From: Dan DeGroot Sent: 5/26/2022 12:26:32 PM To: DOH WSBOH Cc: Subject: My Public Comments

## External Email

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.

I have a dairy facility that is inspected by the Grade A Milk Inspector several times annually and includes inspection of manure and animal housing areas to ensure there is not excessive stockpiling of animal nutrients. I am inspected regularly by the Nutrient Management Inspector from the Washington State Dept of Agriculture. I maintain a Federal Confined Animal Feeding Operation (CAFO) Permit that is regulated by the EPA, the Washington Department of Ecology and the Washington Department of Agriculture. I had been involved with air quality plans and inspected by the Yakima Regional Clean Air Authority. I believe that I am well inspected and watched closely by both the State, Federal and Local governments.

Not providing exemption to those with regulated facilities in ag zoned areas will only cause confusion, to all those inspecting and being inspected, by adding another set of rules. This type of rule is being promoted by those who have a bias against dairies and animal agriculture. This is a broader topic that should not reside with the Local Health District.

Dan DeGroot Skyridge Farms From: Richartz, Saundra Sent: 4/29/2022 3:50:09 PM To: DOH WSBOH Proposed Animal Waste Rule Subject: Keeping of Animals rule comment



attachments\785B32AA9049463F\_Keeping of Animals rule.docx

attachments\E3C9FEEEE29B471F\_image001.png

External Email

Please accept the attached as a comment from members of the Senate Republican Caucus.

Saundra D. Richartz

Staff Counsel

Washington State Senate Republican Caucus

Phone: (360) 786-7943, Fax: (360) 786-7815, Cell: (509)690-7648

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and may contain information that is privileged, confidential, and exempt from disclosure under applicable law.

You are hereby notified that any dissemination, distribution, or duplication of this transmission by someone

other than the intended addressee or its designated agent is strictly prohibited.

If your receipt of this transmission is in error, please reply to this transmission.

From: susan\_conard@comcast.net Sent: 5/6/2022 3:43:23 PM To: DOH WSBOH Cc: Subject: FW: Re: CR-102, Proposed Rule, for WAC 246-203-130, Keeping of Animals.

External Email

Good Day

Upon review of the proposal rule, its claim that it "applies to everyone" is misleading. Areas that are incorporated and on municipal water systems, already have regulations regarding livestock (i.e. quantity limits, type of livestock such as chickens, no roosters) and domestic pets (i.e. leash laws, waste disposal and quantity).

As such, it appears the target for this proposed rule would be imposed on unincorporated commercial and private acreage with livestock.

As such, we are of the opinion, that this proposal should fall under the scope of authority of the Washington State Department of Agriculture (WSDOA). The Department of Agriculture's charter provides the agriculture community ensuring agricultural regulations are observed. They work extensively with commercial operations, but their responsibilities range from ensuring food safety to environmental protections for water quality.

They also have the ability to work with land owners who have self-imposed farm plans that regulate animal waste. These plans need to be grandfathered in.

If the regulations under the WSDOA for waste management are insufficient, those should be updated. They have the authority and infrastructure to mandate and enforce the waste management regulations.

The Conservation Districts who submitted this rule making petition, have a charter to engage people with voluntary actions that keep our air, water, soil, habitats, and farmland healthy for all. They should be petitioning the Department of Agriculture for changes, and not the Board of Health.

Regarding the regulations proposed these need to be more specific, if not they are subject to bias by those who implement and enforce.

For examples, Standards for non-livestock:

For land owners with acreage, would land owners be required to pick their field to find their pet animal waste for temporary storage in a water tight container and disposal?

Would land owners be required to fence property to prevent their cats and dogs from migrating to adjacent neighbors? What regulations would be in place, or recourse would a landowner have, if their neighbors deliberately allow, or walk their dogs or cats to defecate on their neighbor's property to avoid collection/containment/disposal? Would land owners be required to sign their property "No Trespassing" to prevent this?

Will domestic pets be restricted from retention ponds, creeks, and rivers on one's property?

Standards for stockpiled waste from livestock:

What is consider stockpiled? Collected for composting? piled up like an equine stud pile? concentrated defecation in a confinement area?

Is all livestock waste to be removed, including poultry, goats, sheep, ducks, if found within the 100 ft setback?

Will livestock waste need to be separated by omnivore (i.e pigs, ducks, chickens) or herbivore, to allow to be composted? And if so, how is the omnivore waste to be disposed of?

Is composted livestock waste allowed to be spread on lands within the 100 ft setbacks?

What criteria will be set to determine if composted waste is acceptable to be spread? And who will make that determination?

What odors need to be controlled? Waste odors, composting odors, animal odors?

What constitutes odor control and at what distance and duration does a land owner have responsibility to control the odor? What device will be used to detect odors?

Will chicken compost be prohibited from being utilized?

Can you specify what pests are to be controlled?

These are just some of the clarifications needed before moving forward with regulation with the Department of Agriculture.

Thank you for your time,

Susan Conard

Ph: 425-870-9118

Email: susan\_conard@comcast.net <mailto:susan\_conard@comcast.net>

From: PCCBCH Memberships Sent: 4/27/2022 12:36:47 PM To: DOH WSBOH,wsbohproposedAnimalWasteRule@wsboh.wa.gov Subject: Public Comment - Keeping of animals

## External Email

There are many issues/concerns that are unresolved from the last meeting on Monday the 26th of April. I am requesting that you postpone the draft proposal from June's hearing. I suggest that you allow a work group/task force of stakeholders to convene and sort out the concerns of this draft proposal.

Among the many concerns: mixing livestock oversight with non-livestock, unclear/overreach on stockpiling and composting, concern of complaint abuse from urban neighbors, no uniformity of enforcement (left completely up to local health officer), and more.

Please consider these concerns about the "Keeping of Animals" issues.

Thank you,

Ron/Barbara Downing

253-312-1072

Sent from Mail <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fgo.microsoft.com%2Ffwlink%2F% for Windows

From: Donahoe, Kaitlyn N (SBOH) Sent: 5/1/2022 6:04:37 PM To: DOH WSBOH Cc: Subject: Fwd: CR 102 Domestic Animal Waste

Get Outlook for iOS <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Faka.ms%2Fo0ukef&data=05%7C0

From: Jon Borcherding <jonreadsitall@protonmail.com> Sent: Sunday, May 1, 2022 3:32:34 PM To: Donahoe, Kaitlyn N (SBOH) <kaitlyn.donahoe@sboh.wa.gov> Subject: CR 102 Domestic Animal Waste

External Email

The Washington State Board of Health has chosen a remarkably inopportune moment to address what is described as a long-standing issue.

With supply-chain problems and fertilizer shortages affecting the global food supply, many experts including the Biden Administration are predicting food shortages. The recent destruction of at least 12 major food production plants will likely also contribute to food shortages. The nation's railways are refusing shipment of nitrogen fertilizers during the current planting season. The FBI has just released a bulletin outlining the threat of cyber attacks against agricultural facilities. There is NO shortage of threats to America's food supply.

In addition to the looming specter of food scarcity is the alarming rate of inflation which disproportionately impacts the poor by making food more and more unaffordable.

In an effort to stave off shortages and hunger, many homeowners are engaging in small scale food production i.e., vegetable gardens, raising chickens, rabbits, pigs, goats, sheep, etc. Any new regulation that impedes the homestead production of vital food resources is bound to be met with fierce resistance.

In an era when we are experiencing global shortages of nitrogen fertilizers due to foreign conflict, it seems like a good time to review our attitudes about animal waste products and learn to treat them like the resource they are.

There are already laws on the books regarding proper animal husbandry and the Board would be well advised to address current problems within the existing framework. New rulemaking at this time is also bound to lead to increased cost to the taxpayer at a time when we are seeing record inflation.

Has the Board estimated the cost of enforcement of new proposals? Surely there is an awareness that commissioned law officers and search warrants will be necessary to investigate the disposition of animal waste on private property?

Also at issue is the credibility of the Health Department. It is not reasonable to expect homeowners to accept heavy handed regulation of traditional food production activities on their private property, particularly at a time when homestead food production may be key to survival. One can easily imagine the erosion of respect resulting from any attempt to use government force to hinder necessary farming activity.

I strongly urge the Washington State Board of Health to delay the Draft Policy proposal scheduled for June 2022. I believe it is in the best interests of all citizens that a work group or task force is formed to study the concerns of all stakeholders and advise the Board prior to the drafting or adoption of any new rules regarding the keeping of animals.

Sincerely,

Jon M. Borcherding

Roy WA

From: Kelly Bell Sent: 4/26/2022 7:58:40 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Constituent comment

External Email

Please postpone the June ruling on the draft proposal in favor of empaneling a stakeholder task force to further explore and inform the group on the issues at hand. As an agriculturist and smallholder who is faced with increasing encroachment on our farmlands by urbanites who have little understanding of farming practices and who bring urban values with them without regard for the values they're displacing, I recognize that rural folks have a diminished voice in this process. It's important that you take the time to thoroughly consider our traditions and values, as well as our basic needs and livelihoods, in making these critical decisions which will disproportionally affect farmers and livestock-holders, many of whom are economically disadvantaged. Thank you for listening,

Sincerely, Kelly Bell (917) 446-1555

Ovis Aries Farm ARBA-Registered Romney sheep @OvisAriesFarm | @Kelly | @YARNSPOTTING From: Denise Haan Sent: 4/26/2022 5:13:16 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: comment

External Email

Hello,

As an animal owner I am aware that there are many issues --important to concerned citizens and groups-- that have as yet been worked out re: the proposed rule. These concerns include why there is mixing of livestock oversight with non-livestock (doesn't seem to make any intuitive sense), overreach in terms of rules on stockpiling and composting (and the \$\$ that would incur), unforseen complaints from urbanites who move into rural areas and are 'surprised' to find livestock, let alone wildlife ('why don't you all just shoot and kill the coyotes, bears, racoons, etc.?") in the area (I live in such an area), and leaving enforcement up to a local health officer (who may have limited to no knowledge about livestock) (I teach public health at the university level and livestock issues are not a primary focus of ANY public health degree program). Given this and other issues, it seems best if you all delay addressing the draft proposal in June's hearing and instead convene a work group to sort out the various concerns and bring recommendations to your group. That way you're not "unmaking" rules down the line. Thanks.

Denise Haan

From: DOH WSBOH Sent: 4/4/2022 8:16:49 AM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: FW: Keeping of animals rule. WAC 246-203-130. public comment.

Good morning Stuart,

Forwarding you a public comment below regarding KoA.

Nathan Thai

Communications Consultant

Washington State Board of Health

Nathaniel.Thai@sboh.wa.gov <mailto:Nathaniel.Thai@sboh.wa.gov>

360-463-8928

Website

<https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fsboh.wa.gov%2F&data=04%7C01 , Facebook

<https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.facebook.com%2FWASBOH8 , Twitter

<https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Ftwitter.com%2FWASBOH&data=0

From: shoer joe <joemarce@gmail.com> Sent: Friday, April 1, 2022 8:02 AM To: DOH WSBOH <WSBOH@SBOH.WA.GOV> Subject: Fwd: Keeping of animals rule. WAC 246-203-130. public comment.

External Email

Sent from my iPhone

Begin forwarded message:

From: Steve McLaughlin <mclaugsa@yahoo.com <mailto:mclaugsa@yahoo.com>

Date: March 28, 2022 at 10:05:26 PM PDT To: shoer joe <joemarce@gmail.com <mailto:joemarce@gmail.com> > Subject: Re: Keeping of animals rule- public comment.

□Excellent!

>

Sent from my iPad

On Mar 28, 2022, at 17:21, shoer joe <joemarce@gmail.com <mailto:joemarce@gmail.com> > wrote:

To whom it may concern:

I'm a cattle rancher here in Jefferson county Washington. My family has been raising cattle here since the mid 70's. Although my animal husbandry practices are always improving, I have a few questions and comments that may concern other large and small livestock owners and producers.

There is a proper department already educating and enforcing these rules. Why is the DOH getting involved? The county conservation district is the department that is and should have jurisdiction on this matter. They help owners of livestock and educate them on better practices. They also work with the department of health and the environmental protection agency to name a few.

In my opinion most livestock owners and producers have a large part in keeping water clean and their land healthy. Clean water for our animals and healthy land to raise them on is important to most.

1) why and what good comes from penalizing hard working people that work hard and care for these suspect animals? Targeting small business in our county only hurts our economy. Education is key here.

2) why is the DOH involving the dept. on such matters when there are other depts. already in place to target the such concerns of animal Waste.

3) has the DOH reached out to farms or ranches in our county to discuss the matter from a real world perspective? If not, than you've already made the first mistake on this rule.

4) has anyone analyzed how much of our local economy depends on agriculture in our county? And how much ag creates in materials, local revenue, and land taxes being payed to the county?

In closing my public comments, I'm disappointed to hear of another rule to stifle our agricultural community. Putting fees on hard working people only hurts the ag industry in our county and community. Education and assistance is the way to combat these concerns of the DOH. I urge the county to talk to local livestock owners and livestock businesses to create a better solution than fees and control.

Please email me back with any concerns you may have. I would enjoy being a part of a better solution on the matter.

Joe Marceau joemarce@gmail.com <mailto:joemarce@gmail.com> Sent from my iPhone From: Tenney, Patricia Sent: 5/2/2022 9:07:10 AM To: DOH WSBOH Proposed Animal Waste Rule Subject: FW: CR-102 Proposed Rule Alert: Keeping of Animals (WAC 246-203-130)

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attachments\632566E34FA54623\_House-SBOH Keeping of Animal.docx

External Email

Representative Dent and some of his colleagues would like to submit this letter of support for the Keeping of Animals Rule. Please let us know if you need anything else.

On Behalf of Representative Dent.

Best Regards,

Patricia Tenney

Senior Legislative Assistant

To Representative Dent

House of Representatives

437 John L. O'Brien Building

PO Box 40600

Olympia, WA 98504

Telework (509) 941-2346

Any other relevant information, including your legislative website

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<https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fhouserepublicans.wa.gov%2Four-priorities%2F&data=05%7C01%7CWSBOHProposedanimalwasterule%40sboh.wa.gov%7Cb6bcc7c5b6bb46

NOTICE OF PUBLIC DISCLOSURE: Please note, this email and any documents you send this office, may be subject to disclosure requirements under the state Public Records Act, RCW 42.56.

