), such as a notice of nondiscrimination; a nondiscrimination coordinator; nondiscrimination grievance procedures; and to review and maintain its LEP and disability plans and processes.

Based on a careful review of the most current documentation submitted by the YRCAA and the information publicly available on the YRCAA's website, ECRCO has determined that the

² See EPA's Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs. 71 FR 14207 (March 21, 2006).

https://www.epa.gov/sites/production/files/2020-02/documents/title_vi_public_involvement_guidance_for_epa_recipients_2006.03.21.pdf;

See [Procedural Safeguards Checklist for Recipients](https://www.epa.gov/sites/production/files/2020-02/documents/procedural_safeguards_checklist_for_recipients_2020.01.pdf), which provides a more detailed explanation of

nondiscrimination obligations and best practices, available at https://www.epa.gov/sites/production/files/2020-02/documents/procedural_safeguards_checklist_for_recipients_2020.01.pdf. See Disability Nondiscrimination Plan Sample, at https://www.epa.gov/sites/production/files/2020-02/documents/disability_nondiscrimination_plan_sample_for_recipients_2020.01.pdf

Title VI of the Civil Rights Act of 1964, 42 United States Code §§ 2000d to 2000d-7 (Title VI); Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794; Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 et seq.; Age Discrimination Act of 1975, 42 U.S.C. §§ 6101 et seq.; Federal Water Pollution Control Act Amendments of 1972, Pub. L. 92-500 § 13, 86 Stat. 903 (codified as amended at 33 U.S.C. § 1251 (1972)); 40 C.F.R. Parts 5 and 7.

YRCAA has complied with the terms of the IRA signed on August 9, 2019. The YRCAA submitted its updated nondiscrimination plan, including an updated Language Access Plan, Public Involvement Plan, and Disability Access Plan, to ECRCO on April 13, 2020. The YRCAA submitted a revised version based on technical assistance provided by ECRCO on May 22, 2020, and provided its final version to ECRCO on May 27, 2020. Accordingly, ECRCO is terminating the monitoring of the IRA and closing EPA Complaint No. 34RNO-16-R10 as of the date of this letter.

Neither the conclusion of ECRCO's monitoring of this IRA or the closing of this complaint affect the YRCAA's continuing responsibility to comply with Title VI or the other federal non-discrimination laws and EPA's regulation at 40 C.F.R. Parts 5 and 7, nor does it affect EPA's investigation of any other Title VI or other federal civil rights complaints or address any other matter not covered by this Agreement.

We appreciate YRCAA's cooperation during this process. If you have any questions, please feel free to contact me at 202-564-9649, by e-mail at dorka.lilian@epa.gov, or Dale Rhines, ECRCO's Deputy Director at 202-564-4174, or by email at rhines.dale@epa.gov.

Sincerely,



Lilian S. Dorka
Director
External Civil Rights Compliance Office
Office of General Counsel

cc: Angelia Talbert-Duarte
Associate General Counsel
Civil Rights & Finance Law Office

Michelle Pirzadeh
Deputy Regional Administrator
Deputy Civil Rights Official
US EPA, Region 10

Beverly Li
Regional Counsel
US EPA, Region 10

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460



EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

INFORMAL RESOLUTION AGREEMENT
between the
YAKIMA REGIONAL CLEAN AIR AGENCY
and the
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
External Civil Rights Compliance Office

EPA COMPLAINT NO. 34RNO-16-R10 (YRCAA)

I. PURPOSE AND JURISDICTION

- A. Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d to 2000d-7 ("Title VI"), and other federal nondiscrimination laws, and United States Environmental Protection Agency's ("EPA") implementing regulation at 40 C.F.R. Parts 5 and 7 prohibit discrimination on the basis of race, color, national origin, disability, sex, age, and retaliation in the programs, services and activities of applicants for or recipients of federal financial assistance.¹ The Yakima Regional Clean Air Agency (YRCAA) receives federal financial assistance from EPA and, therefore, must ensure nondiscrimination in programs and activities pursuant to the provisions of Title VI, the other federal nondiscrimination laws and EPA's implementing regulation.
- B. The Yakima Regional Clean Air Agency (YRCAA) receives federal financial assistance from EPA, and therefore is subject to the provisions of Title VI, and other federal nondiscrimination laws, and 40 C.F.R. Parts 5 and 7.
- C. On February 11, 2019, EPA's External Civil Rights Compliance Office (ECRCO) accepted for investigation an administrative complaint brought under Title VI and EPA's implementing regulation at 40 C.F.R. Part 7, Subpart D, which alleged that YRCAA engaged in discrimination based on race and national origin. The complaint against YRCAA was assigned EPA Complaint No. 34RNO-16-R10. EPA accepted for investigation the following issues:
 1. Whether YRCAA provides meaningful access to information and their programs and activities, to Spanish speaking residents of the Lower Yakima

¹ Title VI of the Civil Rights Act of 1964, 42 United States Code §§ 2000d to 2000d-7 (Title VI); Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794; Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 *et seq.*; Age Discrimination Act of 1975, 42 U.S.C. § 6101 *et seq.*; Federal Water Pollution Control Act Amendments of 1972, Pub. L. 92-500 § 13, 86 Stat. 903 (codified as amended at 33 U.S.C. § 1251 (1972)); 40 C.F.R. Parts 5 and 7.

