

Summary of Public Comments

WAC 246-203-130, Keeping of Animals

The following is a summary of comments and staff responses to those comments on the State Board of Health's (Board) proposed rule for Keeping of Animals, WAC 246-203-130, filed as WSR 22-08-003. The actual public comments are available in a companion PDF document. The comments are grouped into two separate tables. The first table includes comments where staff recommend changes to the proposed rule and supporting analyses. The second includes comments where staff recommend no changes to the proposed rule and supporting analyses. The second table also organizes comments by themes. In some cases, closely associated comments are listed jointly, separated by a forward slash (/).

Recommended Changes to Proposed Rule Language		
Item	Comment Summary	Response & Recommendation
WAC 246-203-130(3) Minimum standards preface, exempt diffuse activities: <i>"Except for free-range grazing, livestock trails, trail riding, and other diffuse sources of domestic animal waste..."</i>	What does the term "free-range grazing" mean? Free-range grazing is more popularly used as a synonym for organically raised rather than a rangeland management practice. Recommend replacing free-range grazing with open-range grazing or pasture grazing.	Proposed Change. Staff agree and recommend changing the term "free range grazing" to "open-range grazing" as an example of a diffuse source of animal waste.
WAC 246-203-130(3)(c)(ii) Non-livestock waste disposal: <i>"Bag and dispose of the waste as solid waste"</i>	Edit as follows "Bag and dispose of the waste as solid waste, <u>unless waste is composted by a licensed compost facility per WAC 173-350-220;</u> "	Proposed Change. Staff agree and recommend adding a clarifying edit to avoid conflicting with commercial composting of non-livestock waste. However, staff recommend changing "licensed compost facility" to "regulated compost facility" to better fit application of the solid waste rules.
WAC 246-203-130(3)(d)(i) Livestock waste stockpiling: <i>"Store the waste to control odors and attraction of flies, rodents, and other vectors;"</i>	The proposed rule violates the state's Right to Farm law. RCW 7.48.305 states that "agricultural activities conducted on farmland and forest practices, if consistent with good agricultural and forest practices and established prior to surrounding nonagricultural and nonforestry activities, are presumed to be reasonable and shall not be found to constitute a nuisance unless the activity or practice has a substantial adverse effect on public health and safety." The proposed rule has no qualifying language such as this. Rather it provides a broad requirement that the stored waste must be managed to control odors, whether a public health issue has been determined to exist. Is the premise behind the proposed rule that any and all odors present a public health risk? Nothing in your documentation cites any scientific research, or state and federal laws to substantiate this expansion of authority.	Proposed Change. Staff do not believe the rule violates the Right to Farm law but acknowledge the law and recommend a clarifying edit to "Apply control measures as reasonable to minimize and reduce odors and attraction of flies and rodents." This would better position the standard as a performance standard that calls for voluntary actions to control odors and pests to the extent practical and reasonable.

	RCW 7.48.310, also part of the Right to Farm law, includes odors as a normal, acceptable condition related to agricultural activities.	
WAC 246-203-130(4) Enforcement	In enforcement, replace “explore the facts” with “seek compliance by education and prevention as a first step...”	Proposed Change: Staff recommend the following clarifying edit: "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, <u>seek voluntary compliance by education and allow the person reasonable time to correct the violation.</u> "

Recommended Changes to Supporting Rule Analyses

Significant Analysis / SBEIS WAC 246-203-130(d)(ii) Livestock waste stockpiling: <i>“Store to control odors and attraction of flies, rodents, and other vectors;”</i>	The Significant Analysis incorrectly references and incorporates by reference the standard to "control odors and attraction of flies, rodents and other vectors." The reference to WAC 173-350-320(6), is a storage pile permit requirement, not a storage pile rule requirement. The Board incorrectly exempted this standard from the Significant Analysis and, by extension, the Small Business Economic Impact Statement. WAC 173-350-320(2) is the appropriate language by defining agricultural waste to include livestock manure. WAC 173-350-320(2) does not include any requirement for odor control. Therefore, the addition of the requirement to control odor in your proposed rule has no legal or statutory standing and must be removed.	Proposed Change. Staff agree that the Significant Analysis incorrectly references this standard in WAC 173-350-320 and incorrectly exempts the standard in the Significant Analysis and the Small Business Economic Impact Statement. Both documents are considered preliminary analyses at the time of the CR-102 filing and staff recommend addressing this gap in the analyses with the supplemental analysis provided at the end of this response to comments on page 12. The mistake in the rulemaking analyses does not invalidate the proposed standard.
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Other Public Comments and Responses with No Recommended Changes