From: DOH WSBOH <WSBOH@SBOH.WA.GOV <mailto:WSBOH@SBOH.WA.GOV> > Sent: Monday, March 28, 2022 3:27 PM Subject: CR-102 Proposed Rule Alert: Keeping of Animals (WAC 246-203-130)

CAUTION: External email.

The Washington State Board of Health (Board) has filed a CR-102, Proposed Rule, for WAC 246-203-130, Keeping of Animals. The proposed rule includes a title change to Domestic Animal Waste. The proposed rule includes standards for the handling and disposal of animal excreta, or animal waste, for the purpose of preventing and controlling nuisance and health hazards.

The CR-102, filed as WSR 22-08-003, announces to the public that a rule is being proposed and includes the proposed rule language. The CR-102 is attached and related material can be accessed at the Board's rulemaking page

<a href="https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fsboh.wa.gov%2Frulemaking%2Fc">https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fsboh.wa.gov%2Frulemaking%2Fc</a> rules-and-activity%2Fkeeping-

animals&data=05%7C01%7CWSBOHProposedanimalwasterule%40sboh.wa.gov%7Cb6bcc7c5b6bb463fb0d

You may submit your comments on the proposed rule the following ways:

0. Written comments are accepted through May 2, 2022, using the following options:

1. Send to the Board's public comment email address for this proposed rule: WSBOHProposedAnimalWasteRule@sboh.wa.gov <mailto:WSBOHProposedAnimalWasteRule@sboh.wa.gov>

- 2. Send via U.S. Mail to:
  - 0. Washington State Board of Health PO Box 47990 □OlympiaWA 98504-7990

Please Note: All written comments submitted to the Board will be considered part of the official rulemaking file, provided to Board members for their consideration, and will be posted publicly to the Board's website.

0. Verbal comments will be accepted on June 8, 2022, during the online rules hearing open to the public

<https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fsboh.wa.gov%2Fmeetings%2Fme information%2Fmeeting-information%2Fmaterials%2F2022-06-

08&data=05%7C01%7CWSBOHProposedanimalwasterule%40sboh.wa.gov%7Cb6bcc7c5b6bb463fb0d508d

beginning at 1:30 p.m.

1. Access and register for the online rules hearing: https://us02web.zoom.us/webinar/register/WN\_6vqdRyUmTamyb61z3wCSBA <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fus02web.zoom.us%2Fwebinar%2

Important Information for the Rules Hearing:

\* The online rules hearing will be held via the Zoom Webinar platform

\* In order to give verbal testimony during the rules hearing, you will need to access the meeting using your computer, laptop, or device. Your computer, laptop, or device must have speakers and a microphone.

For more information regarding this rule revision please:

1. Visit the Board's Keeping of Animals rulemaking web page <a href="https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fsboh.wa.gov%2Frulemaking%2Fc">https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fsboh.wa.gov%2Frulemaking%2Fc</a> rules-and-activity%2Fkeeping-

animals&data=05%7C01%7CWSBOHProposedanimalwasterule%40sboh.wa.gov%7Cb6bcc7c5b6bb463fb0d or

2. Email Board staff at stuart.glasoe@sboh.wa.gov <mailto:stuart.glasoe@sboh.wa.gov> .

Thank you,

(360) 236-4110

P.O. Box 47990, Olympia, WA 98504-7990

Location

<https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.google.com%2Fmaps%2Fpla 122.9083621%2C17z%2Fdata%3D!3m1!4b1!4m5!3m4!1s0x549173f074205aa3%3A0x552ddc5f79ee44b6 122.9061681%3Fhl%3Den&data=05%7C01%7CWSBOHProposedanimalwasterule%40sboh.wa.gov%7Cb6l · Website

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<mailto:wsboh@sboh.wa.gov?subject=Please%20Add%20My%20Name%20to%20the%20WSBOH%20Ema

This announcement is being sent to the Board's general distribution list and other distribution lists associated with this rulemaking. Please excuse any duplications.

CAUTION: This email originated from outside of the Legislature. Do not click links or open attachments unless you recognize the sender and know the content is safe.

From: Garret Hammer Sent: 3/30/2022 7:46:53 AM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Issues with proposed changes

External Email

To whom it may concern,

Even though these changes do not directly affect me, at this time. I believe they would be too much added stress on many small businesses that deal with livestock. With the current state of the economy that would be detrimental. I know how much folks rely on agriculture, large and small in the state of Washington and know the people in positions to look after that do not want it harmed, and these changes would harm

Thank you, Garret

From: bassoonbarb@yahoo.com Sent: 4/28/2022 8:21:21 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Animal waste proposed ruling

External Email

To whom it may be appropriate:

I often walk my dogs on trails & in parks where the dog owners fail to pick up & remove their dogs messes. It is a horrible offensive smell to pass by and even worse step in the mess. There is signage for dog owners to pick up the waste however it is not being done and there is absolutely no one enforcing this rule.

For anyone to push livestock owners to remove their "herds" waste seems to be an absurd step in the wrong direction. When it is already difficult to find emloyees for any government office then who will manage the proposed law if it is acted upon? Where is the enforcement money coming from? Livestock waste does not have the offensive odor that small animal waste has.

I really advise officials to postpone this ruling and rethink consequences of the actions on ranchers and farmers. How many ranchers have left and more will leave ranching? Where will you obtain your next steak; rare and expensive?

Horse owners help pay government officials through the high taxes paid. What happens when that goes away?

This issue MUST be rethought!

Sincerely, Barbara Bennett-Penniston 98926 From: boobaa920@gmail.com Sent: 4/21/2022 9:20:20 AM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Re: CR-102, Proposed Rule, for WAC 246-203-130, Keeping of Animals.

External Email

April 18, 2022

Washington State Board of Health

Re: CR-102, Proposed Rule, for WAC 246-203-130, Keeping of Animals.

Good Day

Upon review of the proposal rule, its claim that it "applies to everyone" is misleading. Areas that are incorporated and on municipal water systems, already have regulations regarding livestock (i.e. quantity limits, type of livestock such as chickens, no roosters) and domestic pets (i.e. leash laws, waste disposal and quantity).

As such, it appears the target for this proposed rule would be imposed on unincorporated commercial and private acreage with livestock.

As such, we are of the opinion, that this proposal should fall under the scope of authority of the Washington State Department of Agriculture (WSDOA). The Department of Agriculture's charter provides the agriculture community ensuring agricultural regulations are observed. They work extensively with commercial operations, but their responsibilities range from ensuring food safety to environmental protections for water quality.

They also have the ability to work with land owners who have self-imposed farm plans that regulate animal waste. These plans need to be grandfathered in.

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For examples, Standards for non-livestock:

For land owners with acreage, would land owners be required to pick their field to find their pet animal waste for temporary storage in a water tight container and disposal?

Would land owners be required to fence property to prevent their cats and dogs from migrating to adjacent neighbors? What regulations would be in place, or recourse would a landowner have, if their neighbors deliberately allow, or walk their dogs or cats to defecate on their neighbor's property to avoid collection/containment/disposal? Would land owners be required to sign their property "No Trespassing" to prevent this?

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What is consider stockpiled? Collected for composting? piled up like an equine stud pile? concentrated defecation in a confinement area?

Is all livestock waste to be removed, including poultry, goats, sheep, ducks, if found within the 100 ft setback?

Will livestock waste need to be separated by omnivore (i.e pigs, ducks, chickens) or herbivore, to allow to be composted? And if so, how is the omnivore waste to be disposed of?

Is composted livestock waste allowed to be spread on lands within the 100 ft setbacks?

What criteria will be set to determine if composted waste is acceptable to be spread? And who will make that determination?

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What constitutes odor control and at what distance and duration does a land owner have responsibility to control the odor? What device will be used to detect odors?

Will chicken compost be prohibited from being utilized?

Can you specify what pests are to be controlled?

These are just some of the clarifications needed before moving forward with regulation with the Department of Agriculture.

Thank you for your time,

Regards,

Barbara Woo and Scott Bauer

Small acreage land owner

360 435 6923

From: Darrell Wallace Sent: 4/27/2022 12:30:00 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Proposed Animal Waste Rule

External Email

Your proposed Rule is deeply flawed. I support efforts to delay passage and form a work group to resolve the issues.

--

Darrell

From: Samantha Janes Sent: 3/31/2022 10:00:16 AM To: DOH WSBOH Proposed Animal Waste Rule,Glasoe, Stuart D (SBOH) Cc: Subject: Comments WAC 246-203-103

External Email

To whom it may concern,

I recognize the Board of Health is an integral part of the governing process that keeps residents safe and protected from issues of which they may or may not be aware. It is with this in mind, I implore you to focus on matters that are not addressed by other government departments.

In regards to the proposed WAC 246-203-103, Domestic Animal Waste, it is in the best interest to the residents of the State of Washington that the Department of Agriculture and Department of Ecology are allowed to manage manure issues under their existing management plans without unnecessary conflict as your proposed WAC ruling will do.

Property owners are already subject to federal and state laws that regulate how commercial agriculture manure is managed. The proposed rules attempt to cover too broad of a range of animals. Placing new rulings across the board are unnecessary, unwise and impractical and have the potential of detrimentally affecting landowner's rights, pursuit of happiness and income.

Sincerely,

Samantha Janes

Samantha Janes 360-865-0949 cell

Owner, Paradise Love & Veggies www.paradiseloveveggies.com <https://gcc02.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.paradiseloveveggies.com%2F From: Bahr, Gary (AGR) Sent: 5/2/2022 3:32:20 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: WSDA comments for Proposed Rule, WAC 246-203-130, Keeping of Animals

*attachments\B85131937C054694\_WSDA Comment Letter for Board of\_PRDTOOL\_NAMETOOLONG.pdf* 

Hello,

I respectfully submit the attached comment letter from the Washington State Department of Agriculture related to Proposed Rule, for WAC 246-203-130, Keeping of Animals. Thank you for the opportunity to provide comment.

Thanks,

Gary

Gary Bahr

Science Liaison

Office of Director

Washington State Department of Agriculture

Olympia, Washington

c-360-349-0522

gbahr@agr.wa.gov <mailto:gbahr@agr.wa.gov>



## STATE OF WASHINGTON DEPARTMENT OF AGRICULTURE P.O. Box 42560 • Olympia, Washington 98504-2560 • (360) 902-1800

May 2, 2022

Washington State Board of Health PO Box 47990 Olympia, WA 98504-7990

Dear Board of Health:

One behalf of Washington State Department of Agriculture, I am writing to provide our comments related to the Proposed Rule for WAC 246-203-130, Keeping of Animals. The proposed action would include a title change to Domestic Animal Waste, and propose new standards for the handling and disposal of animal excreta, or animal waste, for the purpose of preventing and controlling nuisance and health hazards. While we agree that these various issues are of potential concern, we would like to express concerns about a new layer of regulatory actions and responsibility related to authorities and duties of other agencies, while potentially not utilizing existing efforts and opportunities for success through educational and voluntary methods.

The Washington State Department of Agriculture (WSDA) is the agency with responsibility over Dairy Nutrient Management (Chapter 90.64 RCW) and rules. The Dairy Nutrient Management laws and rules require dairy animal feeding operations to have dairy nutrient management plans created and approved. The WSDA Dairy Nutrient Management Program (DNMP) staff and Conservation District partners conduct the work to ensure plans are properly implemented, while conducting inspections, education, and technical support. Other partners such as Washington State University researchers and extension staff assist with research, education, technical support, and specialized training. The DNMP staff also conduct specialized water quality monitoring in certain locations where there is increased precipitation and also where facilities are in close proximity to surface water that may lead to impacts to vulnerable aquatic systems and shellfish production locations. The DMNP efforts are an example of how concentrated animal agricultural systems are successfully regulated for the protection of water quality and human health. Part of the success is that the Washington State dairy industry is highly cooperative and supportive of efficient regulation. Every milk producing dairy farm is registered and also regulated for other aspects of operations such as milk production, milk quality and food safety.

When considering how to protect water quality and human health from other diverse animal manure sources around the state, these same kinds of regulatory approaches would be very difficult to apply to many thousands of small animal waste sources. Diverse and complex

nonpoint source pollution is most commonly handled through the implementation of the Washington State Nonpoint Source Plan and associated pollution abatement structures, programs and systems of voluntary approaches. Our agency believes that working with the thousands and thousands of landowners on animal waste management would be more efficient and effective if the efforts were voluntary and supported by state and local coordination, funding of preventative programs, and education and technical assistance. The Washington State agency system of working with nonpoint source and smaller animal systems are structured around voluntary approaches to protect water quality. The attempt for Board of Health to regulate landowners that own and manage small numbers of animals would be contrary to the existing systems and would be confusing and very onerous for the Board of Health and the associated agency partners. Landowners often look to the Washington State Conservation Commission (WSCC), Conservation Districts (CDs), USDA Natural Resources Conservation Service (NRCS), Washington State University (WSU), Ecology, and WSDA for assistance, cost share programs, and technical assistance. A sudden regulatory effort would be very difficult to implement and would all of sudden affect the opportunity for the thousands of property owners to work with the voluntary processes and programs. There are currently many examples of CDs and other partners successfully working with landowners on manure management. We encourage the Board of Health and the Department of Health (DOH) to work within the existing Washington State Nonpoint Source Plan and strategies for achieving federal and state goals for managing animal waste and protecting water quality and human health.