Valley who have limited-English proficiency as required by Title VI of the Civil Rights Act and EPA's implementing regulation at 40 C.F.R. Part 7.²

2. Whether YRCAA has and is implementing the procedural safeguards required under 40 C.F.R. Parts 5 and 7 that recipients of federal assistance must have in place to comply with their general nondiscrimination obligations, including specific policies and procedures to ensure meaningful access to YRCAA services, programs and activities for individuals with limited-English proficiency and individuals with disabilities, and whether the YRCAA's public participation policy and process provide meaningful public involvement that is consistent with Title VI and EPA's Title VI implementing regulation at 40 C.F.R. Part 7.³

- D. During the course of EPA's investigation of EPA Complaint No. 34RNO-16-R10, YRCAA and EPA agreed to enter into an Informal Resolution Agreement (Agreement).
- E. This Agreement is entered into voluntarily by YRCAA and EPA and resolves EPA Complaint No. 34RNO-16-R10. It is understood that this Agreement does not constitute an admission of guilt, liability, or wrongdoing by YRCAA. EPA is not making any finding of compliance or noncompliance with federal non-discrimination laws and EPA's regulation at 40 C.F.R. Parts 5 and 7.
- F. YRCAA continues to be committed to carrying out its responsibilities in a nondiscriminatory manner consistent with the requirements of Title VI and the other federal non-discrimination laws and regulations. The activities detailed in this Agreement, which YRCAA has voluntarily agreed to undertake and implement, are in furtherance of this commitment.

II. BACKGROUND

- A. In July 1967, the YRCAA, formerly known as Yakima County Clean Air Authority which is a municipal corporation, became an activated local air authority per RCW 70.94.081 by the Board of Yakima County Commissioners. In February 1968, an official fund for the YRCAA was established with the County Treasurer and Auditor. The YRCAA is delegated to enforce certain federal regulations, the Washington Clean Air Act, State regulations, and the YRCAA regulations, within the boundaries of Yakima County. This applies to all areas of Yakima County except for Yakama Indian

² See Title VI of the Civil Rights Act, 42 U.S.C. 2000(d) (prohibiting discrimination on the basis of national origin); *Lau v. Nichols*, 414 U.S. 563, 568-69 (1974); 40 C.F.R. § 7.35(a). See also EPA's Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 69 FR 35602 (June 25, 2004).

<https://www.govinfo.gov/content/pkg/FR-2004-06-25/pdf/04-14464.pdf>

³ See EPA's Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs, 71 FR 14207 (March 21, 2006).

<https://www.govinfo.gov/content/pkg/FR-2006-03-21/pdf/06-2691.pdf>

Reservation lands, which are overseen by the Environmental Protection Agency and fall under the Federal Air Rules for Reservations (FARR) regulations.

- B. The YRCAA's mission states that its objective is to protect the people and the environment of Yakima County from the effects of air pollution and is committed to achieving and maintaining healthy air quality throughout its jurisdiction. According to the YRCAA, this is accomplished through a comprehensive program of planning, regulations, enforcement, technical innovation, and promotion of the understanding of air quality issues.
- C. YRCAA has provided ECRCO with examples of Spanish-language radio advertisements, television announcements, and outreach material, as well as examples of other translated documents and notices it disseminates to the public in Yakima County.
- D. YRCAA has a total of 10 full-time employees.

III. SPECIFIC COMMITMENTS

A. *Providing Meaningful Access to Spanish Speaking Residents with Limited English Proficiency*

1. The YRCAA commits to translate into Spanish (and other languages as appropriate; see section B.2.) and make publicly available any notice and/or documents provided to English-speaking residents both electronically and in hard copies, including any notices and/or documents regarding permitting activity, air quality, and/or other environmental issues (e.g. burn ban announcements), at no cost, in order for Spanish-speaking residents of Yakima County who have limited English proficiency (LEP) to have meaningful access to the YRCAA's programs and activities.
2. The YRCAA also commits to provide Spanish-speaking LEP residents (and other languages as appropriate; see section B.2.) meaningful access to YRCAA's process for filing environmental and public health complaints (both online and via other mechanisms) with the YRCAA.
3. The YRCAA commits to conducting public meetings and/or outreach regarding its permitting, air quality, and/or other environmental programs, services, or activities in a way that ensures meaningful participation for Spanish-speaking LEP residents (and other languages as appropriate; see section B.2.). The YRCAA also commits to provide oral interpretation and to access and participation for Spanish-speaking LEP residents.

B. *Non-Discrimination Procedural Safeguards*

As an agency that employs fewer than 15 employees,¹ YRCAA commits to implement the following non-discrimination program requirements.

1. *Notice of Non-Discrimination under the Federal Non-Discrimination Statutes*

a. The YRCAA will post a notice of non-discrimination on the YRCAA's website homepage and in its general publications that are distributed to the public. To ensure effective communication with the public, the YRCAA will ensure that its notice of non-discrimination is accessible to individuals with limited-English proficiency and individuals with disabilities.

b. This notice will contain, at a minimum, the following statements:

i. The Yakima Regional Clean Air Agency (YRCAA) does not discriminate on the basis of race, color, national origin, disability, age, or sex in administration of its programs or activities, and the YRCAA does not intimidate or retaliate against any individual or group because they have exercised their rights to participate in or opposed actions protected by 40 C.F.R. Parts 5 and 7, or for the purpose of interfering with such rights (As prohibited under Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972; and Section 13 of the Federal Water Pollution Control Act Amendments of 1972 (hereinafter referred to collectively as the federal non-discrimination statutes)).

c. Within 120 days after the effective date of this Agreement, the YRCAA will submit to EPA for review a copy of its notice of non-discrimination that is consistent with the requirements under 40 C.F.R. Parts 5 and 7.