Comment Summary	Response
Rule Language	
In subsection (1), add “direct and immediate” to health hazard for consistency with the proposed definition of health hazard, and to emphasize this quality of the term.	No Proposed Change. Like other language in the proposed rule, this term is defined in subsection (2) to avoid the need for further clarification in the body of the rule.
In subsection (1), add language to account for stormwater runoff, algal overgrowth, and environmental protection of aquatic environments.	No Proposed Change. The proposed rule's scope includes runoff and impacts to surface water bodies where there are human health risks. This may not include all scenarios involving algae and protection of aquatic environments but would extend to and include

	harmful algal blooms in surface water bodies where there are human health risks.
The proposed rule expands authority of local health officers beyond provided statutory authorities. The purpose addresses "health hazards and nuisance detrimental to human health." The definition of nuisance in subsection (2), in contrast, includes "health and safety." Inclusion of "safety" in this definition seeks to broaden authority of local health officers far beyond what is provided in state law.	No Proposed Change. "Health and safety" are foundational to public health, especially environmental public health, and is found throughout Board and local health officer authority, programs, and material. In addition, the definition of public nuisance in WAC 246-203-010 includes "safety" and the term "health hazards" implies safety.
The definition of "nuisance" in subsection (2) is narrow and not reflective of current nuisance law under RCW 7.48. Recommend adopting the definition of "actionable nuisance" under RCW 7.48.	No Proposed Change. State rules and laws, including chapter 7.48 RCW, contain numerous and contrasting definitions of nuisance, actionable nuisance, private nuisance, public nuisance, common nuisance, and more that were reviewed and considered. This plain-talk definition is adapted to fit the subject matter of the rule.
Add the clause, "and conveyance systems to surface waters," to the definition of surface water bodies in subsection (2).	No Proposed Change. The definition of surface water includes surface runoff to the water body, which at a minimum, encompasses natural conveyance systems. In addition, subitem (3)(b)(iii) similarly accounts for runoff to surface water bodies where there are human health risks.
There is a huge loophole in subsection (3) since the definition of "stockpiling" does not include active composting or lagoon storage of domestic animal waste from livestock." This is a gift to interest groups and harms human health.	No Proposed Change. The rule does not directly regulate composting or lagoon storage. However, subitem (3)(b) can apply to all animal waste forms and pathways if impacting another person's property, drinking water sources, or surface water bodies with human health risks.
In the preface of subsection (3) earlier versions of the rule excluded "pasture livestock." What does this term mean, and how would a local health officer determine if livestock fall into this category? By what principles, health concerns, or scientific findings do you justify removal of pasture livestock as an exempt diffuse source.	No Proposed Change. The rule drafting explored many trial ideas, terms, and principles that are not in the proposed rule. Staff removed "pasture livestock" in an earlier draft because pasture grazing scenarios are highly variable, ranging from large-lot, low-density grazing to more concentrated, small-lot animal keeping. Pasture grazing does not consistently and categorically serve as an example of a diffuse source.
I walk my dog in areas with signage to pick up after dogs, dog owners fail to pick up the waste, and no one enforces the rule. For anyone to push livestock owners to remove their herds' waste seems to be an absurd step in the wrong direction. Livestock waste does not have the offensive odor that small animal waste has.	No Proposed Change. The proposed standard in subitem (3)(a) to collect waste does not include all areas where animals are herded and instead focuses on areas where animals are held or housed for periods of time and waste can accumulate to create a problem.
In subitem (3)(c)(i), replace temporary storage in a "watertight container" with, "a hard-sided container with a lid that closes securely so that animals cannot access it and it cannot overflow from falling rain or snow."	No Proposed Change. In many situations people can safely store modest volumes in plastic bags and other simple receptacles. More substantial container storage may be needed depending on circumstances and volumes. People can determine the appropriate means.
Standards for non-livestock need to be more specific. For example, would landowners with acreage be required to pick their field to find pet waste for temporary storage in a water-tight container and disposal?	No Proposed Change. For non-livestock waste, if the waste is held for a period of time prior to disposal, the goal and expectation is to store it safely. Collection from acreage would not be necessary.
If adopted, Clark County would incorporate language from subitems (3)(c)(i) and (ii) into local code revisions	No Proposed change.