The tasks of managing general small farm manure sources for the protection of water quality and human health can be best taken care of through voluntary and educational processes. We suggest that the Board of Health and DOH review the successful efforts in the state and look for opportunities to collaborate with other state and local agencies to focus on effective and efficient processes in a cooperative process. A combination of education, outreach, and technical assistance efforts would provide for an effective process, combined with existing DOH Office of Drinking Source Water Assessment planning, capture zone and time of travel analysis, and contaminant inventories for all Group A and B public drinking water systems. Instead of attempting to regulate many thousands of landowners with small animal systems, it would be more prudent to pursue a coordinated effort for voluntary efforts while providing education, technical assistance and local support. Our agency has extensive experience with animal agriculture regulation and management. We know there are many manure management issues to tackle and we would like to highlight some of the existing state and local voluntary processes and successes that exist in our state and other locations in the country. We look to highlight how the main state and local groups are working on this, and provide some suggestions for what is working and potentially how Washington State DOH and ODW can join the efforts that would be complimentary. Our agency suggests that we collectively strive to provide tools for land owners and farmers to recognize their own resource concerns and become engaged in their on farm solutions whether they produce their own food, supply food to local markets, or own hobby farm, working, or recreational animals.

We provide this list and summarization of the overall state processes combined with a few examples of state and local groups are working on the manure management topic. Some of these

efforts could be a future focus of partnerships and efforts that could be complimentary and assist in providing solutions.

- There is the broader Ecology Clean Water Act Nonpoint Source Plan approach in Washington State, where the Washington State approach to abating nonpoint sources of pollution are outline. The state's nonpoint source plan provides descriptions of roles and responsibilities, and regulatory and voluntary approaches. The WSDA DNMP effort is described in the plan and other voluntary approaches for smaller potential pollution sources are described outlining management through voluntary, educational and technical approaches.
  - The overall Washington State NPS Plan <u>https://apps.ecology.wa.gov/publications/documents/1510015.pdf</u>
- The nonpoint source agricultural pollutant sources come under the purview and jurisdiction of a number of state and local agencies under the state Clean Water Act Washington State Nonpoint Source Plan and associated programs.
- Ecology is leading the Voluntary Clean Water Guidance for Ag Effectiveness Workgroup and producing Best Management Practice (BMP) guides and manuals including materials geared toward small farms, heaving use areas, grazing, nutrient management, irrigation water management, and manure management. WSDA, WSCC, WSU, EPA, USDA NRCS, Conservation Districts, and other public and private sector groups are teaming together to support Ecology in this Voluntary Clean Water Guidance for Ag Effectiveness Workgroup. We encourage the Board of Health and DOH, or a designated group such as the Office of Drinking Water (ODW), to reach out to Ecology staff to join the group and contribute the ongoing efforts to produce guides for agricultural nonpoint groups and provide for prevention approaches. The collective group is active with producing science-based products and then working to find implementation and funding opportunities to engage local landowners to prevent pollution. All the combined groups are engaged and working toward effective and efficient government processes to collectively tackle these issues. We encourage DOH and the ODW to join and support these approaches.
- There is an ongoing approach with Ecology and the nonpoint source team for developing a new Agricultural BMP guidance. Ecology has been leading meetings for several years of the Voluntary Clean Water Guidance for Ag Effectiveness Workgroup. WSDA and numerous others agencies and groups are a part of this workgroup supporting Ecology in developing the agricultural BMPs.
- This rule making seems contrary to the current approaches developed through the Ecology meetings of the Voluntary Clean Water Guidance for Ag Effectiveness Workgroup <u>https://ecology.wa.gov/About-us/Accountability-transparency/Partnerships-committees/Voluntary-Clean-Water-Guidance-for-Agriculture-Adv</u>, to implement the Washington State NPS Plan.
- There are many resources and examples of work being done in Washington State and around the nation and we encourage the support those efforts for voluntary solutions prior to moving to some regulation that could be wasteful. How would an agency actually regulated many thousands of small farms?

- We encourage an approach where successful current and cooperative efforts are inventoried and assessed, and then additional funding is sought for improving voluntary systems.
- The WSDA Natural Resources Assessment Section (NRAS) and DOH ODW team is already working on pilot efforts for ground water protection in source water areas where agriculture is the primary land use.
- The DOH ODW is working to fund new and updated Source Water delineation modeling in the Yakima Ground Water Management Area (GWMA) to assist in focusing on the GWMA implementation in delineated capture zones. The Yakima GWMA Plan is located here: <u>https://www.yakimacounty.us/541/Groundwater-Management</u>.
- Completing capture zone, time of travel, and contaminant source inventory work in the Yakima GWMA and statewide would be an important step for aquifer and drinking water protection. Source water assessments can be combined with other GIS based mapping tools and modeling to assist in focusing precious state and local resources for making protection improvements in source water areas.
- Small farm and landowner management of nonpoint source pollution should be voluntary and prevention efforts is supported by state and local efforts and supported from other partners such as the USDA NRCS.
- Prevention of contamination of surface water, ground water, and public and private drinking water systems is best accomplished with voluntary education and training programs.
- There are many national, regional, state and local organizations that have worked on the topic of animal waste and manure management with small farms and rural landowners.
- There are many resources as well as funding sources available to implement programs that can be targeted to the appropriate audience and stakeholders.
- In Washington there are many groups that have been working on these strategies and education and prevention programs including the WSCC, CDs, WSU, NRCS, WSDA and others.
- The management of small farm and rural potential contaminants such as nutrients, sediment, pathogens, and other nonpoint source pollutants is best handling through non regulatory and educational and prevention programs.
- While DOH has authority to create and focus rules on certain potential contaminants to protect human health and drinking water systems; we recommend that the agency consider assessing the potential power and success of state, federal and local government partnerships; along with agriculture associations and groups to tackle this issue in a more focus and preventative manner.
- Creating new rules that would have a broad and comprehensive approach to the whole state would be difficult to implement and enforce when there are many thousands of potential private property owners around the state that would become newly regulated. There would be many impacts to DOH staff and associated state and local governmental partners with a difficult and potentially contentious rulemaking such as this. This type of rule and the potential implementation would actually be counterproductive to the already active and challenging task of implementing educational and voluntary measures with landowners.
- Our view is that the current approaches of education, technical assistance, and voluntary efforts is currently building and gaining momentum with the Ecology Voluntary Clean

Water Guidance for Ag Effectiveness Workgroup Team and various agency efforts. Some key partners working to create partnerships and successful programs are the WSCC and CD efforts, NRCS cost share and farm planning efforts, and the WSCC Voluntary Stewardship Program (VSP) <u>https://www.scc.wa.gov/vsp</u>. There are a number of key ground water protection program efforts around the state including the: Yakima GWMA, Grant County SDWA project with WSDA and DOH, and the Ground Water Protection Program efforts in Whatcom Country with the CD, Ecology and WSDA. In addition, the unique interagency and international effort with the Nooksack Fraser Transboundary Nitrogen (NTF-N) project is a very important cooperative effort supporting sound science and solutions for nitrogen issues in the Nooksack watershed. These are just a few examples of ongoing successful efforts that are gaining momentum.

- There are many ongoing programs, efforts, and technical tools available for manure and small farm animal waste management such as:
  - o https://lpelc.org/manure-management-on-small-farms/
  - https://lpelc.org/manure-management-on-small-farms/#.VOtCiEJEjDM
  - <u>https://www.rd.usda.gov/programs-services/water-environmental-programs/solid-waste-management-grants/wa</u>
  - https://www.usda.gov/topics/farming/resources-small-and-mid-sized-farmers
  - <u>https://www.nrcs.usda.gov/wps/portal/nrcs/detail/national/technical/nra/rca/?cid=</u> <u>nrcs143\_014211</u>
  - https://www.nrcs.usda.gov/wps/portal/nrcs/main/?ss=16&navtype=SubNavigation &cid=null&navid=15018011000000&pnavid=15018000000000&position=Sub Navigation&ttype=main&pname=Manure%20&%20Nutrient%20Management% 20%257C%20NRCS
  - <u>https://connect.extension.org/event/equipment-and-facilities-for-managing-</u> <u>manure-on-small-farms</u>
  - https://bentonswcd.org/mud-and-manure/
  - o <u>http://whatcom.wsu.edu/ag/nutrient/guidel\_1.pdf</u>
  - <u>https://puyallup.wsu.edu/soils/manure/</u>
  - <u>https://extension.oregonstate.edu/collection/mud-manure-management-resources-</u> <u>small-farms</u>
  - <u>https://nerc.org/documents/manure\_management/guide\_to\_providing\_manure\_management\_ed.pdf</u>
  - <u>https://www.extension.iastate.edu/smallfarms/manure-management-acreages-and-small-farms</u>
  - <u>https://www.scc.wa.gov/vsp</u>
  - Michigan Agriculture Environmental Assurance Program, <u>https://maeap.org/</u>
  - https://www.nrcs.usda.gov/wps/portal/nrcs/detail/vt/technical/dma/?cid=nrcs142p
     <u>2\_010561</u>
  - o <u>https://aces.nmsu.edu/farmasyst/</u>
  - o <u>https://bookstore.ksre.ksu.edu/pubs/homeasst.pdf</u>
  - <u>https://extension.psu.edu/programs/nutrient-management/related-programs/pennsylvania-farm-a-syst</u>
  - <u>https://www.landcan.org/</u>
  - $\circ \quad \underline{https://www.epa.gov/sourcewaterprotection/assess-plan-and-protect-source-water}$
  - $\circ \quad \underline{https://www.epa.gov/sourcewaterprotection/source-water-assessments}$

- <u>https://ecology.wa.gov/About-us/Accountability-transparency/Partnerships-</u> <u>committees/Voluntary-Clean-Water-Guidance-for-Agriculture-Adv</u>
- We recommend that the Board of Health place more effort, resources, funding, and partnership effort into further developing the SDWA and DOH ODW programs <a href="https://www.epa.gov/sourcewaterprotection/assess-plan-and-protect-source-water">https://www.epa.gov/sourcewaterprotection/assess-plan-and-protect-source-water</a> for Group A and B source water modeling and system delineations and capture zone and time of travel analysis updates to properly assess the source areas for each public systems.
- This process in Washington State is very incomplete and the protection of ground water, source water, and public drinking water systems would be great enhanced if DOH, Ecology, WSDA, WSCC, CDs, and NRCS actually knew what spatial land areas up gradient of drinking water systems to focus on for our collective and current FTE staff time, resources, and funding.
- Our WSDA NRAS team is currently fulling engaged with DOH ODW staff in assessing all the Group A and B public drinking water data for nitrate, pesticides, and any other potential contaminant of concern.
- Our team has been very successful in proactively reviewing all the data, prioritizing what areas could be assessed and worked on in a systematic process. The goal has been to conduct a few focused projects such as the Yakima GWMA Implementation and Grant County ground water project to conduct update capture zone analysis and provide for programs to educate and provide technical assistance for nonpoint pollution issues that are voluntary in nature.
- These efforts should be pursued prior to some broad scope regulatory approach that would pull all the state and local agencies into something that would be misguided and result in wasting resources, funding, and antagonizing local land owners and small farm owners. It is our view, through first hand experiences, that small farm owners will make improvements once they're engaged with their local technical service provide through VSP and other programs which are lead with the CD, WSU Extension, WSDA and local watershed groups.

We appreciate the opportunity to comment on this draft rule making. We recommend that the state and local partners work to combine efforts and develop strategies that will incorporate effective and efficient use of staff, resources, and technical expertise. Our collective efforts should be strategically focused to work with agriculture and local landowners for farm system management, resiliency, and human health and environmental protection. We respectfully request that this proposed rule not be pursued. We look forward to working with the Board of Health to provide any additional input and helpful comments.

Thank you for considering our input, and we look forward to hearing back from you.

Respectfully,

Dary Bahr

Gary Bahr

Science Liaison Office of the Director Washington State Department of Agriculture Olympia, Washington Contact information: 360-349-0522, Gary.Bahr@agr.wa.gov

PC: Kelly McLain, Policy Advisor, WSDA Evan Sheffels, Senior Policy Advisor, WSDA Robin Schoen-Nessa, WSDA Perry Beale, WSDA Vince McGowan, Ecology Sage Park, Ecology Holly Myers, DOH ODW From: Joann Reider Sent: 4/26/2022 4:54:28 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Keeping of Animals

External Email

Dear State Board of Health

Please postpone the draft proposal from June's hearing. Please allow a work group/task force of stakeholders to convene and sort out the concerns.

Some concerns are mixing livestock oversight with non-livestock, unclear/overreach on stockpiling and composting, concern of complaint abuse from urban neighbors, no uniformity of enforcement (left completely up to local health officer), etc.

Please delay the Draft Policy proposal in June. Please get a work group or task force formed to vet out our concerns.

Yours truly,

Joann R. Reider

From: Linda Daniels Sent: 4/28/2022 11:24:56 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Please postpone

External Email

Please hold off till June on this issue, there are unresolved issues. Sincerely, Linda Daniels

Sent from Yahoo Mail for iPad <a href="https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Foverview.mail.yahoo.com%2F%3l">https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Foverview.mail.yahoo.com%2F%3l</a>

From: Colen Corey Sent: 3/30/2022 7:17:54 AM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Manure flushed down from horse boarding facility

attachments\EE4974C560D14293\_image2.jpeg

attachments\2374954E08A8476B\_image1.jpeg

attachments\4DE78E13E51048D2\_image3.jpeg

attachments\6AC1AEFB69294E76\_image4.jpeg

External Email

U U U

Good morning

I'm glad to see this proposal especially for regulations and CPU for horse boarding facilities that have tributaries or wetlands on the property. I have contacted you before of large amounts of horse manure flushed down onto our pastures from ARD horse boarding facility. The seasonal tributary to little Anderson runs through their property and travel through 3 of our pastures. I remove all trace of manure each day on our property and we do not put any horses or cows in pastures where the seasonal tributary flows, mainly from late October to around this time.

I am in constant contact with the Health District and WA ecology on this matter along with the Conservation District so called "farm plan".

Most farm/ranchers are excellent care takers of our streams and create sustainable farming/ranching, but those who blatantly disregard or have no respect only amounts of money to be made make it hard for those who follow rules.

Thanks for putting this on the docket and helping neighbors to these abusers have a legal right to clean water flow onto there property.