2. *YRCAA Plan to Ensure Access for Individuals with Limited-English Proficiency*

a. The YRCAA will provide, at no cost, meaningful access to individuals with limited-English proficiency and will develop, publicize, and implement a Language Access Plan to ensure meaningful access to all YRCAA programs, activities and services for individuals with limited-English proficiency.

b. In developing a Language Access Plan, the YRCAA will conduct the appropriate analysis described in EPA's LEP Guidance found at 69 FR 35602 (June 25, 2004) and <http://www.lep.gov> to determine what language services it may need to provide to ensure that individuals with limited-English proficiency can meaningfully participate in the YRCAA programs, activities and services.

c. Within 120 days of the effective date of this Agreement, the YRCAA will submit to EPA for review a final draft of its written Language Access Plan to ensure

¹See 40 C.F.R. 7.85(g) and 7.90(b).

meaningful access to all YRCAA programs, activities and services for individuals with limited-English proficiency.

3. *YRCAA Plan to Ensure Access for Individuals with Disabilities*
 - a. The YRCAA will provide, at no cost, appropriate auxiliary aids and services to individuals with disabilities, including but not limited to, for example, qualified sign language interpreters to individuals who are deaf or hard of hearing, to ensure effective communication and an equal opportunity to participate fully in benefits, activities, programs, and services provided by the YRCAA.
 - b. The YRCAA will develop, publicize and implement a Disability Access Plan for providing individuals with disabilities the opportunity for meaningful access to all YRCAA programs, activities, benefits, and services.
 - c. Within 120 days of the effective date of this agreement, the YRCAA will submit to ECRCO for review a final draft of its Disability Access Plan to ensure meaningful access to all YRCAA programs, services and activities by individuals with disabilities.
4. *Plan to Ensure YRCAA's Public Involvement Process is Implemented Consistent with Federal Civil Rights Laws*
 - a. The YRCAA will develop a plan to ensure that its public involvement process is accessible to all persons regardless of race, color, national origin, disability, sex, age, and prior exercise of their rights to participate in or oppose actions protected by 40 C.F.R. Parts 5 and 7, consistent with the federal non-discrimination laws.
 - b. Within 120 days of the effective date of this agreement, the YRCAA will submit to ECRCO for review a final draft of its plan to ensure that its public involvement process is available and accessible to all persons regardless of race, color, national origin, disability, sex, age and prior exercise of their rights to participate in or oppose actions protected by 40 C.F.R. Parts 5 and 7, consistent with the federal nondiscrimination laws.
5. *Training*
 - a. Within 120 days after finalizing the documents identified in Section III of this Agreement, the YRCAA will ensure that all appropriate staff has been trained on the plans, processes and procedures of this Agreement.
 - b. Within 120 days after signing of this Agreement, the YRCAA will have a plan in place to ensure that such training is a routine part of the on-boarding process for new employees and is given annually as refresher training to all employees.

IV. GENERAL

- A. In consideration of the YRCAA's ongoing commitments and actions described in this Agreement, EPA will end its investigation and consider resolved EPA Complaint No. 34RNO-16-R10 and will not issue a decision on the merits of the Complaint.
- B. EPA will, upon request, provide technical assistance to the YRCAA regarding any of the civil rights obligations previously referenced.
- C. Once these commitments are fully implemented, EPA will issue a letter to the YRCAA documenting completion of these commitments and closing the monitoring of Complaint No. 34RNO-16-R10.
- D. The YRCAA understands that a failure to satisfy any term in this agreement may result in EPA re-opening the investigation.
- E. EPA will review and provide feedback about any documentation submitted by the YRCAA demonstrating completion of each commitment identified in Section III and will provide an assessment as to whether the documentation satisfies the commitment within 30 days of receipt of the YRCAA's report.


V. COMPUTATION OF TIME AND NOTICE

- A. As used in this Agreement, "day" shall mean a calendar day. In computing any period of time under this Agreement, where the last day would fall on a Saturday, Sunday, or holiday (State or Federal), the period shall run until the close of business of the next working day that is not a Saturday, Sunday or holiday.
- B. Service of any documents required by this Agreement shall be made personally, by certified mail with return receipt requested, or by any reliable commercial delivery service that provides written verification of delivery.
- C. Electronic documents submitted by the YRCAA to EPA via email shall be sent to the following email address: Dorka.Lilian@epa.gov. Documents submitted by the YRCAA to EPA shall be sent to Lilian Dorka, Director, U.S. EPA External Civil Rights Compliance Office, Office of General Counsel (Mail Code 2310A), 1200 Pennsylvania Avenue N.W., Washington, D.C. 20460.
- D. Documents submitted by EPA to the YRCAA shall be sent to Keith Hurley, Executive Director, Yakima Regional Clean Air Agency, 186 Iron Horse Court, Suite 101, Yakima, Washington 98901.