and would cite this code depending on the situation and need for state supported enforcement.	
Bagging horse manure would cause safety issues--riders cannot carry a rake and bag with them or safely attach a rake to the side of a horse.	No Proposed Change. The proposed standards in (3)(c)(i) and (ii) to safely store, bag, and dispose waste apply only to non-livestock animals, not to horses. In addition, diffuse horse riding is exempt from the rule.
In subitem (3)(d)(i), what constitutes odor control? At what distances and duration does a landowner need to control odor? What devices will be used to detect odor? Can you specify which pests are to be controlled?	No Proposed Change. The recommended change to this standard discussed above aims to clarify that people should apply control measures for odor and pests to the extent practical and reasonable.
If required to annually remove my horse's manure under subitem (3)(d)(ii), it will be cost prohibitive in equipment and other fees.	No Proposed Change: The standard to remove stockpiles at least annually incorporates by reference an existing state standard for agricultural waste piles. This and similar comments note the challenges landowners face using and disposing stockpiles. It is expected enforcement would be reasonable and reserved for situations where the scale and duration of a stockpile presents a public health risk.
Add new subitem (3)(d)(iv) as follows, "Domestic animal waste from livestock shall be collected and stockpiled in accordance with an approved jurisdictional farm management plan."	No Proposed Change: Farm conservation plans help guide good waste handling practices. However, approved farm plans should not serve as a minimum standard and prerequisite for livestock waste stockpiling.
Add new subitem (3)(d)(v) as follows, "Domestic animal waste from non-herbivores may not be composted at the site of origin or used for land application."	No Proposed Change: The proposed rule does not regulate livestock or non-livestock waste composting.
Is all waste to be removed if found within the 100-foot setback?	No Proposed Change: This proposed 100-foot setback and its exceptions apply to stockpiling near surface water bodies, not waste collection.
Regulated agricultural facilities	
This 'rule' was originally designed for "Keeping of Animals" in an urban setting. Facilities located in an agricultural zoned area should be exempt if there is a regular inspection of the facilities by one or more state or federal agencies (e.g., permitted CAFOs regulated by WSDA/Ecology and licensed dairies regulated by WSDA).	No Proposed Change. Board policy direction for the rulemaking has been that the rule should apply to everyone. As a practical matter, it is expected local health would continue to coordinate with and defer to WSDA, Ecology, and other agencies regarding issues at facilities regulated by those agencies under established permits and programs for large agricultural operations. The proposed rule includes no ongoing operational requirements of any facilities.
In general, we do not believe new rules are needed with regard to commercial livestock because they are already regulated by the Dairy Nutrient Management Act, CAFO permits, air emission programs, etc. However, if the Board of Health is going to adopt regulations, it is important to recognize what a "more stringent standard" means, as proposed in Section 3 of the proposed rules on Keeping of Animals. Absent clarity, there will likely be lawsuits and confusion as to implementation at the local and state level. I would suggest adding a sentence to Section 3 so that it reads as follows: (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	Special Note: Staff received this comment while finalizing material at deadline to post in advance of the Board's meeting on June 8. Staff will process this comment (and any other additional public comment that may arrive) and will develop a recommendation for Board consideration at the public hearing.

<p>animal waste. <u>Examples of a “more stringent standard” include, but are not limited to, the state Dairy Nutrient Management Act, state or federal CAFO permits issued by Department of Ecology, and fugitive dust or air emission plans approved by Department of Ecology or a local government agency.</u> This should clarify authorities and avoid confusion and lawsuits.</p>	
<p>Enforcement</p>	
<p>Most farmers/ranchers follow these practices. People who disregard make it difficult for people who follow the rules. People that violate need to be accountable.</p>	<p>No Proposed Change.</p>
<p>Use of public health officers to investigate complaints causes problems in the regulatory framework for livestock producers. This jeopardizes relationships with existing regulators. Local health officers and staff lack training and expertise regulating agricultural operations. The rule should give investigation and enforcement to those better positioned. A coordinated team of regulators and professional resource planners should assess situations and provide prescriptions to address pollution risks to ensure consistency, equity, and successful results.</p>	<p>No Proposed Change. Local health jurisdictions have unique authority and training related to health and sanitation that complements the work and authority of other agencies. The Keeping of Animals rule has been in effect for decades and local health already serves in this role responding to complaints and impacts related to animal waste, which often involves interagency coordination. It is expected local health jurisdictions would be judicious and would continue to coordinate with other agencies as needed when investigating complaints and considering possible enforcement. Enforcement of Board rules by local health officers is standard Board regulatory structure.</p>
<p>Local health officials lack training and knowledge of animal keeping issues; there is risk of abuse by local health departments; the policies are so unclear that anyone who works for a local health department could abuse the authority when enforcing the unclear rules; we don't need more confusion.</p>	<p>No Proposed Change. As noted above, the current Keeping of Animals rule has been in effect for decades. Local health officers and staff already serve in this role responding to complaints and impacts related to animal waste.</p>
<p>Where will the enforcement money come from? Has the Board estimated the cost of enforcing the rule?</p>	<p>No Proposed Change. This is not an operational Board rule that involves comprehensive, ongoing oversight and implementation. Local health jurisdictions can determine on a case-by-case basis the significance of a possible violation and the resource needs for possible enforcement. It is expected enforcement would be reasonable and reserved for situations where there are public health risks. Additionally, this is not a new rule, but an update of an existing rule that has been in effect for decades.</p>
<p>We are concerned that there are no details or specifics for what constitutes an “attempt to communicate” or what is a “reasonable time” to correct the violation. Additional specifics are needed to provide the required transparency for the overall process that will be used, and to increase justice and equity by ensuring all citizens are treated equally and that the rule is implemented in a uniform manner statewide. / Different jurisdictions will treat this very differently; it's concerning that counties will address this issue without a uniform approach. There needs to be uniformity of enforcement across the board, not leaving the</p>	<p>No Proposed Change. Enforcement of Board rules by local health officers is standard structure of many Board rules and relies on local enforcement procedures. The proposed rule does not aim to define comprehensive investigation and enforcement protocols for the state's local health jurisdictions. Jurisdictions are required to ensure fairness and due process.</p>