What will be the legal fines? The people that do these things need to be accountable. Respectfully

Joanne Corey

360.633.6699

Sent from my iPhone

From: Glasoe, Stuart D (SBOH) Sent: 5/27/2022 10:40:46 AM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: FW: My Public Comments

Stuart Glasoe

SBOH Health Policy Advisor

360-236-4111

From: Dan DeGroot <skyridgefarms@hotmail.com> Sent: Thursday, May 26, 2022 12:26 PM To: DOH WSBOH <WSBOH@SBOH.WA.GOV> Subject: My Public Comments

External Email

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.

I have a dairy facility that is inspected by the Grade A Milk Inspector several times annually and includes inspection of manure and animal housing areas to ensure there is not excessive stockpiling of animal nutrients. I am inspected regularly by the Nutrient Management Inspector from the Washington State Dept of Agriculture. I maintain a Federal Confined Animal Feeding Operation (CAFO) Permit that is regulated by the EPA, the Washington Department of Ecology and the Washington Department of Agriculture. I had been involved with air quality plans and inspected by the Yakima Regional Clean Air Authority. I believe that I am well inspected and watched closely by both the State, Federal and Local governments.

Not providing exemption to those with regulated facilities in ag zoned areas will only cause confusion, to all those inspecting and being inspected, by adding another set of rules. This type of rule is being promoted by those who have a bias against dairies and animal agriculture. This is a broader topic that should not reside with the Local Health District.

Skyridge Farms
From: Sue Davis Sent: 5/2/2022 10:58:24 AM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Comments on Proposed Domestic Animal Waste Rule

*attachments\E1C3FDE7B87C41EC\_CommentstoWBOH.docx.pdf* 

External Email

Dear Washington Board of Health,

Please find attached my comments on the Proposed Domestic Animal Waste Rule WAC 246-203-130, submitted for your consideration.

Thank you.

Sue Davis

#### May 2, 2022

Subject: Comments on Proposed Animal Waste Rule, WAC 246-203-130

Dear Washington Board of Health,

The proposed domestic animal waste rule is unnecessary and redundant. Additionally, as written, it has the potential to impact operations that are not creating a nuisance or public health hazard and expose them to complaints and enforcement by people unfamiliar with agriculture operations and best management practices.

Washington State already has the authority to investigate and remediate water pollution through WAC 90.48. Under this WAC Department of Ecology has "...the jurisdiction to control and prevent the pollution of streams, lakes, rivers, ponds, inland waters, salt waters, water courses, and other surface and underground waters of the state of Washington." Under WAC 173-201A, Department of Ecology has the authority to set water quality standards and take actions to prevent degradation.

RCW 90.72 Shellfish Protection Districts gives counties the authority to create shellfish protection districts and programs to address water pollution where water pollution threatens the water quality of shellfish growing areas. RCW 90.72 states, "This program shall include any elements deemed appropriate to deal with the nonpoint pollution threatening water quality over shellfish tidelands, including, but not limited to, requiring the elimination or decrease of contaminants in stormwater runoff, establishing monitoring, inspection, and repair elements to ensure that on-site sewage systems are adequately maintained and working properly, assuring that animal grazing and manure management practices are consistent with best management practices (*emphasis added*), and establishing educational and public involvement programs to inform citizens on the causes of the threatening nonpoint pollution and what they can do to decrease the amount of such pollution."

Under RCW 70.05 individual counties already have the authority to adopt rules to address public health issues within their jurisdictions. The health officer has the power to, among others, take action to maintain health and sanitation supervision over the territory within his or her jurisdiction and prevent, control or abate nuisances which are detrimental to the public health which is the stated purpose of the proposed rule.

Finally, USDA Natural Resources Conservation Service has established best management practices (BMPs) for all aspects of agriculture, including livestock keeping and manure management. They and the local Conservation Districts across the state have education and financial programs to help land owners and livestock owners implement best management practices. The proposed rule as written does not mention or consider BMP's and has the potential to impact operations that are not creating a nuisance or public health hazard and those that are already using BMP's advocated by the expert agricultural agencies.

I urge you to postpone the draft proposal from the June hearing, and form a work group/task force of stakeholders and agriculture experts to consider the issue and concerns.

Thank you.

Susan Davis Thurston County Resident and Livestock Owner

From: John Kiess Sent: 5/2/2022 12:29:36 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Rule comment

attachments\0506F6901F0046C8\_EHD comment letter WAC 246-203-130.pdf

External Email

Please see the attached letter from the Washington State Environmental Health Directors.

Thank you,

John Kiess, RS | Environmental Health Director

Kitsap Public Health District

345 6th St., Suite 300 | Bremerton, WA 98337

(360) 728-2290 Office | (360) 620-0538 Cell

john.kiess@kitsappublichealth.org <mailto:john.kiess@kitsappublichealth.org> | kitsappublichealth.org <https://gcc02.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.kitsappublichealth.org%2F&d

<a href="https://gcc02.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.kitsappublichealth.org%2F&d">https://gcc02.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.kitsappublichealth.org%2F&d</a>

<http://www.kitsappublichealth.org/img/KPHD\_Image\_Library/Email/PHAB\_logo.jpg>

<a href="https://gcc02.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.kitsappublichealth.org%2F&d">https://gcc02.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.kitsappublichealth.org%2F&d</a>

<a href="https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.facebook.com%2FKitsapPub">https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.facebook.com%2FKitsapPub</a>



May 2, 2022

SENT VIA ELECTRONIC TRANSMITTAL

Washington State Board of Health PO Box 47990 Olympia, WA 98504-7990

### RE: PROPOSED REVISIONS TO CHAPTER 246-203-130, DOMESTIC ANIMAL WASTE

Dear Board of Health:

Thank you for the opportunity to provide comments on the proposed rule. This proposal provides a much-needed update to existing, out of date rule language. The Washington State Environmental Health Directors support this proposed language revision as it will result in a more useful rule that can be utilized by local health jurisdictions if necessary.

We believe that the proposed rule, if used by a local health jurisdiction, will result in better health outcomes as the language provides for clear standards for compliance to protect surface and ground waters which in turn protects drinking water supplies, shellfish resources, and recreational waters. Additionally, the proposed rule language provides clear standards for animal keepers to understand and implement in order to protect public health and natural resources in their own communities.

We support the proposed amendments to WAC 246-203-130, Keeping of Animals. If you have questions or would like additional information, you can reach me at 360-728-2290, or john.kiess@kitsappublichealth.org.

Sincerely,

ien

John Kiess, WSEHD Chair Environmental Health Director Kitsap Public Health District

Past Chair Ray Byrne Spokane Co EH Director (509)324-1588 rbyrne@srhd.org Chair John Kiess Kitsap Co EH Director (360)728-2290 John.kiess@kitsappublichealth.org Chair Elect Stephanie Shopbell Grant Co EH Manager (509)766-7960x41 shopbell@granthealth.org Secretary/Treasurer Season Long Cowlitz Co EH Manager (360)414-5592x6445 longs@co.cowlitz.wa.us Member at Large Jessica Gehle Pierce Co EH Director (253)649-1845 jgehle@tpchd.org From: Reese Sent: 4/30/2022 1:25:42 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: comments on CR-102 Keeping of Animals

# External Email

As a member of Back Country Horsemen of Washington (BCHW) and horse owner on Whidbey Island, I agree with the concerns of BCHW regarding Proposed Rule CR-102 Keeping of Animals. These concerns include mixing livestock oversight with nonlivestock, unclear/overreach on stockpiling and composting, concerns of complaint abuse from urban neighbors, no uniformity of enforcement (left completely up to local health officers) and more.

I compost my horse's manure and for my garden and other plants. The rule does not clearly allow composting and spreading livestock manure. Livestock are herbivores. Their manure does not have the pathogens that are present in carnivores such as dogs and cats. If this rule does not clearly state that the composting and spreading of livestock manure is allowed, it will be up to local health officers to make this judgment which will likely be different from jurisdiction to jurisdiction. If I will be required remove my horse's manure, the cost will be prohibitive. I would like the WA Board of Health to delay the Draft Policy proposal in June, and a work group/task force be formed to vet out these concerns.

Thanks you for your consideration. Sandy Reese 892 Holbrook Rd Coupeville, WA 98239 (530)276-5742 From: jjyy@earthlink.net Sent: 4/30/2022 2:33:29 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: postpone the draft proposa

# External Email

Please postpone the draft proposal from June's hearing. We suggested they allow a work group/task force of stakeholders to convene and sort out the concerns.

From: Cathy Johnson Sent: 4/26/2022 2:26:23 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: comments on this proposed rule

External Email

I am a member of Back Country Horsemen of Washington and an owner of 3 horses that are kept at home on our 5 acres. I am very concerned that this animal waste proposal language has many issues that still need to be clarified. I am especially concerned about the language on composting manure, the risk of complaint abuse from urban neighbors and that there is no uniformity of enforcement.

I recommend that this proposal be put on hold while a task force is convened to deal with these remaining issues.

Cathy Johnson

2412 284th St. E Roy, WA 98580 From: tvreyo@gmail.com Sent: 4/26/2022 6:44:10 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Proposal regarding keeping/animal waste

### External Email

It is my recommendation as a livestock and equine stock owner to oppose any legislation that has not been reasonably vetted by a task force, and especially this one. I request that the Board of health focus on more pressing issues- like junkies and hoarders, homeless and their abuse of public lands and rights of way. More focus should be put on public safety around the ever surpassing numbers of humans that are homeless. Regulating grazing animal Shit before regulating people feces is a waste of taxpayers money! Stop regulating the people who are obeying the law and start doing something about those that don't. This is a total overstep of the authority of the board of Health. Defer this proposal! I cannot believe we have people that even think up this stuff- and are using my hard earned dollars to do so!

Tanara Reynolds Landowner BCHW Multiple chapters Thurston County From: Sherry Baysinger Sent: 4/26/2022 11:16:07 AM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Animal Waste

External Email

We are very concerned with this over-reach into how animal/livestock owners deal with animal waste.

My husband and I are members of Back Country Horsemen of Washington. We have volunteered over 30,000 hours packing tools and equipment to assist the USFS, DNR, ONP and USGS in projects and trail and campsite maintenance in our area of the Olympic Peninsula. We are master trainers of Leave No Trace and continue now into our 70's to teach these practices to our many members.

Unfortunately, most of the people who are concerned about animal waste, especially livestock, have very little experience with livestock. They possibly don't even realize that cow and horse manure is really just recycled grass and excellent fertilizer for farmers (which happens to be in short supply due to recent world events).

The livestock owners that we work with are very well aware of how to compost and utilize manure in ways that do not harm, but rather improve the environment. Perhaps education rather than legislation should be your first line of defence on this issue. Private landowners who have been stewards of farmland for generations will not appreciate someone in uniform from the government who have, no authority by law to tell taxpayers how to care for their own land, for which they pay property taxes (and high ones in Washington!).

Please consider utilizing local Conservation District people within the counties to continue to hold classes on management of mud/manure rather than legislating something that has already riled up a lot of rural farmers and livestock owners. Conservation employees have been very helpful in Clallam and Jefferson counties. We have invited these folks to come to our property and instruct and assist with proper mud and manure management and protecting the stream that flows through our property. I should mention that our conservation folks are also horse owners and are Board members of several Back Country Horsemen Chapters. They have achieved respect for what they do because they are stock owners. I suggest you start with people like them.

Respectfully

Larry & Sherry Baysinger 2094 Bear Creek Rd Port Angeles WA 98363 From: ms n Sent: 4/27/2022 10:46:19 AM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Postpone the drafted proposal

External Email

I'm requesting they postpone the draft proposal for the Animal WASTE Rule from June's hearing.

I suggested they allow a work group/task force of stakeholders to convene and sort out the concerns.

Nancy Wiest

From: Laura Brown Sent: 4/26/2022 5:24:42 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Animal Waste Rule

#### External Email

Hello, I am concerned about the proposed Animal Waste Rule. I feel that there are many issues/concerns that are unresolved.

Among the many concerns: mixing livestock oversight with non-livestock, unclear/overreach on stockpiling and composting, concern of complaint abuse from urban neighbors, no uniformity of enforcement (left completely up to local health officer), and more.

I ask that you please delay the Draft Policy proposal in June and that a work group/task force is formed to vet out concerns.

Thank you, A concerned horse and goat owner, Laura Brown Arlington, WA From: James Thompson Sent: 4/29/2022 2:28:04 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: CR-102 Keeping of Animals Comment

External Email

Concerned,

I am a Washington Resident and Homeowner. I keep my horses and livestock on my acreage, south of Oak Harbor, WA. I learned of proposed rulemaking CR-102 through the Backcountry Horsemen of Washington (BCHW) of which I am a member. I know you have met with and been in communication with both BCHW and many other concerned organizations.

This rulemaking provides a somewhat vague definition and mixes non-livestock and livestock rules which can have unintended consequences. I agree with the concerns of BCHW such as mixing livestock oversight with non-livestock, overreach on stockpiling and composting, concern of complaint abuse from urban neighbors, no uniformity of enforcement can lead to hurting communities and also people's livelihood.

I know the local community compost's livestock manure very responsibly within the guidelines of experts and the guidance of Washington State University and others. Most share the composted product with my neighbors for their garden as well as spreading it on pastures. Those adjacent to streams, rivers, ponds, lakes, etc. are very concerned about doing it right to not harm the environment and ecosystem. The rule does not clearly allow composting and spreading livestock manure. Livestock are herbivores. Their manure does not have the pathogens that are present in carnivores such as dogs and cats. If this rule does not clearly state that the composting and spreading of livestock manure is allowed, it will be up to local health officers to make this judgment which will likely be different from jurisdiction to jurisdiction. If I will be required to annually remove my horse's manure, the cost will be extremely cost prohibitive in equipment and other fees. In which the organization taking this compost will then just compost it and sell it in the same way I would have used it.

In addition rules regarding livestock are vague and could affect this vital resource in maintenance of our local trails and public areas. Just the BCHW use stock all year to aid all government agencies in keeping trail access open to all users around the state.

I, also, would ask that the BOH delay the Draft Policy proposal in June and that a work group/task force is formed to vet out these concerns.

Thank you for your consideration.