VI. EFFECT OF INFORMAL RESOLUTION AGREEMENT

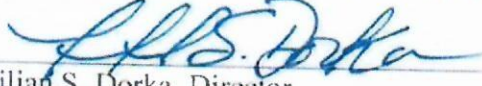
- A. The YRCAA understands that, if necessary, ECRCO may visit the YRCAA, interview staff, and request additional reports or data as necessary for ECRCO to determine whether the YRCAA continues to meet its obligation to comply with the federal non-discrimination requirements set forth in 40 C.F.R. Part 5 and 7.
- B. If either Party desires to modify any portion of this Agreement because of changed conditions making performance impractical or impossible, or due to material change to the YRCAA's program or authorities, or for other good cause, the Party seeking a modification shall promptly notify the other in writing, setting forth the facts and circumstances justifying the proposed modification. Any modification(s) to this Agreement shall take effect only upon written agreement of the Executive Director of the YRCAA and the Director of ECRCO.
- C. The YRCAA acknowledges its continuing responsibility to comply with Title VI, 40 C.F.R. Part 5 and 7, and other federal non-discrimination laws, along with its continuing responsibility to comply with State non-discrimination laws. The YRCAA further acknowledges EPA's ongoing obligations to investigate any Title VI or other federal civil rights complaints and to address any other matter not covered by this Agreement.
- D. This Agreement constitutes the entire Agreement between the YRCAA and EPA regarding the matters addressed herein, and no other statement, promise, or agreement made by any other person shall be construed to change any commitment or term of this Agreement.
- E. The effective date of this Agreement shall be the date by which both Parties have signed the Agreement. The undersigned representatives of the Parties certify that they are fully authorized to consent to the terms and conditions of this Agreement. Signature on a counterpart or authorization of an electronic signature shall constitute a valid signature.

On behalf of the Yakima Regional Clean Air Agency,


Keith Hurley, Executive Director
Yakima Regional Clean Air Agency


DATE

On behalf of the U.S. Environmental Protection Agency,


Lilian S. Dorka, Director
External Civil Rights Compliance Office
Office of General Counsel


DATE

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460



EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

February 11, 2019

Return Receipt Requested

Certified Mail#: 7015 3010 0001 1267 1067

In Reply Refer to:

EPA File No. 34RNO-16-R10

Keith Hurley, Executive Director
Yakima Regional Clean Air Agency
186 Iron Horse Court
Suite 101
Yakima, Washington 98901

Re: Notification of Partial Acceptance of Administrative Complaint

Dear Mr. Hurley:

The U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO), is accepting, in part, for investigation an administrative complaint filed against the Yakima Regional Clean Air Agency (YRCAA), received by EPA on June 11, 2016. The complaint alleges that YRCAA discriminates on the bases of race and national origin in the administration of its air pollution program in violation of Title VI of the Civil Rights Act of 1964 and EPA's nondiscrimination regulation found at 40 C.F.R. Part 7. Specifically, the complaint alleges that YRCAA (1) does not provide the same level of service to people who live in the southern half of Yakima County as it does to those who live in the northern half of the county; (2) has refused citizen requests to take reasonable actions that would mitigate dangerous air pollution; (3) has resisted citizen participation in policymaking and has failed to follow through with promises to include citizens in substantive policy discussions; (4) does not employ people with the requisite credentials to analyze and address major air pollution problems; (5) does not provide information to non-English speaking populations in a language they can understand; and (6) has participated in a campaign to misinform the public and intentionally leads the public to believe that air quality is safe when, in fact, it is often unsafe. As described below, ECRCO will be accepting some of these issues for investigation.

Pursuant to EPA's nondiscrimination regulation, ECRCO conducts a preliminary review of administrative complaints to determine acceptance, rejection, or referral to the appropriate Federal agency. *See* 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in the EPA's nondiscrimination regulation. First, the complaint must be in writing. *See* 40 C.F.R. § 7.120(b)(1). Second, it must describe an alleged discriminatory act that, if true, may violate the EPA's nondiscrimination regulation (*i.e.*, an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.*

Third, it must be filed within 180 days of the alleged discriminatory act. *See* 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be filed against an applicant for, or recipient of, EPA financial assistance that allegedly committed the discriminatory act. *See* 40 C.F.R. § 7.15

In general, ECRCO will accept, reject or refer a complaint after considering the four fundamental jurisdictional factors described in the regulation. However, if ECRCO obtains credible information from the complainant, the potential recipient or other credible sources leading ECRCO to conclude that an investigation is unjustified for prudential reasons, for example, that an allegation is not grounded in fact, ECRCO may reject a complaint allegation for that reason.¹

The administrative complaint raises multiple concerns with respect to how YRCAA operates its air regulation program. After a careful review of the complaint and supplemental materials, ECRCO has determined that our office does not have jurisdiction to investigate most of the concerns raised in the complaint. They either were not raised within 180 days of the alleged act, and thus, not timely, and/or they do not concern acts which, even if true, raise an issue of discrimination over which ECRCO has jurisdiction, that is, on the bases of race, color, national origin, sex, age, or disability.

For example, the complaint alleges that YRCAA's method of air quality monitoring violated Title VI because it favored non-minority residents living in the Upper Yakima Valley. The complaint also contended that the air monitoring data was flawed because the monitors were not located close enough to dairy farms. These issues are untimely because the air monitoring described in the complaint took place ten months prior to the filing of the complaint. In addition, this allegation does not appear to be grounded in fact because two of the three monitors were placed in the Lower Yakima Valley.

Additionally, the complaint alleges that YRCAA discriminated on the basis of national origin and/or race by collecting revenue from the Yakama Reservation while failing to provide equal services, such as offering participation in the YRCAA wood stove replacement program. Our preliminary review found that YRCAA collects fees from *cities* geographically located within the Yakama Reservation but legally designated as components of the YRCAA. In fact, a Washington Attorney General opinion issued in 2007 affirmed the right of the YRCAA to collect fees from these cities lying within the Yakama Reservation, stating, "Cities lying within Indian reservations are subject to assessment for the expenses of a clean air authority in which they are component cities."² Therefore, even if the YRCAA collects fees from cities geographically located within the Yakama Reservation but legally designated as components of the YRCAA as alleged, this does not raise an issue of discrimination on the bases of race, color, national origin, sex, age, or disability.