decisions up to each individual health officer and local health jurisdiction.	
We recommend articulating situations and timelines when enforcement will occur.	No Proposed Change.
Request Rulemaking Delay to Form Workgroup and Work on Concerns	
<p>Request delaying the CR-102 policy proposal and forming a stakeholder workgroup or task force to address unresolved concerns, including concerns related to mixing livestock oversight with non-livestock; unclear/overreach on stockpiling and composting; concern of complaint abuse from urban neighbors; lack of uniformity of enforcement; and more.</p> <p>/</p> <p>Given the serious outstanding issues, both technical and policy based, we request that the Board delay action on this proposed rule and create a work group with key stakeholders to help address the many problems that we and others have raised.</p> <p>/</p> <p>Conduct a process that brings stakeholders and impacted individuals to the table to find real solutions that will work for everyone—a more comprehensive and detailed stakeholder process to ensure common ground is identified and solutions are clear and provide the most benefit for Washingtonians.</p> <p>/</p> <p>BOH membership does not include someone who can speak to rural or agricultural issues and so need a workgroup with expertise in agricultural issues.</p>	No Proposed Change. Staff worked with interested parties while researching, drafting, and revising the proposed rule, and solicited public comment at different junctures in the rulemaking. The Board will consider possible action on the proposed rule at the public hearing. This will include consideration of referring the rulemaking back to staff for further work with interested parties on the rule if resources allow.
Support	
<p>Favor and support these proposed rule revisions. The existing rule is outdated and these changes are long overdue and will modernize the rule. It is a much-needed update to the existing rule with clearer standards for animal keepers to understand and use. The changes support the protection of human and environmental health and will improve public health outcomes by providing local health jurisdictions tools to address and resolve animal waste problems; will better protect drinking water, surface and groundwater, shellfish, and water recreation areas; will complement other state agency's regulatory roles and authorities to protect water and air quality; and will align with revisions being pursued by some local jurisdictions.</p>	No Proposed Change.
Proposed Rule Conflicts with Non-Regulatory Programs, Voluntary Actions	
<p>Landowners need education and assistance, not enforcement and fees. Concerned that this is overreach and the proposed rule would detract from the many interagency efforts and programs that work with</p>	No Proposed Change. There are numerous non-regulatory strategies and programs to help landowners properly manage animal waste, particularly livestock owners. These are essential and highly regarded. Rules