Regards, James Thompson From: Chris Leaverton Sent: 4/28/2022 8:23:36 AM To: DOH WSBOH Proposed Animal Waste Rule Subject: CR-102 Keeping of Animals

External Email

I am asking that you delay the implementation of cr-102. Please allow a work/task group to convene with members who make up those who will be affected by this rule.

Farm composting of ruminant waste is vital to my small rural Prosser farm. The composting process is even part of the life cycle of the farm. Its starts with forage to manure to compost to vegetables.

Thank You,

Chris Leaverton

From: Sara Cate Sent: 4/18/2022 8:07:09 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: please consider my comments below

External Email

Dear leadership,

I am a physician with a background in public health andI'm writing to state my concern over the changes that the Washington Department of Health (WaDOH) is proposing for WAC 246-203-130. This rule is currently titled, "Keeping of animals", but the proposed new title will be "Domestic animal waste". From my reading it sounds like the WaDOH will no longer regulate the pollution caused by farm animals. Instead, they will focus entirely on the waste produced by domestic animals such as cats and dogs. This makes no sense as there are approximately 100,000 dairy cows in the Lower Yakima Valley (LYV). People are suffering because of the pollution caused from the incredible volume of manure produced and the water and air pollution resulting from this incredible concentration of dairy cows. It makes no sense that the waste produced by family pets is more significant in terms of health impacts compared to that produced by factory farm animals!

WaDOH has a moral and regulatory duty to address the pollution caused by farm animals, and protect the health of the public. I strongly oppose these changes.

Sara Cate, MD, MPH

Yakima Washington

From: Cindy Reece Sent: 4/27/2022 11:52:55 AM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: CR-102

101 attachments\4FFE6C02B92A432F\_WSBOH .pdf

External Email

Please see attached letter Thank you Jim and Cindy Reece April 27, 2022

Washington State Board of Health

Re: CR-102, Proposed Rule, for WAC 246-203-130, Keeping of Animals.

Good Day

Upon review of the proposal rule, its claim that it "applies to everyone" is misleading. Areas that are incorporated and on municipal water systems already have regulations regarding livestock (i.e. quantity limits, type of livestock such as chickens, no roosters) and domestic pets (i.e. leash laws, waste disposal and quantity).

As such, it appears the target for this proposed rule would be imposed on unincorporated commercial and private acreage with livestock.

As such, we are of the opinion that this proposal should fall under the scope of authority of the Washington State Department of Agriculture (WSDOA). The Department of Agriculture's charter provides the agriculture community ensuring agricultural regulations are observed. They work extensively with commercial operations, but their responsibilities range from ensuring food safety to environmental protections for water quality.

They also have the ability to work with landowners who have self-imposed farm plans that regulate animal waste. These plans need to be grandfathered in.

If the regulations under the WSDOA for waste management are insufficient, those should be updated. They have the authority and infrastructure to mandate and enforce the waste management regulations.

The Conservation Districts who submitted this rulemaking petition, have a charter to engage people with voluntary actions that keep our air, water, soil, habitats, and **farmland healthy** for all. They should be petitioning the Department of Agriculture for changes, and not the Board of Health.

Regarding the regulations proposed these need to be more specific, if not they are subject to bias by those who implement and enforce.

For examples, Standards for non-livestock:

For landowners with acreage, would land owners be required to pick their field to find their pet animal waste for temporary storage in a water tight container and disposal?

Would land owners be required to fence property to prevent their cats and dogs from migrating to adjacent neighbors? What regulations would be in place, or recourse would a landowner have, if their neighbors deliberately allow, or walk their dogs or cats to defecate on their neighbor's property to avoid collection/containment/disposal? Would land owners be required to sign their property "No Trespassing" to prevent this?

Will domestic pets be restricted from retention ponds, creeks, and rivers on one's property?

Standards for stockpiled waste from livestock:

What is considered stockpiled? Collected for composting? piled up like an equine stud pile? concentrated defecation in a confinement area?

Is **all** livestock waste to be removed, including poultry, goats, sheep, ducks, if found within the 100 ft setback?

Will livestock waste need to be separated by omnivore (i.e pigs, ducks, chickens) or herbivore, to allow it to be composted? And if so, how is the omnivore waste to be disposed of?

Is composted livestock waste allowed to be spread on lands within the 100 ft setbacks?

What criteria will be set to determine if composted waste is acceptable to be spread? And who will make that determination?

What odors need to be controlled? Waste odors, composting odors, animal odors?

What constitutes odor control and at what distance and duration does a landowner have responsibility to control the odor? What device will be used to detect odors?

Will chicken compost be prohibited from being utilized?

Can you specify what pests are to be controlled?

These are just some of the clarifications needed before moving forward with regulation with the Department of Agriculture.

Thank you for your time,

Regards,

Jim and Cindy Reece

Small acreage land owner

From: Cathy Halverson Sent: 4/26/2022 10:14:58 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Keeping of Animals

External Email

As an animal owner I have concerns that not all issues have been resolved with the proposed animal waste rule. I ask that you postpone the draft proposal from June's hearing. I would like to see a work group/task force of stakeholders meet to sort this out.

Thank you,

Cathy Halverson Toledo, WA From: Glasoe, Stuart D (SBOH) Sent: 5/10/2022 10:20:00 AM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: FW: Re: CR-102, Proposed Rule, for WAC 246-203-130, Keeping of Animals.

Stuart Glasoe

SBOH Health Policy Advisor

360-236-4111

From: DOH WSBOH <WSBOH@SBOH.WA.GOV> Sent: Tuesday, May 10, 2022 6:30 AM To: Glasoe, Stuart D (SBOH) <Stuart.Glasoe@sboh.wa.gov>; Herendeen, Lindsay (SBOH) <Lindsay.Herendeen@sboh.wa.gov> Subject: FW: Re: CR-102, Proposed Rule, for WAC 246-203-130, Keeping of Animals.

From: susan\_conard@comcast.net <mailto:susan\_conard@comcast.net> <susan\_conard@comcast.net <mailto:susan\_conard@comcast.net> > Sent: Friday, May 6, 2022 3:43 PM To: DOH WSBOH <WSBOH@SBOH.WA.GOV <mailto:WSBOH@SBOH.WA.GOV> > Subject: FW: Re: CR-102, Proposed Rule, for WAC 246-203-130, Keeping of Animals.

External Email

Good Day

Upon review of the proposal rule, its claim that it "applies to everyone" is misleading. Areas that are incorporated and on municipal water systems, already have regulations regarding livestock (i.e. quantity limits, type of livestock such as chickens, no roosters) and domestic pets (i.e. leash laws, waste disposal and quantity).

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Will chicken compost be prohibited from being utilized?

Can you specify what pests are to be controlled?

These are just some of the clarifications needed before moving forward with regulation with the Department of Agriculture.

Thank you for your time,

Susan Conard

Ph: 425-870-9118

Email: susan\_conard@comcast.net <mailto:susan\_conard@comcast.net>

From: Scott Wiggins Sent: 4/27/2022 9:26:38 AM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Animal waste

### External Email

The short answer is that landowners are by far better custodians of thier property than any gov agency that has been proven over and over. As you come from your condo city life to legislate over landowners...remember your fact base is limited to fanatics that point to one or two examples an you mess with the 99.9% of folks that take care of this all the time and have for decades....we don't need or want your "help" unless you have a shovel. A better example is we have 4 horses and according to the county college folks we after 10years we should be under 8',of manure...the common sense truth is that every spring we drag a section of fencing over the pasture and it's gone and it enriches the soil...after all horse and cow manure is just digested grass.. that's it....pretty sure your targeting Seattle type stables and in your zest to have your name on a bill....miss legislate for the whole state...which is common for I-5ers....while my comments appear negative, what they are is watching decades of a handful of people messing with people that are very capable of handling thier own land, animals, and lives without state interference. And if you think outside the office...we been doing fine for 100 plus years...and now.....Thank you

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From: Phoebe Trocano Sent: 4/26/2022 6:27:48 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Animal waste

External Email

Please postpone th June deadline, so that a task force can be formed to specifically identify, & form solutions for, Th concerns discussed. Sincerely, Rick & Phoebe Trocano Members BCHW From: Gig Kerr Sent: 4/26/2022 3:36:38 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Proposed rule

External Email

hope you hold off on making rules till you're sure of the best solutions to the many issues.

From: Susan Sterling-Williams Sent: 4/28/2022 7:39:32 AM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Animal Waste Rule

### External Email

Please delay the proposal ruling in June and provide the opportunity to reassess the waste removal regulation in the state.

Urban settings should be different than rural settings.

Excessive waste could pose a health problem to urban neighbors. That is what should be regulated....excessive waste not being properly composted and regulated & moved for use elsewhere on private properties.

Susan Sterling-Williams...Snohomish County (Machias Foothills)

From: PCCBCH Memberships Sent: 4/29/2022 1:10:01 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: FW: Public Comment - Keeping of animals

External Email

There are many issues/concerns that are unresolved from the last meeting on Monday the 26th of April. I am requesting that you postpone the draft proposal from June's hearing. I suggest that you allow a work group/task force of stakeholders to convene and sort out the concerns of this draft proposal.

Among the many concerns: mixing livestock oversight with non-livestock, unclear/overreach on stockpiling and composting, concern of complaint abuse from urban neighbors, no uniformity of enforcement (left completely up to local health officer), and more.

Please consider these concerns about the "Keeping of Animals" issues.

Thank you,

Ron/Barbara Downing

253-312-1072

Sent from Mail <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fgo.microsoft.com%2Ffwlink%2F% for Windows

From: Glasoe, Stuart D (SBOH) Sent: 3/30/2022 11:40:49 AM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: FW: CR-102 Proposed Rule Alert: Keeping of Animals (WAC 246-203-130)

attachments\EC0AF8D2EA014D88 image003.png

Stuart Glasoe

SBOH Health Policy Advisor

360-236-4111

From: Marie Tabata-Callerame <aikotabcal@hotmail.com> Sent: Monday, March 28, 2022 7:20 PM To: DOH WSBOH <WSBOH@SBOH.WA.GOV> Cc: Glasoe, Stuart D (SBOH) <Stuart.Glasoe@sboh.wa.gov> Subject: Fw: CR-102 Proposed Rule Alert: Keeping of Animals (WAC 246-203-130)

External Email

Hello,

Since emails are not going through to the "WSBOHProposedAnimalWasteRule@sboh.wa.gov <mailto:WSBOHProposedAnimalWasteRule@sboh.wa.gov> " address, please direct this public comment email to the proper person. Thank you!

Marie Tabata

(360) 448-7925

(312) 933-2293 cell

From: Marie Tabata-Callerame <aikotabcal@hotmail.com <mailto:aikotabcal@hotmail.com> > Sent: Monday, March 28, 2022 7:13 PM To: WSBOHProposedAnimalWasteRule@sboh.wa.gov <mailto:WSBOHProposedAnimalWasteRule@sboh.wa.gov <WSBOHProposedAnimalWasteRule@sboh.wa.gov <mailto:WSBOHProposedAnimalWasteRule@sboh.wa.gov> > Subject: Re: CR-102 Proposed Rule Alert: Keeping of Animals (WAC 246-203-130)

My comment/suggestion is to add to the purpose the protection of stormwater quality. As temperatures rise, our rivers and lakes are having serious algae overgrowth issues. Thus, levels of feces that got into the water that were acceptable in a cooler temperature now create serious problems for aquatic environment. Thus, this issue is outside of just being a "health hazard" - it is an environmental protection issue.

Thanks for all the hard work you are doing!

Marie Tabata

Vancouver, WA

(360) 448-7925

(312) 933-2293 cell

From: DOH WSBOH <WSBOH@SBOH.WA.GOV <mailto:WSBOH@SBOH.WA.GOV> > Sent: Monday, March 28, 2022 3:26 PM Subject: CR-102 Proposed Rule Alert: Keeping of Animals (WAC 246-203-130)

The Washington State Board of Health (Board) has filed a CR-102, Proposed Rule, for WAC 246-203-130, Keeping of Animals. The proposed rule includes a title change to Domestic Animal Waste. The proposed rule includes standards for the handling and disposal of animal excreta, or animal waste, for the purpose of preventing and controlling nuisance and health hazards.

The CR-102, filed as WSR 22-08-003, announces to the public that a rule is being proposed and includes the proposed rule language. The CR-102 is attached and related material can be accessed at the Board's rulemaking page

<a href="https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fsboh.wa.gov%2Frulemaking%2Fc">https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fsboh.wa.gov%2Frulemaking%2Fc</a> rules-and-activity%2Fkeeping-

animals&data=04%7C01%7CWSBOHProposedAnimalWasteRule%40sboh.wa.gov%7C5ccec5bfb9d844a5e1

You may submit your comments on the proposed rule the following ways:

1. Written comments are accepted through May 2, 2022, using the following options:

1. Send to the Board's public comment email address for this proposed rule: WSBOHProposedAnimalWasteRule@sboh.wa.gov

<mailto:WSBOHProposedAnimalWasteRule@sboh.wa.gov>

- 2. Send via U.S. Mail to:
  - Washington State Board of Health PO Box 47990 □OlympiaWA 98504-7990

Please Note: All written comments submitted to the Board will be considered part of the official rulemaking file, provided to Board members for their consideration, and will be posted publicly to the Board's website.

1. Verbal comments will be accepted on June 8, 2022, during the online rules hearing open to the public

<https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fsboh.wa.gov%2Fmeetings%2Fme information%2Fmeeting-information%2Fmaterials%2F2022-06-

08&data=04%7C01%7CWSBOHProposedAnimalWasteRule%40sboh.wa.gov%7C5ccec5bfb9d844a5e1f608c beginning at 1:30 p.m.

1. Access and register for the online rules hearing: https://us02web.zoom.us/webinar/register/WN\_6vqdRyUmTamyb61z3wCSBA <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fus02web.zoom.us%2Fwebinar%2

Important Information for the Rules Hearing:

\* The online rules hearing will be held via the Zoom Webinar platform

\* In order to give verbal testimony during the rules hearing, you will need to access the meeting using your computer, laptop, or device. Your computer, laptop, or device must have speakers and a microphone.

