



MISCONCEPTIONS OF THE PROPOSED RULE AND RULEMAKING

KEEPING OF ANIMALS

For the first time in decades, the State Board of Health is updating its rule on the Keeping of Animals, WAC 246-203-130. Among other objectives, the rulemaking aims to modernize the rule's language, standards, and structure. The rulemaking narrows the existing rule's scope and title to focus more squarely on Board authority regulating animal excreta, or animal waste, for the purpose of preventing and controlling nuisance and health hazards. The rulemaking also aims to keep the rule short and simple, focusing on a few key control points for waste handling and disposal as it pertains to health and sanitation. Adoption of the revised rule depends on final consideration and formal action by the Board.

The rulemaking and proposed rule language have generated many concerns, myths, and misconceptions related to the intent, implementation, and potential impact of the proposed rule and the Board's role in these issues. The following tries to address and defuse a few key concerns and misconceptions that have surfaced during the rulemaking.

Misconception #1—The rule creates new Board authority.

The truth is that the rule does not create new authority but rather updates very old rule language that administers long-standing Board authority established in state law. Like all other rules, the proposed rule sets structure and expectations for people to follow based on existing Board authority. The Board is required to periodically review and update its rules.

Misconception #2—The rule includes operational functions and requirements of regulated entities.

Put another way, the misunderstanding suggests that the rule directly regulates facilities and businesses with operational requirements such as permitting, record keeping, reporting, and routine inspections.

The truth is that the rule sets minimum standards for waste handling and disposal for all people to follow and does not include operational requirements of facilities. In this respect the proposed rule is very similar to the Board's companion general sanitation rule on Disposal of Dead Animals, WAC 246-203-121. In contrast, numerous other Board rules do directly regulate operations such as food establishments, drinking water systems, shellfish operations, hotels, and water recreation facilities. Authority for these operational rules is spelled out in state law.

Misconception #3—Department of Health staff will be in the field statewide implementing and enforcing the rule.

The truth is that the Department of Health does not regulate animal waste, the department does not play a direct role in the rule, and the rule does not involve ongoing frontline implementation. However, the department does have interest in certain issues where there may be related public health risks such as drinking water sources, shellfish harvesting, water recreation, and harmful algal blooms.

Misconception #4—The rule prohibits manure composting.

The truth is that the rule does not directly regulate composting and does not prohibit composting. Composting livestock manure for beneficial use is long-standing and valuable practice. The rule does regulate stockpiling livestock waste for later use or disposal. However, by definition in the rule, stockpiling does not include the practice of actively managing manure compost.

Misconception #5—This is a manure management rule or a solid waste rule.

The truth is that this is an animal waste rule that focuses on waste when it is first excreted by animals and is first handled by people—key control points to prevent waste from accumulating and stockpiling in ways and places that can create a problem. The rule brushes up against manure and solid waste rules and related beneficial use streams, but largely steers clear of these rules and programs administered by other agencies.

Misconception #6— The rule requires horse owners and trail riders to bag and dispose of horse manure.

The proposed rule does not require this. In the proposed rule, the definition of domestic animal includes livestock such as cattle and horses, and non-livestock such as dogs and cats. The proposed standards to safely store and to bag and dispose of waste apply only to non-livestock animals, not horses. In addition, trail riding and other diffuse/scattered sources are exempt from the proposed rule.

Misconception #7— The rule conflicts with right to farm in the state.

No, the rule sets standards and identifies practices to help prevent and control nuisance and health hazards. Like other related laws, the Washington Right to Farm Act remains intact and in effect. RCW 7.48.305 explains that agricultural activities that are consistent with good practices and that conform with all applicable laws and rules are assumed to be reasonable and do not constitute nuisance unless the activity has a substantial adverse effect on public health and safety.

Misconception #8—The Board has no role in these issues.

The reality is that problems with animal waste can surface almost anywhere, and in many corners of the state local health jurisdictions are periodically called on to help address and resolve animal waste problems as matters of basic health and sanitation. The proposed rule provides an updated set of standards for everyone to work from.