landowners to implement good practices through educational voluntary methods, such as assistance and education offered by conservation districts. A sudden regulatory effort would be difficult to implement and would affect the opportunity for property owners to work with the voluntary processes and programs. Put education and assistance ahead of regulation.	help set expectations and provide a backstop in cases where waste may be badly mishandled and action is needed to address and correct a problem. Rules and non-regulatory programs are complementary. This Board rule update is not the rollout of a new regulatory effort.
Proposed Rule will Cause Harm and Costs	
Concerned that the proposal will stress livestock small businesses and harm Washington agriculture; impact people's rights, pursuit of happiness, and income; be one more infringement on our freedoms; hurt our economy and tax base revenue; penalize hard working people and hurt industry and community; impact operations; be an immense cost; and exacerbate the current issues it is trying to resolve.	No Proposed Change.
Proposed Rule is Unnecessary, Redundant with Other Agency Roles and Authority	
Landowners are better custodians of their property than any government agency, and 99.9% of folks take care of this all the time and have for decades. People are very capable of handling their own land, animals, and lives without state interference.	No Proposed Change.
The rule lacks a demonstrated need; is unnecessary, unwise, impractical, and redundant; and fails to show how it might benefit public health or protect drinking water. If a rule has worked for 100 years, do we really need to change it? There are no examples that demonstrate how the current WAC language impedes resolution or instances where local boards of health were unable to find resolution using existing language, making this feel more like a solution looking for a problem. The changes to this rule are overly burdensome, overly complex, and do not take into consideration existing rules and regulations from other agencies. This rule change is out of time and out of place.	No Proposed Change. State law requires the Board to review and, as needed, revise its regulations. The existing rule is antiquated and, as such, is little used when addressing local animal waste problems. The rulemaking researched and considered the authority and limits of related programs. The Washington State Environmental Health Directors commented that this is a much-needed update to the existing rule with clearer standards for animal keepers to understand and use.
The Board should work within the existing regulatory framework and should focus on matters not addressed by other governmental departments. Property owners are already subject to federal and state laws that regulate animal waste and water resources. WSDA and Ecology should manage manure and animal waste issues without conflict from this rule. They have authority and infrastructure to mandate and enforce waste regulations. If their regulations for waste management are insufficient, those should be updated. NRCS has established best management practices for all aspects of agriculture. And conservation districts have a charter to engage people with voluntary actions.	No Proposed Change: Local health officials and sanitarians in local health jurisdictions have a longstanding role addressing problems and responding to complaints associated with animal waste as it pertains to health and sanitation. While there are overlapping interests and authorities, the public health role is unique and distinct from the work of other natural resource agencies.
RCW 43.20.050(c) grants Board authority but does not provide authority to delegate duty to WSDA or Ecology; neither of those agencies are qualified to address	No Proposed Change. Other state agencies have complementary authority, but no agency shares local health's niche and unique focus on health and

human health; there are no protections to ensure other agencies will protect public health.	sanitation. The respective agencies have different limits to their authorities and responsibilities. The rule does not purport to delegate authority to them.
Under RCW 70.05 counties already have the authority to adopt rules to address public health issues, and health officers have the power to maintain health and sanitation, and prevent, control or abate nuisance detrimental to public health. This is the stated purpose of the proposed rule. / The local board of health is made of people from the community who better understand the community's needs. We acknowledge that there are bad actors who are creating actual problems. However, the details of such a rule as this should be determined by the local board of health in ways that align with local values and interests.	No Proposed Change: Local health jurisdictions have authority to adopt local codes on matters of health and sanitation. The Board has similar responsibility with its authority at the state level. Code development at the two levels of government are not mutually exclusive. Similar to the intent and purpose of the Board's companion rule on Disposal of Dead Animals, if adopted, local health jurisdictions can reference and use this state animal waste rule to address health risks on problem properties.
Nuisance and Right to Farm	
The proposed rule has the potential to expose livestock owners to complaints and enforcement by people unfamiliar with agriculture operations and best management practices. Often people who make complaints about animal keeping have no idea what is involved, especially as more urban people move into rural areas without having an effective understanding of agricultural management practices. The state and many counties, especially in eastern Washington, have Right to Farm laws and ordinances. The application of this new rule, if it goes forward, has the likelihood of placing rural people with animals in a position where they believe they are exempt from these rules and yet, they end up receiving needless complaints and potential prosecution.	No Proposed Change. Staff do not believe the rule violates the Right to Farm law but acknowledge the law and recommend a clarifying edit to the proposed standard on odor/pest control. This would better Fit Right to Farm and better position the standard as a performance standard that calls for voluntary actions to control odors and pests to the extent reasonable. More broadly the rule outlines standards to safely handle and dispose animal waste to stay below the high bar of nuisance and health hazards.
Concerned about using nuisance as a regulatory metric related to livestock waste; too subjective, loose, and based on personal preference; a lot of public resources go into responding to "nuisance" complaints from people new to agricultural areas or with little understanding of agricultural practices.	No Proposed Change. Nuisance is integral to Board authority related to disposal of human and animal excreta and animal remains. The proposed rule outlines minimum standards to safely handle and dispose animal waste and stay below the high bar of nuisance as it relates to agricultural practices.
Weakens Public Health Protection, Not Strong Enough	
The proposed rule weakens or removes public health and nuisance protections in the existing rule by eliminating protection against nuisances caused by keeping or sheltering animals; eliminating stable waste collection, storage, and removal requirements; and eliminating drinking water protections. Recommend creating minimum standards in existing rule, more frequent waste removal, and include all areas.	No Proposed Change. The rule retains nuisance and drinking water protection, establishes select minimum standards, and includes all areas. The proposed rule focuses more directly on Board authority for animal excreta, not animal keeping.
Changing the focus of the rule to domestic animals no longer regulates pollution caused by farm animals. The rule leaves out the dairy cows in Yakima County, thereby ignoring the largest source of groundwater	No Proposed Change. The proposed rule's focus on animal excreta includes pollution caused by manure from farm animals.