For more information regarding this rule revision please:

1. Visit the Board's Keeping of Animals rulemaking web page

<a href="https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fsboh.wa.gov%2Frulemaking%2Fc">https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fsboh.wa.gov%2Frulemaking%2Fc</a> rules-and-activity%2Fkeeping-

animals&data=04%7C01%7CWSBOHProposedAnimalWasteRule%40sboh.wa.gov%7C5ccec5bfb9d844a5e1for

2. Email Board staff at stuart.glasoe@sboh.wa.gov <mailto:stuart.glasoe@sboh.wa.gov> .

Thank you,

(360) 236-4110

P.O. Box 47990, Olympia, WA 98504-7990

Location

<https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.google.com%2Fmaps%2Fpla 122.9083621%2C17z%2Fdata%3D!3m1!4b1!4m5!3m4!1s0x549173f074205aa3%3A0x552ddc5f79ee44b6 122.9061681%3Fhl%3Den&data=04%7C01%7CWSBOHProposedAnimalWasteRule%40sboh.wa.gov%7C5c • Website

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<mailto:wsboh@sboh.wa.gov?subject=Please%20Add%20My%20Name%20to%20the%20WSBOH%20Em

This announcement is being sent to the Board's general distribution list and other distribution lists associated with this rulemaking. Please excuse any duplications.

From: Mary Hargrove Sent: 4/26/2022 4:33:47 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: New legislation concerning animal waste disposal

# External Email

I request they postpone the draft proposal from June's hearing. We suggested they allow a work group/task force of stakeholders to convene and sort out the concerns.

Sent from my iPad

From: Glasoe, Stuart D (SBOH) Sent: 4/25/2022 7:29:01 AM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: FW: Proposed Rule, for WAC 246-203-130,

Stuart Glasoe SBOH Health Policy Advisor 360-236-4111

-----Original Message-----From: Donna Frankel <dfrankel2c714@gmail.com> Sent: Saturday, April 23, 2022 7:44 PM To: Glasoe, Stuart D (SBOH) <Stuart.Glasoe@sboh.wa.gov> Subject: Proposed Rule, for WAC 246-203-130,

External Email

Just want to let you know that I am in favor of this proposal. It is long overdue.

Donna Frankel, 1794 Happy Valley Road, Sequim, WA 98382

From: Glasoe, Stuart D (SBOH) Sent: 6/1/2022 12:18:43 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: FW: Keeping of Animals Language

Stuart Glasoe

SBOH Health Policy Advisor

360-236-4111

From: Dan Wood <dan@wastatedairy.com> Sent: Wednesday, June 1, 2022 11:07 AM To: Glasoe, Stuart D (SBOH) <Stuart.Glasoe@sboh.wa.gov> Cc: Dan Wood <dan@wastatedairy.com>; Jack Field <jack@wafeeders.org>; Jay <jay@wastatedairy.com> Subject: Keeping of Animals Language

External Email

Thank you for the time today.

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 animal waste. 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.

This should clarify authorities and avoid confusion and lawsuits.

Again, we do not believe new rules are needed. But, if rules ARE adopted, we want them to be clear and recognize existing programs.

Please include this communication in the documents provided to the Board of Health.

Thank you,

Dan Wood Executive Director Washington State Dairy Federation 360-482-3485 (office) 360-870-6018 (mobile) Dan@WaStateDairy.com <mailto:Dan@WaStateDairy.com>

Call me any time – early, late, weekends, evenings. Really, it's OK.

From: ELAINE Kohler Sent: 4/27/2022 3:07:27 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Proposed Animal Waste Rule

External Email

To whom it may concern,

As a BCHW member and 2 horse owner on a smaller piece of property, I am requesting a postponement of the draft proposal from the June's hearing. I suggest they allow a work group/task force of stakeholders to convene and sort out the concerns.

Thank you for your time and consideration.

Sincerely,

Elaine Kohler eckohler@msn.com
From: Glasoe, Stuart D (SBOH) Sent: 3/30/2022 11:39:45 AM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: FW: Animal Keeping rule

Stuart Glasoe

SBOH Health Policy Advisor

360-236-4111

From: Jean Gulden <jeangulden@gmail.com> Sent: Monday, March 28, 2022 8:10 PM To: Glasoe, Stuart D (SBOH) <Stuart.Glasoe@sboh.wa.gov> Subject: Animal Keeping rule

External Email

Dear Sir,

Though there are about 250,000 horses alone in Washington state, for this proposed rule, a bare1,000 surveys were mailed out to include all livestock and domestic facilities affected by the proposed law.

About .4%, yes, less than 1/2 of one percent, of those surveys were received back, only a small handful of which filled out any financial information. The conclusions drawn were that it must be fine and no cost because such a minute number filled in the financial information. I believe it is possible most did not return or did not complete these surveys because they have no idea how much such a rule would cost or the barest idea how it would be implemented. So in fact, there is no adequate 'cost analysis'.

Is such a rule even needed? Have we had public water or well contamination from livestock or pets? Has it caused any harm to humans? If a rule has worked for 100 years do we really need to change it? The rule gives no reason for updating other than its age - no reports, no studies, no contaminations on a measurable scale, no current known health risk, no discussion of what diseases could or could not cross over. (As a non-water related practical example: Did you know lice are species specific so you can't 'catch' mange from a goat or horse or cow? I bet not.) Zero 'cost benefit' has been scientifically determined - though I am sure lawyers will make money.

Do we have staff to fairly and consistently handle this new rule? Is there training for this staff in various types of animal keeping? manure handling? fly control via fly predators and feed through? common and acceptable practices? composting rates? disease risk or lack thereof?

The potential for abuse of such a rule by ignorant, untrained health department workers spurred on by one neighbor or greedy developer in an entire area is HUGE.

This rule lacks any demonstrated need and fails to show how it might benefit our health or our water supply.

Jean Gulden

jeangulden@gmail.com <mailto:jeangulden@gmail.com>

#### 509-499-2670

"Let love and faithfulness never leave you; bind them around your neck, write them on the tablet of your heart. Then you will win favor and a good name in the sight of God and man."

CONFIDENTIALITY NOTICE: This message (and any attachment to it) is intended only for the use of the individual or entity to which it is addressed in the header, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. Any reproduction, distribution, modification or use of the contents of this message (and any attachment to it) by any individual or entity other than the intended recipient is prohibited. If you have received this communication in error, please notify us immediately and delete the original. From: Melody Meyer Sent: 4/30/2022 8:56:44 AM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Animal waste policy comment

External Email

Please delay creating a policy without agricultural and livestock owner committee creation.

Please do not implement any new wording without a sustained period of time and committee input from agricultural and livestock people.

Please be sure that the there is a differential between livestock and domestic pets being cats and dogs versus cattle horses goats etc.

I am a horse owner, I compost my manure I turn it into great high quality organic soil, and I use it in my gardens. Every single year. This would substantially affect my operations and my gardening. Though I am not a commercial gardener I depend on the ability to utilize my manure this way. I make sure that it does not have any impact on groundwater. I make sure that it is kept separate and stored responsibly. I also fertilize my fields with it. The immense cost that this could bring to domestic livestock owners would be crippling.

If the department of health is going to create a law about disposal, I would ask that they absolutely create a low cost and effective disposal system as well for horse and cattle owners. If a system is not created and we are forced to dispose of manure through the landfill system or other currently available disposal systems the cost would effectively force us to lose our animals. This is an undue burden on the citizens and it is unfair. Please consider all of these points carefully.

Please delay this bill and allow for further discussion and committee work for at least one year.

Thank you, Melody Meyer 253 961 8840 From: Morris, Della Sent: 4/29/2022 1:52:46 PM To: DOH WSBOH Proposed Animal Waste Rule Subject: CR-102 Proposed Rule Alert: Keeping of Animals (WAC 246-203-130)

*attachments\9549830A39734C1D\_WAC 246-303-130 CR102 response.doc* 

External Email

Attached is the written comments on CR-102 Proposed Rule Alert: Keeping of Animals (WAC 246-203-130).

Thank you

Della Morris |Administrator II

Environmental Health Services Division

Public Health Seattle & King County

401 Fifth Avenue, Suite 1100 | Seattle, WA 98104

Phone: 206-263-9554, |Fax: 206-296-0189

Della.morris@kingcounty.gov <mailto:Della.morris@kingcounty.gov>

From: Diana Putney Sent: 4/28/2022 2:02:13 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Keeping of Animals on a rural farm

External Email

To Whom it may Concern

I am a member of the Island County Back Country Horsemen and own and live on a farm in a rural area, we have 4 horses and no other livestock. The horses each have their own stall and paddock and we have a pasture for turnout during the day. We clean all the horse manure in the paddocks, stalls and pasture every day and it is dumped into our two compost bins. The bins have cement floors and cement blocks for the sides. The compost is hauled out by a friend who has a front loader and a dump truck and uses the compost for his gardens. We do not spread any of the manure on the pasture. Our horses are fed quality Timothy hay and alfalfa pellets have water tanks that are kept clean. There are not any streams or lakes in the area where we live.

Sincerely

Diana Putney Edgewood Farm, Langley, WA From: Tina Short Sent: 4/29/2022 7:13:59 AM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Recommendation to Postpone Proposal CR-102/WSR 22-08-003 From June Meeting

External Email

Good morning Washington State Board of Health,

I request you postpone the draft proposal (CR-102, Proposed Rule, as WSR 22-08-003 for WAC 246-203-130, Keeping of Animals) from the June 8, 2022 hearing.

Please allow a work group/task force of stakeholders to convene and sort through the concerns brought forward by the citizens of Washington state.

Tina Short Washington Citizen

May your troubles be less and your blessings be more, and nothing but happiness come through your door.

From: Glasoe, Stuart D (SBOH) Sent: 4/26/2022 11:28:42 AM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: FW: WA Farm Bureau comments on BOH rulemaking - WAC 246-203-130 and SBEIS

10

attachments\435ACA35BCF04468\_image002.png

*attachments*\908C24665ACA4515\_WA Farm Bureau comment letter to\_PRDTOOL\_NAMETOOLONG.pdf

Stuart Glasoe

SBOH Health Policy Advisor

360-236-4111

From: Tom Davis <tdavis@wsfb.com> Sent: Tuesday, April 26, 2022 11:04 AM To: DOH WSBOH Proposed Animal Waste Rule <WSBOHProposedAnimalWasteRule@sboh.wa.gov> Cc: Glasoe, Stuart D (SBOH) <Stuart.Glasoe@sboh.wa.gov>; Grellner, Keith (DOHi) <Keith.Grellner@kitsappublichealth.org>; Davis, Michelle (SBOH) <Michelle.Davis@sboh.wa.gov>; Warnick, Judy <judith.warnick@leg.wa.gov>; Short, Shelly <shelly.short@leg.wa.gov>; Dent, Tom <tom.dent@leg.wa.gov>; Schmick, Joe <joe.schmick@leg.wa.gov> Subject: WA Farm Bureau comments on BOH rulemaking - WAC 246-203-130 and SBEIS

External Email

Please find attached the WA Farm Bureau's comments regarding the Board of Health's proposed rulemaking related to WAC 246-203-130 and the SBEIS.

Sincerely,

Tom Davis

Director of Government Relations

Ensuring that our family farms continue to feed the world

"The people of this state do not yield their sovereignty to the agencies that serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may maintain control over the instruments that they have created..."

RCW 42.56.030

# **WASHINGTON FARM BUREAU**

- To: Washington State Board of Health
- Date: April 26, 2022
- RE: Proposed rulemaking: WAC 246-203-130 Domestic Animal Waste

Dear Members of the Board of Health,

The Washington Farm Bureau is the state's largest general agricultural organization representing more than 47,000 member families statewide. We are a voluntary, grassroots advocacy organization representing the social and economic interests of farm and ranch families at the local, state and national levels. That is why Washington Farm Bureau is called the voice of agriculture.

In July 2019 we provided written comments expressing the serious concerns we had with staffgenerated amendments to WAC 246-203-130 related to animal waste. We found the amendatory language was too broad, exceeded the scope outlined in the originating CR-101, created opportunities for frivolous and expensive lawsuits, duplicated existing state and federal laws addressing manure management on ranches and dairies, impacted the protections provided to our farmers under the state's Right to Farm laws and created create an unfunded mandate on local governments.

The March 2022 version of the draft rule represents an improvement over earlier drafts, but still has internal problems that need to be addressed if the rule is to be eventually approved.

Here are the remaining areas of concern:

# • Expands authority of LHO beyond provided statutory authorities.

- In subsection (1) of the proposed rule it states, "The purpose of this section is to establish standards for the prevention, control, and abatement of <u>health hazards and nuisance</u> <u>detrimental to human health related to the disposal of domestic animal waste</u>..." (emphasis added). The proposed rule also states in (2)(g) that ""Nuisance" includes an act of omission that harms, endangers, or interferes with the <u>health or safety</u> of another person." (emphasis added). The inclusion of "safety" in this definition seeks to broaden the authority of local health officers far beyond what is provided in state law. Laws for worker safety are found in the authorizing statutes for Department of Labor & Industries.
- Wrong WAC cited for livestock manure management.
  - In subsection (3)(d)(i) it states that domestic animal waste from livestock that is collected and stockpiled for later use or disposal must be stored in a manner that controls odors and attraction of flies, rodents, and other vectors. In the "Significant Legislative Rule Analysis" presented to the BOH dated March 1, 2022, it states on page 3 under "Rationale for Determination" the following: "This standard incorporates by reference, without material

change, standards/rules of another Washington state agency. It incorporates requirements of the state solid waste rules, chapter 173-350 WAC, including WAC 173-350-320(6) regulating agricultural waste piles."

