



Washington State Board of Health

WAC 246-203-130, Keeping of Animals

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Presentation Overview

- Rulemaking history
- 2018 background report
- Proposed rule
- Comments received & staff recommendations for NO proposed changes
- Comments received & staff recommendations for proposed changes
- Next Steps

Rulemaking History

- 2009:
 - Received rulemaking petition from Washington Association of Conservation Districts.
 - Denied petition and filed CR-101 to explore broader rulemaking.
- 2017-2019:
 - Wrote a background report to reset and restart rulemaking.
 - Filed new CR-101 to reflect updated Board policy direction.
 - Conducted outreach to interested parties, circulated two early drafts for feedback.
- 2020-2022:
 - Distributed formal draft for public review and comment.
 - Developed rule analyses and filed CR-102, Proposed Rule, for public review and comment.

2018 Background Report

- Environmental health risks
 - Animal waste handling covers spectrum of activities. Key public health sanitary control.
 - Numerous exposure pathways via direct contact and water and air pollution pathways.
 - Risks occur at all scales. Regional risks correlate with concentration of operations/animals.
- Regulatory structure
 - Programs for large operations—CAFO permit, dairy nutrient program, air regulations.
 - State nonpoint program; other regulatory and non-reg tools; and assorted local codes.
- Board policy direction for rulemaking
 - Focus on animal waste and rely on local public health authority.
 - Avoid duplicating core functions of other regulatory authorities and programs.



Proposed Rule

- Framework:
 - Prevent and control health hazards and nuisance associated with domestic animal waste.
 - Narrow scope and title from Keeping of Animals to Domestic Animal Waste.
 - Apply to everyone.
 - Set standards for people to follow—no ongoing operational implementation.
 - Rely on local control—local health officer enforcement if needed.
- Overarching standards:
 - Regularly collect waste to maintain sanitary conditions in containment areas.
 - Prevent deposition, leaching, and runoff to (1) another person's property, (2) drinking water sources, and (3) surface water bodies with public health risks.

Proposed Rule

- Standards for waste from non-livestock (e.g., dogs and cats):
 - Store in watertight container if held for more than a day.
 - Bag and dispose as solid waste.
- Standards for stockpiled waste from livestock (e.g., horses and cows):
 - Control odors and pests/vectors.
 - Remove at least annually.
 - Set back required distance from drinking water sources.
 - Set back 100' from surface water bodies unless the water body is (1) upgradient or protected by a barrier, or (2) protected by practice(s) that prevent and capture leachate/runoff.
 - Store outside seasonally/frequently flooded areas unless removed prior to flooding.

Public Comment Summary — No Proposed Changes

Rule language

- Limited comments specific to rule language.
- Many concerns and comments on intent/effect.

Enforcement

- Uneven enforcement by local health officers.
- No common protocols for local enforcement.

Public Comment Summary — No Proposed Changes

Regulated agricultural operations

- Rule should exempt facilities inspected and regulated by other agencies.

Delay to form workgroup

- Requests for delay to work on concerns.
- Too many concerns/flaws to adopt rule.

Public Comment Summary — No Proposed Changes

Conflicts with nonregulatory programs

- “New regulatory effort” counterproductive.
- People need assistance, not regulation.

Cause Harm and Costs

- Harm farm businesses and communities.
- Exacerbate issues it is trying to resolve.

Public Comment Summary — No Proposed Changes

Unnecessary and Redundant

- Other laws and agencies already fill this role.
- Local health can adopt codes if needed.

Nuisance and Right to Farm

- Conflicts with Right to Farm laws/ordinances.
- Will expose people to needless complaints.

Public Comment Summary — No Proposed Changes

Weakens public health protections

- Narrower scope misses animal keeping impacts.
- Does not go far enough. Not doing our job.

Mixing livestock and non-livestock

- Range of animals/practices too broad.
- Mixing animals ignores different health risks.

Public Comment Summary — No Proposed Changes

Significant Analysis and SBEIS

- Analysis mistake invalidates odor/pest standard.
- Business cost analysis inadequate.

Miscellaneous

- Concerned that rule regulates composting.
- Board should focus on other public health risks.

Public Comment Summary — No Proposed Changes

Support

- Much needed update with clearer standards.
- Complements other agency roles/authorities.

Public Comments Received — Proposed Change

More stringent standards supersede rule

Preamble to standards, WAC 246-203-130(3).

- Request: Include examples of “more stringent standards” (e.g., DNMP, CAFO permit).
- Rationale: Providing examples of standards will clarify authority and avoid confusion.
- Staff recommend proposed change. [next slide]

Recommended Changes to Proposed Rule Language

WAC 246-203-130(3)

(3) Unless a standard is superseded by a more stringent standard in federal, state, or municipal law, a person must meet the following standards in order to help prevent, control, and abate nuisance and health hazards related to the disposal of domestic animal waste. For purposes of these rules, examples of more stringent standards include, but are not limited to, the Dairy Nutrient Management Act, chapter 90.64 RCW, the state Water Pollution Control Act (WPCA), Chapter 90.48 RCW, agricultural activities nuisance law under RCW 7.48.300 -7.48.320, concentrated animal feeding operations permits issued by Department of Ecology under the federal Clean Water Act and/or the WPCA, and fugitive dust or air emission plans approved by Department of Ecology or a local government agency under the Washington Clean Air Act, chapter 70A.15 RCW. Except for free-range grazing, livestock trails, trail riding, and other diffuse sources of domestic animal waste, a person must: [...]