<p>pollution in the state and failing to protect the health of the citizens of lower Yakima Valley.</p>	
<p>Narrowing the scope of the rule from keeping of animals to animal waste ignores the hazards, nuisance, air quality and airborne disease, dust, and odors due to the keeping, feeding, watering, housing, and transporting of animals. The rule should also not exclude off-site manure transport and use from regulation. The Board's regulatory authority and responsibility extends beyond just managing animal waste, and these draft rule revisions do not go far enough.</p>	<p>No Proposed Change. The proposed rule aims to balance the minimum standards and fit of the proposed rule with the roles and programs of other agencies. As noted in other responses, if addressing an overarching impact to properties, drinking water sources, or surface water bodies with public health risks, local health officers can take into account all animal waste sources and pathways. Other agencies operate under independent authority regulating these issues that are separate from Board authority.</p>
<p>The Board is failing to meet its mandate to address three manure practices that harm health and drinking water sources: storing manure in lagoons, transferring/selling manure to use as fertilizer, and applying manure to fields as fertilizer. Composted waste and lagoon storage should be managed more stringently and require greater public health protections. Recommendation to: (1) articulate which types of livestock operations are authorized to stockpile waste and which types should keep waste in covered, airtight containers for disposal; and (2) outline clear, science-based for livestock waste management by different operations based on size, type of livestock, type of waste, and site conditions.</p>	<p>No Proposed Change. Staff are unaware of mandates to the Board to address specific manure management practices. Subitem (3)(c) retains protection of drinking water sources and gives voice to local health officers to help address animal waste in all its forms and pathways if impacting drinking water sources.</p>
<p>Mixing Livestock and Non-Livestock Issues</p>	
<p>The proposed rule covers too broad a range of animals, and management practices. The rule should differentiate between livestock (e.g., cattle, horses, goats) and domestic pets (e.g., dogs, cats) as the waste, health risks, and practices are very different; Management of horse waste is not in any way related to management of dog and cat waste. Composted horse manure is a valuable soil amendment. Not so dog and cat waste.</p> <p>/</p> <p>The rule misses key health factors by not discerning different health impacts of the various types of animal waste. Carnivore waste poses a much greater health risk than herbivore waste. This is not considered in the current rule proposal. Instead, this appears to be a statewide, one-size-fits-all approach that would not address those differences and creates unnecessary burdens that would not provide additional health benefits.</p> <p>/</p> <p>The rule is unclear where it applies. It would be better if this rule applied only within urban areas to carnivorous domestic animals. Including livestock creates complications that should be handled by the Washington Department of Agriculture, not the Department of Health. Pets such as cats and dogs have</p>	<p>No Proposed Change. The rule addresses both types of animals with tailored standards as needed. Differences in practices and health risks is integral to the rule's structure. Use and enforcement of the rule would take this essential understanding into account. The Board's companion rule on Disposal of Dead Animals, WAC 246-203-121, similarly addresses different animals in a single rule. And other Board rules similarly address related but different activities and health risks under consolidated rules.</p>