However, subsection (6) of WAC 173-35-320 is the wrong subsection since it is for "Piles used for storage or treatment – Permit requirements." In this section it does require the operator to ensure the facility is operated in a way as to control nuisance odors, as well as litter, dust, rodents, insects, etc. <u>However</u>, <u>subsection (6)</u> is the wrong section to cite since it addresses permitted activities. Agricultural wastes are addressed in subsection (2) under the title "Piles used for storage or treatment – Permit exemptions." This section includes the following language: "In accordance with RCW 70.95.305, facilities managing solid wastes in piles meeting the conditions listed in <u>Table 320-A</u> and the conditions of (a) of this subsection <u>are exempt from solid waste handling permitting</u>." (emphasis added). Table 320-A includes "Agricultural waste and on-farm vegetative wastes stored on farms." More importantly, subsection (2)(a)(ii) states that farms must "Manage the operation to prevent fugitive dust and the attraction of vectors..." WAC 173-350-100 further clarifies that subsection (2) is the appropriate language by defining agricultural waste to include livestock manure.

Please note that WAC 173-35-100 (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.

#### Violates the state's Right to Farm law.

The Washington State Right to Farm law states in RCW 7.48.305 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 <u>unless the activity or practice has a substantial adverse effect on public health and safety</u>." (emphasis added). The proposed rule before you has no qualifying language such as this. Rather it provides a broad requirement 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? In addition, nothing in your documentation cites any scientific research, or state and federal laws to substantiate this expansion of authority. Please also note that RCW 7.48.310, also part of the Right to Farm law, includes odors as a normal, acceptable condition related to agricultural activities.

#### Additional specificity required

 In subsection (4), the proposed rule states that "Before taking enforcement action the local health officer <u>must attempt</u> 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>allow the person reasonable time</u> to correct the violation." (emphasis added). We appreciate this language to allow for a conversation and the ability for additional information to be collected before enforcement action is taken. However, 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.

## • Pasture livestock and Free-range grazing

- Earlier versions of the proposed changes to WAC 246-203-130 excluded both "pasture livestock" and "free-range grazing" from the requirements of this rule. The March 2022 version no longer specifically excludes pasture livestock. By what principles, proven health concerns, or medical or scientific findings did you justify the removal of pasture livestock from this exemption?
- For the purposes of this proposed rule, what do these two terms mean and what are the specifics or definitions that a LHO will use to determine whether livestock in a pasture fall into either of these two categories. Please note, that in general livestock producers do not use these terms. I encourage you to do a Google search for "free range grazing" and you will find pictures or written descriptions of pasture livestock. Free-range grazing is more popularly used as a synonym for organically raised rather than a rangeland management practice.

#### Inaccurate Small Business Economic Impact Statement

The data used to validate the SBEIS is woefully inadequate. Of the 1000 businesses identified to receive the cost survey, only 41 or 4.1 percent of the recipients responded. Worse yet, the USDA National Agricultural Statistics Service (NASS) has identified 12,656 farms in Washington that raise cattle or pigs. That means the BOH reached out to less than 8 percent of just the cattle and pig producers in the state identified by NASS. This does not even include farms that raise other types of livestock. This is clearly not enough data to adequately quantify the potential impacts of this proposed rule.

Given these serious 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.

Sincerely,

Tom Davis Government Relations Director From: Sheryl Barbour Sent: 4/27/2022 9:25:36 AM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: keeping of animals

External Email

Please refrain from deciding this at this point without the input of those it will directly involved, both from recreational and business standpoints.

S A Barbour

Owner of a horse ranch, chicken laying producer and organic meat herd.

Sent from Mail

<https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fgo.microsoft.com%2Ffwlink%2F% for Windows

From: Susan Turner Sent: 4/27/2022 11:40:08 AM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: More time needed

External Email

Please postpone the draft proposal from June's hearing and allow a work group/task force of stakeholders to convene and sort out the concerns.

Susan Turner

<https://drive.google.com/uc?id=10\_-UVJH0W9V\_A6pSq64y4xzzQr\_QlJzl&export=download> From: Kay MacCready Sent: 4/26/2022 3:13:16 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Draft on keeping lifestock

External Email

Please delay the proposal until further clarification of concerns. I'm a concerned livestock owner.

Kay MacCready

From: Carole Schuh Sent: 4/26/2022 10:15:07 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Keeping of Animals Memo

## External Email

As a member and representative of Back Country Horsemen of Washington, I am requesting the draft proposal of the keeping of animals be postponed from June's hearing. I suggested a work group/task force of stakeholders will be allowed to convene and sort out the concerns prior to the hearing.

Thank you ~ Carole Schuh 2551 Drummond Rd Mesa, WA 99343 From: Janice W Sent: 4/26/2022 3:12:48 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Delay needed

External Email

The draft proposal on the keeping of animals and their waste products needs to be postponed. Having this on the June's hearing is rushing things to much as there are many unanswered questions. I believe that a work group needs to be formed that can address the many issues involved. Mixing livestock oversight with pets will not work. There needs to be uniformity of enforcement across the board, not leaving the decisions up to each individual health officer. These are just some of the many issues with this proposal.

Sincerely, Janice Williamson

Owner of a dog, a cat, and a horse.

From: Sandra Brabant Sent: 4/27/2022 10:53:32 AM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Proposal

## External Email

I think this a great idea, if there is adequate support. In my area there is no cost share availability, nor any place that takes waste. I worked with the conservation district in my area and they gave me plans for an appropriate size compose bin. The cost to build was \$15,000. That didn't include anyway to get the manure out, or anyplace to put it. I have spent at least 25,000\$ for a containment area, compost bins, and small tractor. I still at 57 years have to spread it myself. That is for 2 horses.

I used to live in King County Washington. Farm plans through the conservation district were free, and they cost shared 50%. They had a manure spreader that could be borrowed. With the pandemic and inflation, people are struggling financially. People aren't going to be able to afford what you are asking them to do.

So I think this will just create more problems than it helps.

Long term planning would be better. Help conservation districts have cost share funding. Get locations to take waste, help livestock owners financially to comply, and they will do it willingly. Animal waste is a difficult problem for everyone.

Sent from my iPhone

From: Lori Gese Sent: 4/27/2022 6:45:05 AM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Please postpone

External Email

Good morning, the new legislation being proposed about livestock waste is very concerning and confusing.

Please postpone the draft proposal from June's hearing. It seems that it would be most helpful to allow a work group/task force of stakeholders to convene and sort out the concerns. I don't think you realize the huge negative impact that the current proposal will have on so many small private homes who have livestock. Thank you for your consideration.

Respectfully, Lori Gese

Sent from my iPhone

From: Deanna Clark Sent: 4/30/2022 11:22:10 AM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: KEEPING OF ANIMALS memo

attachments\48F309B7B3E246C0\_image001.gif

External Email

Dear State Board of Health,

There are many unresolved issues/concerns regarding the Keeping of Animals. Example of concerns are: mixing livestock oversight with non-livestock, unclear/overreach on stockpiling and composting, concern of complaint abuse from urban neighbors, no uniformity of enforcement (left completely up to local health officer), and more.

I am requesting that the draft proposal from the June meeting be postponed to allow a work group/task force of stakeholders to convene and vet out the concerns and make recommendations.

Please get back to me and let me know if you are honoring this request or have other avenues to resolve these issues. Thank you.

Deanna Clark

253.455.2073

From: Traci Stewart Sent: 4/28/2022 6:24:26 AM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Keeping of Animals Proposed Rule

External Email

State Board of Health

I am hereby requesting you to remove the draft proposal from June's hearing agenda and suggesting you allow a work group/task force of stakeholders to convene and sort out the concerns before returning it to the agenda.

My concerns include: mixing livestock oversight with non-livestock; unclear/overreach on stockpiling and composting, concern of complaint abuse from urban neighbors, no uniformity of enforcement (left completely up to local health officer), and many more.

Traci Stewart PO Box 572 Deer Park, WA 99006 From: Verna Sent: 4/29/2022 10:31:17 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: animal waste

External Email

Hello,

Please delay the Draft Policy proposal in June so that a work group/task force is formed to vet out BackCountry Horsemen's concerns..

Thank you for your consideration of this,

Verna McLeod

From: SONDRA JOHNSTON Sent: 4/26/2022 1:34:16 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Draft policy proposal

External Email

Delay any final recommendations till sometime 2023 to allow complete study of issues without a rush job so all concerned citizens can be heard

Sent from my iPhone

From: Dean or Martha Effler Sent: 3/30/2022 4:56:46 AM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Keeping of Animals Rule/Domestic Animals Waste

## External Email

The Washington State Department of Health is in the process of failing to protect the health and well being of thousands of state citizens. By changing the focus of the rule to domestic animals and leaving out the huge herds of dairy cows in Yakima County, the department is ignoring the largest source of ground water pollution in the state. In the past, the Washington State Department of Agriculture has wrongfully been given the responsibility to monitor the CAFO permits that are formulated by The Washington State Department of Ecology. They dedicate inadequate manpower to monitor manure management and virtually never do anything to protect ground water sources because their mission is to promote agriculture and not encumber it with added requirements. WSDA seems to be disinterested in truly protecting domestic wells that are contaminated with nitrate. The Washington State Department of Ecology seems to have great political pressure put on them to produce a weak CAFO permit. During the writing phase of the permit, Ecology employees sit down with environmentalists and smile at our suggestions regarding protection of aquifers, but when the final permit comes out it contains less than 5% of the recommendations of environmental groups. Instead the permit is so weak that ground water pollution is allowed to continue. This issue was brought to the Washington State Appeals Court and the court agreed. The court required that Ecology rewrite the permit with stronger measures that protected domestic wells.

Just remember how bad the situation is in the lower Yakima County. 20% of domestic wells are not drinkable because of nitrate. If you live one mile down current of large CAFOs, 60% of the wells are contaminated. This is true because manure lagoons are not lined with synthetic barriers and the industry produces so much manure that the manure is applied to lands that already has too much nitrogen in the soil. A federal court judge many years ago in Yakima County agreed with this assessment and required the owners of the four dairies to change their dairy practices.

So the citizens of Yakima County had only one agency left to protect their wells from contamination and that was the Washington State Department of Health. It looks like the Washington State Department of Health has taken the same road as the WSDA and Washington State Department of Ecology and is buckling in to the wealthy, politically influential dairy industry and is failing to do anything to protect the health of the citizens of the lower Yakima Valley. You should be ashamed of yourselves. Is there not one agency in state government that will stand with the common man and against the polluting dairy industry?

From: Joan Fleming Sent: 4/26/2022 11:48:51 AM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Proposed BOH Animal Waste Rule Comment

### External Email

I am a homeowner on 5 acres just north of Rochester and have my horse on this property. I am also a member of Back Country Horsemen of Washington (BCHW) with whom your staff has met and otherwise communicated with along with Legislative representation and other interested organizations such as WA Cattlemen's Assoc., Farm Bureau, and likely others.

I agree with the concerns of BCHW such as mixing livestock oversight with non-livestock, unclear/overreach on stockpiling and composting, concern of complaint abuse from urban neighbors, no uniformity of enforcement (left completely up to local health officers) and more.

I compost my horse's manure and share the composted product with my neighbors for their garden as well as spreading it on my pastures twice a year. I am not adjacent to any streams, rivers, ponds, lakes, etc. The rule does not clearly allow composting and spreading livestock manure. Livestock are herbivores. Their manure does not have the pathogens that are present in carnivores such as dogs and cats. If this rule does not clearly state that the composting and spreading of livestock manure is allowed, it will be up to local health officers to make this judgment which will likely be different from jurisdiction to jurisdiction. If I will be required to annually remove my horse's manure, the cost will be prohibitive.

I, also, would ask that the BOH delay the Draft Policy proposal in June and that a work group/task force is formed to vet out these concerns.

Thank you for your consideration.

Joan Fleming Rochester, WA 360-273-8266 From: Sheila Blakely Sent: 4/27/2022 7:57:08 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: re: Animals waste Dept of Health

External Email

Dear Sir or Madam:

I would first like to ask that this proposal by the Dept. of Health on keeping animals, waste would be postponed until a work group to study this issue and concerns has been formed. Farmers, ranchers and others who keep animals are already usually very concerned with keeping their animals healthy and their properties environmentally friendly. Most of us use animal waste (horse, cattle, goat, sheep etc.) by composting it and incorporating it back into the soil.

Often people who make complaints about animal keeping have no idea what is involved. They often think country life looks fun, then move to a place where suddenly they are seeing flies and smelling animals. I don't think that it would be fair to suddenly tell the rancher to change his way when the city dwelling moves into the area.

I would like to see the work group have many members that are experienced animal keepers on it so that the issues that will be involved will be grounded in reality. Do you eat steak? Pork? If so, then we need to keep our producers from having to deal with over involvement from someone who doesn't understand the issues.

Thank you Sheila Blakely Backcountry Horsemen of Washington From: carol fields Sent: 4/30/2022 2:49:13 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Animal Waste Rule

External Email

please delay the Draft Policy proposal in June and that a work group/task force is formed to vet out our concerns. if this proposal is passed, I am voting to move my paycheck (and most of my horsemen friends also) out of this state. We have had enough. Carol Fields Graham, WA

Fight organized crime: Re-elect no one..

From: Brian Schlottmann Sent: 5/2/2022 2:23:24 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Comments on Domestic Animal Waste



attachments\2305DFA1A956408C\_image004.jpg

External Email

Thank you for the opportunity to review and provide comment on this rule revision.

In general, I think these are good changes and they support the protection of human and environmental health. In our county, the majority of complaints that we received on the topic of animal waste, is with regard to household pets and either the burial of dead animals or storage/disposal of pet waste. The language you're proposing here supports the changes we're pursing locally however we have slightly varying definitions.

I do see our County citing this code if its adopted prior to our local code adoption as well as in the future depending on the situation and need for state supported enforcement. There are specifics within your proposed code that we may likely incorporate language you've used – specifically on the type of storage noted in 3(C)(i and ii).