The complaint alleges also that YRCAA is not fully complying with the State Implementation Plan. This allegation, even if true, does not raise an issue of discrimination on the bases of race, color, national origin, sex, age, or disability, as the State Implementation Plan impacts all residents in Yakima County regardless of race, color, national origin, sex, age, or

¹ See ECRCO's *Case Resolution Manual*, Section 2.6 at 12, https://www.epa.gov/sites/production/files/2017-01/documents/final_epa_ogc_ecrco_crm_january_11_2017.pdf

² Washington Attorney General Opinion AGO 2007 No. 2

disability. For example, the alleged failure of the YRCAA to conduct New Source Reviews could have an impact on any resident of Yakima County. While this does not raise a concern of discrimination within ECRCO's jurisdiction, ECRCO brought these concerns to the attention of EPA's Region 10 office. Regional staff have explained that responsibility for air quality in the Yakima Valley is shared among the YRCAA, EPA Region 10, the Yakama Nation and the Washington State Department of Ecology (Ecology). Specifically, on the Yakama Reservation, EPA Region 10 directly implements the Clean Air Act (CAA), partners with the Yakama Nation to protect air quality and implement the CAA, and supports tribal capacity building. With respect to issues not on the Yakama Reservation, the YRCAA and Ecology implement the federal CAA and State CAA, under EPA Region 10 oversight. Regional staff is familiar with the concerns raised by the Complainants and will continue to work with all parties as appropriate.

Finally, the complaint also alleges that YRCAA discriminated against Spanish-speaking residents of the Lower Yakima Valley who have limited-English proficiency by failing to provide information to them in a language they can understand. ECRCO will investigate this issue.

Accordingly, ECRCO will investigate the following issues:

1. Whether YRCAA provides meaningful access to information and their programs and activities, to Spanish speaking residents of the Lower Yakima Valley who have limited-English proficiency as required by Title VI of the Civil Rights Act and EPA's implementing regulation at 40 C.F.R. Part 7.³
2. Whether YRCAA has and is implementing the procedural safeguards required under 40 C.F.R. Parts 5 and 7 that recipients of federal assistance must have in place to comply with their general nondiscrimination obligations, including specific policies and procedures to ensure meaningful access to YRCAA services, programs and activities for individuals with limited-English proficiency and individuals with disabilities, and whether YRCAA's public participation policy and process provide meaningful public involvement that is consistent with Title VI and EPA's Title VI implementing regulation at 40 C.F.R. Part 7.⁴

The initiation of an investigation of the issues above is not a decision on the merits. ECRCO is a neutral fact finder and will begin its process to gather the relevant information, discuss the matter further with YRCAA and the complainant, if appropriate, and determine next steps utilizing ECRCO's internal procedures. In the intervening time, ECRCO will provide YRCAA with an

³ See Title VI of the Civil Rights Act, 42 U.S.C. 2000(d) (prohibiting discrimination on the basis of national origin); *Lau v. Nichols*, 414 U.S. 563, 568-69 (1974); 40 C.F.R. § 7.35(a). See also EPA's Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons. 69 FR 35602 (June 25, 2004).

<https://www.govinfo.gov/content/pkg/FR-2004-06-25/pdf/04-14464.pdf>

⁴ See EPA's Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs. 71 FR 14207 (March 21, 2006).

<https://www.govinfo.gov/content/pkg/FR-2006-03-21/pdf/06-2691.pdf>

opportunity to make a written submission responding to, rebutting, or denying the issues that have been accepted for investigation within thirty (30) calendar days of receiving its copy of the letter notifying it of the acceptance of Administrative Complaint 34RNO-16-R10. *See* 40 C.F.R. § 7.120(d)(1)(ii-iii).

EPA's nondiscrimination regulation provides that ECRCO will attempt to resolve complaints informally whenever possible. *See* 40 C.F.R. § 7.120(d)(2). Accordingly, ECRCO is willing to discuss, at any point during the process, offers to informally resolve the subject complaint. ECRCO may contact the recipient to discuss its interest in entering into Informal Resolution Agreement discussions. We invite you to review ECRCO's Case Resolution Manual for a more detailed explanation of ECRCO's complaint resolution process available at https://www.epa.gov/sites/production/files/2017-01/documents/final_epa_ogc_ecrco_crm_january_11_2017.pdf.

No one may intimidate, threaten, coerce, or engage in other discriminatory conduct against anyone because he or she has either taken action or participated in an action to secure rights protected by the civil rights requirements that we enforce. *See* 49 C.F.R. § 21.11(e) and 40 C.F.R. § 7.100. Any individual alleging such harassment or intimidation may file a complaint with ECRCO.

If you have questions about this letter, please feel free to contact Sam Peterson, Case Manager, at 202-564-5393 by email at Peterson.Samuel@epa.gov, or by mail at U.S. EPA External Civil Rights Compliance Office (Mail Code 2310A), 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460.

Sincerely,



Lilian S. Dorka
Director
External Civil Rights Compliance Office
Office of General Counsel

cc: Michelle Pirzadeh
Deputy Regional Administrator
Deputy Civil Rights Official
U.S. EPA Region 10

Angelia Talbert-Duarte
Acting Associate General Counsel
Civil Rights and Finance Law Office
Office of General Counsel



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

RECEIVED
JUN 21 2016
YRCAA

OFFICE OF
CIVIL RIGHTS

June 15, 2016

Return Receipt Requested

Certified Mail#: 7015 1520 0002 0019 2779

In Reply Refer To:

File No. 34RNO-16-R10

Gary Pruitt
Executive Director & Air Pollution Control Officer
Yakima Regional Clean Air Agency
329 North First Street,
Yakima, WA. 98901-2303

Re: Acknowledgement of Receipt of Administrative Correspondence

Dear Mr. Pruitt:

This letter is to notify you that the U.S. Environmental Protection Agency (EPA), Office of Civil Rights (OCR), received correspondence on May 11, 2016, involving the Yakima Regional Clean Air Agency.