different manure than livestock animals like cattle and horses. The rule should address these differences.	
Concerned about mixing equines in with domestic animals. They are working animals that can react as prey animals and run wild. Equines have always been farm animals, not pets.	No Proposed Change: The term pet does not appear in the proposed rule. The term "domestic animal" includes livestock animals and other domesticated animals not classified as livestock. The list of livestock animals comes from definitions of livestock in state law.
Miscellaneous	
The Board should opt into the HEAL Act and consider the potential environmental justice impacts of this rulemaking (e.g., impacts of climate change on communities of color and low-income communities).	No Proposed Change. Seven state agencies are required to implement the HEAL Act, and other agencies may opt-in. Three entities, including the Board, have opted to join in a "Listen and Learn" capacity and are participating in meetings of the Environmental Justice Council and implementing HEAL Act requirements as resources allow.
The rule does not allow composting and spreading of livestock manure. Composting livestock waste is a vital part of the life cycle of the farm. The rule should clearly state that manure composting and spreading is allowed.	No Proposed Change. The proposed rule does not regulate and does not prohibit composting and manure spreading. Staff recognize that these manure management activities are vital to the life cycle of farms.
Is composted livestock waste allowed to be spread on lands within the 100 ft setbacks? Will livestock waste need to be separated by omnivore and herbivore to allow composting? And if so, how is the omnivore waste to be disposed of? What criteria will be set to determine if composted waste is acceptable to be spread? And who will make that determination? Will chicken compost be prohibited from being utilized?	No Proposed Change. The proposed setback from surface water bodies is specific to stockpiling and the proposed rule does not regulate composting.
It is unclear what geographical areas and what type of entities this rule would apply to. The rule is silent on whether it applies to organizations that are commercial or private, urban or rural, or are affected regardless of their size. Since municipal and incorporated areas already have regulations regarding livestock (e.g., rooster prohibitions) and domestic pets (e.g., waste disposal). It appears the target for this proposed rule would be unincorporated commercial and private acreage with livestock.	No Proposed Change. The standards of the proposed rule apply to everyone, all "persons." There are related state and local laws. If standards overlap, more stringent codes would supersede this proposed rule.
The rule should have addressed other topics/concerns, including: keeping animals (e.g., poultry) in residential neighborhoods; state waste removal regulations; protection of agricultural areas and existing stockpiles from threats of new development; public health threat of climate change (which is exacerbated by keeping of animals); and the authorization of citizen lawsuits against polluters.	No Proposed Change.
This rule has poor timing due to supply-chain problems, food shortages, fertilizer shortages, inflation resulting from the COVID-19 pandemic and foreign conflict. Homeowners are engaging in small scale food production to address these problems and this new regulation would impede that.	No Proposed Change. Staff recognize the current challenges people are facing. Small scale food production and safe handling of animal waste should be compatible.
SBOH should focus on more pressing issues like "junkies and hoarders, homeless and their abuse of public lands and right of ways."	No Proposed Change.

Small Business Economic Impact Statement	
<p>Outreach on this rulemaking was inadequate. Compounding matters, the cost analysis was also inadequate and did not produce enough data to quantify the potential impacts of this proposed rule. The SBEIS survey had a low response rate that is not representative of livestock producers and other affected businesses. Without more responses, we do not have a clear picture of the totality of the rule's consequences. It would set a dangerous precedent to move forward without additional insight and input.</p>	<p>No Proposed Change. The Board followed standard rulemaking process in its efforts to assess business costs, including the practice of surveying a large representative sample of businesses in affected industry classifications to estimate financial impacts of the proposed rule. In addition, staff asked numerous associations and trade organizations to help spread word of the rulemaking and the cost survey to their members. Further analysis would not change the findings that the proposed rule imposes more than minor costs on businesses in affected industries and will likely have a disproportionate impact on small businesses.</p>
<p>The cost estimates for cattle ranching and farming (which would include the dairy industry) are inaccurate- the payroll for veterinary services does not exceed the payroll for dairies; discussion of (3)(d)(iii)(D)(II) does not state that composting and lagoons are not included in definition of stockpiling; NRCS standards are guidelines and non-enforceable.</p>	<p>No Proposed Change. Payroll data used in the analysis comes from a standard database used in state rulemaking. Yes, the proposed stockpiling setback from a surface water body has its basis in a voluntary NRCS standard.</p>

Response to Comments

Addendum to Significant Legislative Rule Analysis and Small Business Economic Impact Statement

WAC 246-203-130, Concerning Keeping of Animals, Revising the Section Title to Domestic Animal Waste

In drafting the significant legislative rule analysis and the small business economic impact statement for rulemaking on WAC 246-203-130, the Board incorrectly incorporated by reference an existing requirement in chapter 173-350 WAC, Solid Waste Handling Standards. As a result, the Board incorrectly exempted the proposed standard for livestock waste stockpiling “to control odors and attraction of flies, rodents, and other vectors” from the two rule analyses.

The proposed standard in WAC 246-203-130 mirrors but does not incorporate by reference an existing standard in chapter 173-350 WAC. The final documents will be edited to correct the mistake and to incorporate the following description and analysis of the proposed standard. As needed, staff will make additional corresponding edits to the final documents to accurately integrate this information. Staff will also revise the language of the standard and analyses to incorporate the recommended clarifying edit to this standard if adopted by the Board.

WAC 246-203-130(3)(d)(i) Store the waste to control odors and attraction of flies, rodents, and other vectors.

Description: Stockpiling is short-term piling of stackable waste from livestock, typically using temporary, non-structural measures.¹ If waste from livestock is stockpiled for later use or disposal, this proposed standard requires people to apply measures to control odors, flies, rodents and other vectors. The proposed standard mirrors—but does not incorporate by reference—requirements for solid waste handling in [chapter 173-350 WAC](#).