Public Comments Received — Proposed Change

Exempt diffuse sources

Preamble to standards, WAC 246-203-130(3).

- Request: In list of diffuse sources, change “free range grazing” to “open range grazing.”
- Rationale: Free-range grazing is more popularly used as a synonym for organically raised rather than a rangeland management practice.
- Staff recommend proposed change. [next slide]

Recommended Changes to Proposed Rule Language

WAC 246-203-130(3)

(3) Unless a standard is superseded by a more stringent standard in federal, state, or municipal law, a person must meet the following standards in order to help prevent, control, and abate nuisance and health hazards related to the disposal of domestic animal waste. Except for ~~free-range grazing~~ open-range grazing, livestock trails, trail riding, and other diffuse sources of domestic animal waste, a person must: [...]

Public Comments Received — Proposed Change

Non-livestock waste disposal

So waste is not stockpiled, WAC 246-203-130(3)(c).

- Request: Remove reference to stockpiling from (3)(c) to avoid conflict with the definition of “stockpiling.”
- Rationale: The term “stockpiling” means the temporary piling of livestock waste and does not apply to non-livestock waste.
- Staff recommend proposed change. [next slide]

Recommended Changes to Proposed Rule Language

WAC 246-203-130(3)(c)

(c) Handle domestic animal waste from nonlivestock as follows ~~so that the waste is not stockpiled~~:

- (i) Hold the waste in a watertight container if stored for more than one day prior to proper disposal; and
- (ii) Bag and dispose of the waste as solid waste; and [...]

Public Comments Received — Proposed Change

Non-livestock waste disposal

Dispose as solid waste, WAC 246-203-130(3)(c)(ii).

- Request: Add language “unless waste is composted by a licensed compost facility per WAC 173-350-220.”
- Rationale: The language helps avoid conflict with commercial composting of non-livestock waste.
- Staff recommend proposed change. [next slide]

Recommended Changes to Proposed Rule Language

WAC 246-203-130(3)(c)(ii)

(c) Handle domestic animal waste from nonlivestock as follows so that the waste is not stockpiled:

- (i) Hold the waste in a watertight container if stored for more than one day prior to proper disposal; and
- (ii) Bag and dispose of the waste as solid waste, unless waste is composted by a regulated compost facility per WAC 173-350-220; and [...]

Public Comments Received — Proposed Change

Odor/pest control of stockpiles

Odor/pest control of stockpiles, WAC 246-203-130(3)(d)(i).

- Request: The rule/standard violates Right to Farm in RCW 7.48.
- Rationale: Disagree that it violates Right to Farm. However, the standard can be clarified as a performance standard to call for voluntary action with control measures to better fit Right to Farm.
- Staff recommend proposed change. [next slide]

Recommended Changes to Proposed Rule Language

WAC 246-203-130(3)(d)(i)

(d) Handle domestic animal waste from livestock that is collected and stockpiled for later use or disposal as follows:

- (i) ~~Store the waste to control odors and attraction of flies, rodents, and other vectors~~Apply control measures as reasonable to minimize and reduce odors and attraction of flies and rodents; [...]

Public Comments Received — Proposed Change

Enforcement procedure

Enforcement procedure, WAC 246-203-130(4).

- Request: In enforcement, replace “explore the facts” with “seek compliance by education and prevention as a first step.”
- Rationale: The language further clarifies process to address a problem. Due process is required under state law.
- Staff recommend proposed change. [next slide.]

Recommended Changes to Proposed Rule Language

WAC 246-203-130(4)

(4) The local health officer may investigate and enforce this section. Enforcement actions may include any proceeding within the local health officer's statutory authority. Before taking enforcement action the local health officer must attempt to communicate with the person who may be in violation of this section ~~in order~~ to explore the facts and, if the local health officer determines that a violation has occurred, seek voluntary compliance by education and allow the person reasonable time to correct the violation.

Public Comments Received — Proposed Change

Supporting rule analyses

Exemption for WAC 246-203-130(3)(d)(i), odor/pest control, in Significant Analysis and SBEIS.

- Request: Standard for odor/pest control is incorrectly referenced/exempted from the supporting analyses and must be removed from the rule.
- Rationale: Agree that the analyses incorrectly exempt the standard and should be corrected. Disagree that the mistake invalidates the standard as rule language.
- Staff recommend proposed change. [next slide]

Recommended Changes to Supporting Rule Analyses

Significant Analysis and SBEIS

The proposed standard in WAC 246-203-130 mirrors but does not incorporate by reference an existing standard in chapter 173-350 WAC. As a result, the Board incorrectly exempted the proposed standard from the rule analyses. The final Significant Analysis and SBEIS documents will be edited to correct the mistake and to incorporate a description and analysis of the proposed standard. As needed, staff will make additional corresponding edits to the final documents to accurately incorporate this information and Board action.

Next Steps

- A public hearing on the proposed rule will follow this presentation.
- Clarifying questions from Board members?



| THANK YOU