The OCR is responsible for processing and resolving complaints alleging discrimination by programs or activities that receive financial assistance from the EPA. OCR will review the correspondence in light of EPA's nondiscrimination regulation to determine whether it is a complaint that falls within OCR's jurisdiction. Once this jurisdictional review is completed, the OCR will notify you as to whether it will accept the complaint for investigation or reject, or refer the complaint to another Federal agency.

In the interim, if you have any questions about the status of this correspondence, please contact me by telephone at (202) 566-2468 or bachle.laura@epa.gov.

Sincerely,

Laura Bachle
Acting Assistant Director
Office of Civil Rights

cc Elise Packard
Associate General Counsel
Civil Rights & Finance Law Office

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SEP 06 2016

YRCAA

APP. D



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DEPARTMENT OF ECOLOGY

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August 31, 2016

Ms. Jean Mendoza, Executive Director
The Friends of Toppenish Creek
3142 Signal Peak Road
White Swan, WA 98952

Re: Request for Formal Review of the YRCAA under RCW 70.94.405

Dear Ms. Mendoza:

Ecology has reviewed your June 10, 2016 letter and attachments asking Ecology to undertake a formal review of the Yakima Regional Clean Air Agency (YRCAA) as authorized by RCW 70.94.405. Ecology appreciates and shares the Friends of Toppenish Creek's concerns about clean, healthy air for citizens in the Yakima Valley. Your letter provides several bases for your requests. We respect the seriousness of your request for evaluation of the YRCAA. However, for the reasons outlined below, we have determined that it would not be appropriate to initiate a formal review of the YRCAA at this time.

1. YRCAA has taken actions to address emissions from Yakima Valley dairies

As your letter acknowledges, the YRCAA has designed and is implementing a program aimed at addressing airborne pollution from dairy operations. On July 1, 2013, the YRCAA adopted its *Air Quality Management Policy and Best Management Practices for Dairy Operations* (Dairy BMPs) to manage air pollution from dairies where cows are confined for feeding and milking. A copy of the Dairy BMPs is provided as **Attachment 1** to this letter. The Dairy BMPs were developed after public notice and comment, and with broad participation from dairies in the Yakima Valley over the course of a pilot research project and a one year implementation trial period.

The Dairy BMPs require dairies to submit annual air quality management plans outlining best management practices (BMPs) and operational procedures that will be used to reduce air emissions. BMPs must address emissions from specific areas at dairies, including milking parlors, sorting alleys, feed alleys, dry lots and free stalls, lands where nutrients are applied, storage lagoons, compost areas, feed storage areas, unpaved roadways and any other area or process where emissions may occur. Plans must describe how and when each BMP is to be implemented and the criteria for selecting BMPs, as well as a description of which pollutant will be reduced as a result of each BMP. Dairies must also pay a registration fee to the YRCAA, and undergo site visits and full compliance evaluations to determine their compliance.

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This program is the only one of its kind in our state. The YRCAA has committed to evaluating the policy every two years, assessing its effectiveness, and making modifications to improve the program. The first program review was conducted in 2014. A copy of the report on the 2014 program review is provided as **Attachment 2** to this letter. As part of this review, YRCAA staff visited 41 dairy operations consisting of 59 facilities and gave each dairy a grade from "A" (best) to "D" (worst) on implementation of the management system and BMPs. Each inspection team included 2 engineers and 2 compliance inspectors. Each inspection evaluated the implementation of BMPs in seven dairy operation systems: Nutrition; Feed Management; Housing - Freestall Barns; Housing - Drylot Pens; Grazing; Manure Management; and Land Application (Fertilizer and Manure). The inspections targeted BMPs designed to reduce eight air pollutants: ammonia, nitrous oxide, hydrogen sulfide, volatile organic compounds, particulate matter, methane and oxides of nitrogen, as well as odors.

Inspectors gave 21% of the operations an "A", 30% a "B", 37% a "C" and 12% a "D". According to these evaluations, 51% of the facilities, housing about 74% of the dairy cow population in the Yakima Valley scored A or B grades. YRCAA intends to use this dairy-by-dairy, BMP-by-BMP evaluation as a base line for further evaluations.

The report recommended that dairies be required to increase their recordkeeping and improve BMP effectiveness each year. It recommended the addition of a new, highly effective BMP consisting of installing a completely enclosed structure for the feed preparation area. It also recommended follow-up visits for some operations within a short period of time to verify the operations had followed agreed-upon recommendations to correct potential violations identified by the inspection team. Finally, the report recommended issuing compliance schedules for dairy operations that did not substantially implement reasonable recommendations and a site inspection schedule based on the overall grade each dairy received.

The second review is scheduled to begin this fall. According to YRCAA, for this review the YRCAA will conduct inspections of the dairies, and will reconvene the Dairy Workgroup to conduct the program evaluation and develop recommendations. The results of the review will be presented in a report that the YRCAA estimates will be delivered to the YRCAA Board of Directors in the spring of 2017.

We recognize the YRCAA's efforts to reduce pollutants from dairies. Because the Dairy BMP program is relatively new and still being honed, we believe it would not be appropriate for Ecology to conduct a formal RCW 70.94.405 review of the YRCAA's efforts at reducing emissions from dairies at this time. We encourage the Friends of Toppenish Creek to participate in improving the Dairy BMPs and the upcoming program evaluation and to vigorously pursue relief to address your concerns that YRCAA's program is not adequate.