Costs: The Board believes it is likely that many individuals and businesses already apply practices to address the proposed standard. For people who currently stockpile livestock waste or plan to do so in the future, probable new costs would involve material, supplies, and labor for measures to control and minimize odors, pests and vectors. As with other proposed rule standards, scale and type of operation are significant factors determining potential costs and suitability of optional control measures.

Odors are inherent characteristics of livestock manure, and attraction of pests and vectors are common challenges associated with stockpiling and other manure management practices. Control measures aim to minimize and manage these matters to maintain sanitary conditions and to prevent and control nuisance and health hazards. Measures can be active or passive, can be

¹ USDA Natural Resources Conservation Service. 2020. [Conservation Practice Overview, Short-Term Storage of Animal Waste \(Code 318\)](#).

highly technical or relatively simple, and on large operations are often applied as part of comprehensive manure management and integrated pest management.

The following practices are among the many methods people can consider and apply to help manage and minimize odors, pests, and vectors associated with livestock waste stockpiles. Most practices are passive (e.g., proper siting and timing) and low or nominal in cost.

2,3,4,5,6,7,8,9,10,11,12,13,14,15

- Site piles away from and downwind of neighboring residences and residential areas.
- Keep stockpiles as dry as possible to minimize odors and breeding ground for flies (the wet upper layer).
- Use covers such as tarps and roofed stacking structures to help keep stockpiles dry. See Table 5 for representative costs of tarps and Table 6 for sample costs of roofed stacking structures. Design and scale are significant factors in the costs of covers.
- Cover freshly added manure in storage piles with bedding, straw, or hay.
- Try not to use insecticides to control flies. Naturally occurring fly predators (tiny, non-stinging wasps and parasites) are beneficial to the pile and pest control.
- Add new waste to piles as a block of material to minimize fresh manure surface exposure.
- Time stockpiling and related use/disposal to minimize storage and related control needs.
- Try to remove stockpiles during cold weather before fly breeding season.
- When removing piles, leave a few of inches of dry manure over the bottom of the storage area to provide a population of fly parasites and predators.
- Use trees and other vegetation as visual barriers for piles, to reduce material blown from piles when dry, and to help disperse odors.
- Manage feed and facilities to minimize attraction of rodents.

Benefits: Animal keeping is widespread across the state. With it comes the challenge of proper waste handling and, very often, temporary stockpiling. Measures that minimize odors and pests

² USDA Natural Resources Conservation Service, [Odor Control, Conservation Solutions for Your Pennsylvania Farm](#).

³ Penn State Extension, [Horse Stable Manure Management](#).

⁴ Rutgers University Cooperative Extension, [Storing Manure on Small Horse and Livestock Farms](#).

⁵ Rutgers University Cooperative Extension. 2004. [Agricultural Management Practices for Commercial Equine Operations](#).

⁶ Northeast Recycling Council, Inc. 2019. [Manure Management for Small and Hobby Farms](#).

⁷ Koelsch, Rick. 1993. [Odor Control from Livestock Waste Handling Systems](#).

⁸ Michigan State University Extension, [Horse Manure Management Plans](#).

⁹ Colorado State University and USDA Natural Resources Conservation Service. 2018. [Manure Management for Small Acreages](#).

¹⁰ University of Nebraska-Lincoln Institute of Agriculture and Natural Resources, [Manure Stockpiles: Mind Your Manners](#).

¹¹ Michigan State University, [An 8-Step Process for Developing a Horse Manure Management Plan: Part 7 – Odor Management](#).

¹² Livestock and Poultry Environmental Learning Community, [Storing Manure on Small Farms: Why Do Small Farms Need Manure Storage?](#)

¹³ Cornell University and Penn State Extension, [Pest Management Recommendations for Poultry](#).

¹⁴ University of Massachusetts Extension, [Odor Control](#).

¹⁵ Oregon State University Extension Service. 2007. [Managing Small-Acreage Horse Farms in Central and Eastern Oregon](#).

associated with stockpiles help create a healthier environment for people and animals and help lessen tensions and potential nuisance claims in neighborhoods and communities. In keeping with the other proposed standards, good stockpiling practices that help minimize odors and pests are integral to good overall manure management. Time and money spent on proper siting and management of stockpiles help maximize economic return on the manure resource while minimizing conflict and time spent on impacts and complaints with odor and pest issues.¹⁶ The practices listed above and other practices recommended by conservation agencies for minimizing odors and pests are the types of reasonable practices that prevent nuisance.

¹⁶ Virginia Cooperative Extension. 2018. [Manure Management and Environmental Stewardship](#).