2. Air monitoring efforts and scientific studies are underway

Your letter raises concerns regarding air monitoring data near dairies. Ecology supports and works with our air quality partners to promote clean healthy air throughout the state. As part of this effort, Ecology, the YRCAA, the U.S. Environmental Protection Agency, and the Yakama Nation conduct ambient air monitoring at four locations in the Yakima Valley (Sunnyside, Toppenish, White Swan, and Yakima). We review and evaluate the data collected at these sites regularly and use it to ensure that the area is meeting (in attainment of) the health-based national ambient air quality standards set by EPA. Like all the monitors in the state monitoring network, these monitors are designed to monitor ambient concentrations of pollution, and are not designed to measure impacts directly from individual sources.

From time to time, however, Ecology and local air agencies do conduct special monitoring studies in areas with specific air pollution and health concerns. In one such effort, Ecology worked with the YRCAA, the Yakama Nation, and researchers at Washington State University and Central Washington University to conduct the Yakima Air Winter Nitrate Study (YAWNS) completed in 2014. A copy of the report issued on that study is provided as **Attachment 3** to this letter. In this study, researchers studied Yakima's air to better understand why the air in the Yakima Valley has higher than usual levels of fine particles containing nitrates.

Researchers found that ammonia from agricultural activities interacts with oxides of nitrogen from motor vehicles during the right weather conditions to form aerosol nitrate, a component of fine particulate matter (PM_{2.5}). Aerosol nitrate builds in the air during cold, stagnant periods when pollution does not disperse easily. One gap in the study was that researchers did not collect data in the Lower Yakima Valley, the area where the dairies are located. This data gap was corrected last winter, when researchers measured levels of aerosol nitrate in the lower Yakima Valley. The data from these measurements have not yet been analyzed. "Ecology anticipates completing that analysis by the end of October 2016, and will share the results of that analysis with the YRCAA, and it will be available to the public."

Your letter also raises concerns regarding the availability of information on health impacts to citizens living near dairies. While there are numerous studies concerning impacts to farm workers and people who live on farms, there is a lack of data specifically concerning impacts to citizens living near dairies. To address this question, at the request of EPA Region 10, the Agency for Toxic Substances and Disease Registry (ATSDR), part of the Centers for Disease Control (CDC), conducted a study to measure exposure to air pollution at properties near dairies in the lower Yakima Valley. An email from ATSDR giving a short description of that study is provided as **Attachment 4** to this letter. According to ATSDR, ATSDR took samples for 8 weeks during the fall/winter of 2014 and 8 weeks during the summer/fall of 2015, to measure exposure to ammonia, hydrogen sulfide, and particulates near concentrated animal feeding operations (CAFOs) on the Yakama reservation. ATSDR anticipates releasing their results in the spring of 2017. The results of this study will help provide additional information to better understand and manage more localized air pollution levels and health risks for citizens living near dairies.

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Ecology believes it would be inappropriate to conduct a formal review of the YRCAA before the results of these studies have been finalized and both Ecology and the YRCAA have had an opportunity to review and evaluate them.

3. YRCAA has taken steps to address questions concerning possible conflict of interest with the YRCAA Board of Directors

Your letter raises concerns regarding the integrity of the YRCAA Board of Directors and possible conflicts of interest. To address these concerns, in June, 2016, the YRCAA Executive Director and Board of Directors requested an opinion from the Attorney General's Office (AGO) on board member participation and potential conflicts of interest. A copy of that request is provided with this letter as **Attachment 5**. It is our understanding that the AGO has accepted the YRCAA's request and is currently working on the opinion.

In light of YRCAA's request and the pending AGO opinion, we again believe it would be premature for Ecology to further investigate this claim at this time.

Conclusions

Ecology shares your interests in clean, healthy air for citizens in the Yakima Valley. We understand that you believe that the YRCAA is not implementing its programs in good faith or as effectively as possible. We have thoroughly reviewed your June 10, 2016 letter and the materials you have submitted to us. We have also considered the steps the YRCAA is taking to manage air pollution from dairies in the Yakima Valley, as well as the steps YRCAA is taking to address your concerns about potential board member conflicts of interest. Finally, we looked at ongoing efforts to understand air pollution from dairies in the Yakima Valley as well as the pending AGO opinion concerning conflicts of interest.

After that evaluation, we have determined not to initiate a formal review of the YRCAA at this time. We expect to have more information about the results of YRCAA's efforts to reduce emissions from dairies, as well as the outcome of the ATSDR study, over the course of the next year. We will also have the AGO opinion concerning potential conflicts of interest on the YRCAA Board. These results will provide all stakeholders with important information to better understand the issues.

It is important to note that the Legislature has provided independent authority to local air agencies, delegated them responsibility for carrying out state air quality laws and regulations and authorized them to take delegation of federal requirements from EPA. Local air agencies are also provided authority to adopt local regulations that are equally or more stringent than state regulations. Ecology respects the broad discretion provided by the Legislature to local air agencies in establishing local priorities and programs to manage air pollution.

Even though Ecology is not granting your request at this time, we want to assure you that we respect the seriousness of the concerns you have raised. Ecology and its partners welcome a dialogue about air quality in the Yakima Valley. As more information becomes available, we are willing to engage with you in the future to further review your concerns.

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We vigorously encourage the YRCAA to pursue steps to bring relief to impacted citizens in the Yakima Valley. We also encourage all residents who are impacted by dairy-related air pollution to remain engaged in improving air quality in the Yakima Valley.

If you wish to discuss this further or if you have any questions, please do not hesitate to contact Chris Hanlon-Meyer at (360) 407-6115 or Chris.Hanlon-Meyer@ecy.wa.gov, or Sue Billings at (509) 575-2486 or Susan.Billings@ecy.wa.gov.

Sincerely,

Maia Bellon by Polly Zekun

Maia D. Bellon
Director

Attachments (5):

1. Air Quality Management Policy and Best Management Practices for Dairy Operations (effective July 1, 2013)
2. Air Quality Management Policy for Dairy Operations: Report to the YRCAA Board of Directors of the July, 2013 to October, 2014 Policy Implementation Period (dated November 13, 2014)
3. Yakima Air Winter Nitrate Study
4. August 30, 2016 email from Debra Gable, Subject: RE: ATSDR
5. June 2016 request for AGO opinion

cc: Gary Pruitt, YRCAA
Sage Park, Ecology Central Region
Grant Pfeiffer, Ecology Eastern Region
Stu Clark, AQ Program Manager
Chris Hanlon-Meyer, Ecology AQ Program
Sue Billings, Ecology AQ Central Region
John Wiesman, Department of Health
Phil Rigdon, Yakama Nation
Debra Suzuki, EPA
Lucy Edmondson, EPA
Debra Gable, EPA
Derek Sandison, Department of Agriculture



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April 8, 2019

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

Re: Formal Review of the Yakima Regional Clean Air Agency under RCW 70.94.405

Dear Jean Mendoza:

The Department of Ecology Air Quality Program (AQP) has received your January 31, 2019 and March 4, 2019 requests and supporting documentation for a Washington Department of Ecology (Ecology) formal review of the Yakima Regional Clean Air Agency (YRCAA) under RCW 70.94.405. After reviewing your materials, and for the reasons given below, Ecology has determined not to institute a formal review at this time.

We remain engaged in supporting air quality improvements in the Yakima area.

YRCAA efforts to reduce emissions from Dairies

In 2013, YRCAA adopted its *Air Quality Management Policy and Best Management Practices for Dairy Operations* (Dairy Policy) to address air emissions from dairies. YRCAA's Dairy Policy was then, and remains, the most vigorous effort at addressing air emissions from dairies in the state. The Dairy Policy included inspections and reports to assess the use of best management practices at dairies in YRCAA's jurisdiction. In October 2018, the YRCAA Board discussed the challenges and benefits of maintaining the Dairy Policy. Faced at that time with serious liabilities associated with the Dairy Policy, the Board voted to rescind it and replace it with the voluntary program, called YRCAA's Resource Guide and Best Management Practices for Dairy Operations. Ecology applauded YRCAA's efforts to take on air emissions from dairies in 2013, but Ecology recognizes YRCAA's authority to rescind the Dairy Policy.

Monitoring efforts and scientific studies are underway

We noted in our January 2017 response to your previous request that studies of the air quality in the lower Yakima Valley were ongoing. As discussed in further detail below, some of those studies are not yet finalized, while others point to the need for further analysis. Therefore, we still do not have sufficient information to determine the roles of the various different types of emission sources in the lower Yakima Valley.

The Agency for Toxic Substance and Disease Registry (ATSDR) has confirmed that the target date for release of their study was September 2018, but there have been a number of delays. They are hoping to publish the study soon. However, ATSDR has indicated that it will share the report with the Yakama Nation and EPA prior to general release.

Jean Mendoza
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Ecology will be undertaking studies to follow up on the Yakima Winter Nitrate Study (YAWNS) using the analysis of aerosol nitrate in the Yakima Valley that took place in the winter of 2015/2016. These studies include additional modeling to assess the effectiveness of controls using the YAWNS and 2015/16 data to accurately simulate upper and lower valley aerosol nitrate relationships.

Ecology found the Yakima Winter Nitrate Study on the YRCAA website and will ensure that YRCAA has a copy of the 2015/16 study report.

YRCAA public process

We looked at YRCAA methods of general public engagement in planning, development, and Board decision making. The YRCAA February 2014 Board Meeting Summary reflects a discussion among the Board regarding public engagement and request of the YRCAA Director to schedule a study session for the March Board meeting to discuss the "Boards policy for public comments and for adding items to the agenda." The YRCAA March 2019 Board Meeting agenda reflected a planned study session beginning at 1:30 p.m. prior to the Regular Board Meeting at 2:00 p.m. We encourage you to continue to engage the YRCAA Board as they consider potential changes to their public engagement process.

Your letter expresses frustration with YRCAA's chosen process to update its regulations in the state implementation plan (SIP) as required under the federal Clean Air Act. The SIP process includes opportunities for public engagement both when YRCAA proposes the regulations to Ecology for inclusion in the SIP and when the Environmental Protection Agency proposes the regulations for inclusion in the SIP.

As noted above, we continue in our decision not to initiate a formal review of the YRCAA at this time. We look forward to receiving additional information from the ASTDR study and the upcoming Ecology modeling study. These results will provide all stakeholders with important information that will enable us to better understand the issues. While the science may be slow, it is necessary to ensure that we correctly identify the problems so that we address them effectively.

We appreciate your ongoing interest in protecting the air quality of Yakima area and your efforts to remain engaged with YRCAA.

If you wish to discuss this further or if you have any questions, please do not hesitate to contact Chris Hanlon-Meyer at Christopher.Hanlon-Meyer@ecy.wa.gov or (360) 407-6115.

Sincerely,



Stuart A. Clark
Air Quality Program Manager

cc: Chris Hanlon-Meyer, Ecology
Debra Gable, EPA
Phil Rigdon, Yakama Nation
Derick Sandison, Department of Agriculture
Debra Suzuki, EPA
John Weisman, Department of Health