If interested, here is the language we're pursing in Clark County:

# 24.12. 245 Animal Waste Handling

1. Disposal of Dead Animals. Dead animals shall be handled and disposed of in a manner consistent with WAC 246-203-121

<a href="https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fapp.leg.wa.gov%2FWAC%2Fdefau">https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fapp.leg.wa.gov%2FWAC%2Fdefau</a> 203-

121&data=05%7C01%7CWSBOHProposedAnimalWasteRule%40sboh.wa.gov%7C10ef5535eda749e3508f0 . The owner of the animal or the owner of the property on which the animal is found must immediately cover and properly dispose of the carcass within 72 hours after the death or discovery. The carcass shall be disposed of by burial, landfilling, incineration, composting, rendering, or another method approved by health officer that is not otherwise prohibited by federal, state, or local law or regulation. disposed of as municipal solid waste.

i. Animals weighing more than 30 pounds may be disposed of as municipal solid waste at an approved solid waste handling facility with prior approval from the facility.

b. Animal Burial Sites. Burial of dead animals shall comply with the following:

i. Ensure the burial site is at least 100 feet away from any drinking water well, spring, stream, lake, surface water and/or water body;

ii. Cover the carcass by at least three feet of soil;

iii. Cover the carcass in a manner to prevent other animals from digging up the remains;

iv. Envelop the carcass in unslaked lime in cases of death from a communicable disease and comply with all applicable federal, state and local regulations;

v. Animals may not be buried in a manner likely to contaminate ground water. This includes but is not limited to areas designated as wetlands or hydric soils and in areas with equal to or less than 10 feet to surface water per Clark County GIS.

vi. If more than expected animal deaths occur, the owner operator shall report the incident to Public Health. In the event of more than expected animal deaths, approval or on-site burial will be determined by the health officer on a case-by-case basis.

2. Animal manure (feces) and bedding. Handling and disposal of animal manure and pet waste shall comply with the following requirements:

a. Agricultural waste handling and on-farm vegetative waste.

i. The duration of storage of the entire pile is limited to one year.

ii. Limited to the amount that will be applied to a site during a oneyear period.

1. Subsequent accumulation under the same conditions is allowed at the same location after the entire pile has been used.

iii. Shall not be allowed to accumulate in any place where it can negatively impact any source of drinking and/or surface water.

1.Ensure the pile is located at least 100 feet away from any<br/>drinking water well, spring, stream, lake, surface water and/or water body.<br/>2.2.Agricultural waste may not be stockpiled in areas designated

as wetlands or hydric soils per Clark County GIS.

b. Non-agricultural handling (i.e., household pets).

i. Shall be stored and disposed of in a manner which does not create a public health nuisance or pollute surface waters of the state;

ii. Shall be removed at a frequency sufficient to not create a public

nuisance or at a minimum of once per week;

iii. Should be bagged, containerized and disposed of through routine garbage service or at a local transfer station

iv. Pet waste shall not be disposed of in a domestic on-site sewage system or to a sewer treatment facility via the sanitary sewer system without Public Health approval.

Thanks again,

Brian

<a href="https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.clark.wa.gov%2F&data=05%">https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.clark.wa.gov%2F&data=05%</a>

Brian Schlottmann | he I him I his

Environmental Health Director

PUBLIC HEALTH

564-397-8258

<https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.facebook.com%2Fpages%2F County-WA%2F1601944973399185&data=05%7C01%7CWSBOHProposedAnimalWasteRule%40sboh.wa.gov%7C1

<a href="https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Ftwitter.com%2FClarkCoWA&data="https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Ftwitter.com%2FClarkCoWA&data="https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Ftwitter.com%2FClarkCoWA&data="https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Ftwitter.com%2FClarkCoWA&data="https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Ftwitter.com%2FClarkCoWA&data=</a>

<a href="https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.youtube.com%2Fuser%2FCl">https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.youtube.com%2Fuser%2FCl</a>

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From: Teresa Crossley Sent: 4/27/2022 7:22:49 AM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Livestock waste proposal

External Email

Dear Sir/ Madame,

The proposal concerning livestock manure is missing several important points of reason and enforcement. I won't address them all here but rather I will speak to some concerns I personally have.

As a horse owner, manure is removed from pasture on a regular schedule and collected in roll-offs and later transported to a composting facility. All horses owners I know, do pretty much the same thing with manure from their ranch. A few compost on site.

Horses eat grass and seed (grain). That's all. No meat or meat byproducts. Their manure is not rife with the nasty germs which cause contamination to local waters from runoff. (Even if I did not practice the removal of manure from pasture it would not create an illness causing situation.)

Removal of manure from livestock trails or paved woodland trails is primarily a safety concern. Riders cannot carry a rake and bag with them. How on earth would something so cumbersome be safely attached to a horse? Flapping bags and side-banging rakes are just the ticket for an ambulance ride to hospital!!

Most trail riders really try and move their horses off to the side of ODT, but there is most commonly no dirt side or too narrow side area to be found!! Short sighted planning. This problem can be rectified by clearing a 6-8 foot wide path alongside the paved trail. Horses prefer walking on dirt to asphalt anyway. Not only is horse manure broken down and partially consumed by birds within a few days but it also does not contaminate, as previously stated.

Please don't make any decision with out full consideration! Establish a bipartisan comittee/ panel to include livestock owners for knowledgeable discussion of this subject.

Sincerely, Teresa Crossley

Sent from the all new AOL app for Android <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fplay.google.com%2Fstore%2Fapp

From: Alynne Prins Sent: 4/30/2022 12:06:29 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: 7A2F2F8D-6086-4C5F-9938-71AD840D7900

External Email

Please postpone draft proposal from June's hearing and allow a work task force of stakeholders to convene and sort out concerns. Thank you, Alynne Prins Livestock Owner, Snohomish. From: Tammi Chappell Sent: 4/29/2022 11:29:53 AM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Keeping of animals

External Email

Hello,

I would appreciate if you would postpone this issue for now. I'm a horse owner would like to be more educated on this issue and what is expected of us .Also, many horses owners do not belong to a chapter who aren't aware of the this issue. This would give us more time to be educate and educate non chapter members so the can vote too.

My other concern is homeless waste/ trash is now appearing in our woods/trails. For example, we have a homeless persons living at Danville woods, possibly 3 .There has been three different tents at Danville in different areas in the woods.

Please understand, horses are part of the land that belong here. Housing developments destroy more land than horse manure.

Thank you, Tammi From: Lisa Miniken Sent: 4/30/2022 1:03:47 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Concerns regarding proposed policy for the Keeping of Animals

External Email

To whom it may concern,

As a member of the Backcountry Horsemen of Washington and as a property owner of a small horse property in unincorporated King County, I share many concerns with other people in similar situations regarding the proposed policy. Along with others, I ask that you delay the draft policy proposal and form a task force to hear concerns from many people such as myself.

I live in an area where acreage and hobby farms are slowly being phased out in favor of large homes and neighborhoods. Although my horse property is legal and setbacks are respected, I'm concerned about the vagueness of the current policy proposal. My barn is situated close to my neighbor's house so what if she complains about a smell, even though none exists due to responsible horse-keeping? What if another neighbor decides to complain because they don't like the "look" of horse property?

The current policy is too vague. Please take into account the reality of small livestock farms in the area and put some more thought into a proposal that will work for everyone.

thank you, Lisa Miniken Redmond, WA 206-399-7134 From: Mary McHugh Sent: 4/26/2022 6:47:25 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Please delay any decision at this time

External Email

There are most difficult complications due to weather, elevation differences, comparisons of coastal rain forests, and dry desert like conditions in eastern Washington. Cannot make one rule to cover the whole state of Washington.

Please delay any decisions on this matter. I feel it should be a county decision. Seattle does not compare to Okanogan County, rural verses city can have diverse differences. This is not a state wide ruling that can be passed. Mary McHugh 19 Poorman Cr Cut-Off Rd Twisp, WA 98867 From: Sally Kiger Sent: 4/27/2022 9:54:16 AM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: URGENT Dept. of Health Keeping of Animals/Waste

attachments\F0B1D3C56B034015 image001.gif

External Email

I have a small 1 acre hobby farm. I don't sell anything but I have ducks, chickens, horses and dogs. I have a small garden where I grow a lot of my own vegetables, I have a couple fruit trees.

I am very concerned about mixing equines in with domestic animals. Although they seem like pets they ARE NOT PETS in any way. They are working animals. They earn money (although not their keep) they take us hunting, up and down mountains for search and rescue missions, they work with us as parking lot attendants on occasion. When their world hits the fire, they REACT as a prey animal, barreling through fences, and running wild.

I definitely understand the issue with the waste they produce. We actively pick our bedding so we can compost their manure. The chickens do an excellent job of churning the piles, and I get beautiful soil for my garden.

I am asking that you put off ruling on this decision and make research groups/task force of all types of equine owners, Farmers, etc. to better understand how different decisions will effect the different users you have in this state.

Equines have always been farm animals and not pets. Just like cattle, Llama's, goats, and sheep. Everyone of those animals can technically be classified as both pets and farm animals.

Please do more research and reach out to all the communities.

Sally Kiger

AAS – Paralegal,

Paraeducator MMHS ext. 7761

C: (360) 749-1584

Kigersallyj@gmail.com <mailto:Kigersallyj@gmail.com>
From: Linda Knutson Sent: 4/13/2022 9:01:23 AM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Proposed changes to Keeping of Animal Rule

External Email

The following letter is to be distributed to a number of news media in Washington State.

I'm writing to call to your attention dramatic and alarming changes the Washington Department of Health (WDH) is proposing for WAC 246-203-130. This rule is currently titled, "Keeping of animals", but the proposed new title will be "Domestic animal waste". As the new title indicates, the WDH will no longer regulate the pollution caused by farm animals. Instead, they will focus entirely on the waste produced by domestic animals such as cats and dogs. A copy of the document, with the proposed changes, shown as strikeouts, is attached to this email.

There are approximately 200,000 dairy cows in the Lower Yakima Valley (LYV), and managing the mountainous volumes of manure they produce daily, is a logistical and environmental nightmare. It's ludicrous to assume the waste produced by family pets is significant when compared with the voluminous waste produced by factory farm animals!

For many years, the dairies have polluted the groundwater in private domestic wells in the LYV by allowing their manure lagoons to leak, and by over-appliying manure to agricultural fields. An award winning article published by reporter Lea Beth Ward in the Yakima Herald Republic (YHR) in 2008, titled "Hidden Wells, Dirty Water", documented the plight of the underprivileged residents of the LYV who were unable to drink their well water because of the pollution from the dairies. At that time, about 70 wells were polluted. Currently, over 200 domestic wells are polluted, and the number increases yearly. These residents are forced to either use bottled water, or install a water purification system.

The proposed changes in this document will allow the WDH to absolve itself from regulating the pollution caused by farm animals, and abrogate its responsibilities for protecting the health of the public. I hope you can help make the general public aware of this proposed change. Thank you for your time

Ron Sell, 15280 Douglas Road Yakima, WA 98908 (509) 930-2055

PS, I also sent this letter to the YHR and the Seattle Times Tip Lines. investigations@seattletimes.com

Philip Ferolito Reporter / Yakima County Government, Lower Valley Tel: 509-577-7749 Email: pferolito@yakimaherald.com Sent via the Samsung Galaxy S20 FE 5G, an AT&T 5G smartphone

From: Glasoe, Stuart D (SBOH) Sent: 5/4/2022 9:57:40 AM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: FW: CR 102 Domestic Animal Waste

Stuart Glasoe

SBOH Health Policy Advisor

360-236-4111

From: DOH WSBOH <WSBOH@SBOH.WA.GOV> Sent: Wednesday, May 4, 2022 9:21 AM To: Glasoe, Stuart D (SBOH) <Stuart.Glasoe@sboh.wa.gov> Subject: FW: CR 102 Domestic Animal Waste

Hey Stuart,

Forwarding a comment pertaining to KoA that Kaitlyn received on Sunday (see attached).

There were 2 other emails about KoA sent last week from people. I saw that they emailed the WSBOHProposedAnimalWasteRule@sboh.wa.gov <mailto:WSBOHProposedAnimalWasteRule@sboh.wa.gov> those times so I didn't forward to you directly – did you see those? Those two were sent from Saundra Richartz and Ron/Barbara Downing (PCCHCH Memberships).

Nathan Thai

**Communications Consultant** 

Washington State Board of Health

Nathaniel.Thai@sboh.wa.gov <mailto:Nathaniel.Thai@sboh.wa.gov>

360-463-8928

Website <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fsboh.wa.gov%2F&data=05%7C01 , Facebook <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.facebook.com%2FWASBOH8

, Twitter <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Ftwitter.com%2FWASBOH&data=0

Message was attached to: FW: CR 102 Domestic Animal Waste

From: Donahoe, Kaitlyn N (SBOH) Sent: 5/1/2022 6:04:37 PM To: DOH WSBOH Cc: Subject: Fwd: CR 102 Domestic Animal Waste

Get Outlook for iOS <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Faka.ms%2Fo0ukef&data=05%7C0

From: Jon Borcherding <jonreadsitall@protonmail.com> Sent: Sunday, May 1, 2022 3:32:34 PM To: Donahoe, Kaitlyn N (SBOH) <kaitlyn.donahoe@sboh.wa.gov> Subject: CR 102 Domestic Animal Waste

External Email

The Washington State Board of Health has chosen a remarkably inopportune moment to address what is described as a long-standing issue.

With supply-chain problems and fertilizer shortages affecting the global food supply, many experts including the Biden Administration are predicting food shortages. The recent destruction of at least 12 major food production plants will likely also contribute to food shortages. The nation's railways are refusing shipment of nitrogen fertilizers during the current planting season. The FBI has just released a bulletin outlining the threat of cyber attacks against agricultural facilities. There is NO shortage of threats to America's food supply.

In addition to the looming specter of food scarcity is the alarming rate of inflation which disproportionately impacts the poor by making food more and more unaffordable.

In an effort to stave off shortages and hunger, many homeowners are engaging in small scale food production i.e., vegetable gardens, raising chickens, rabbits, pigs, goats, sheep, etc. Any new regulation that impedes the homestead production of vital food resources is bound to be met with fierce resistance.

In an era when we are experiencing global shortages of nitrogen fertilizers due to foreign conflict, it seems like a good time to review our attitudes about animal waste products and learn to treat them like the resource they are.

There are already laws on the books regarding proper animal husbandry and the Board would be well advised to address current problems within the existing framework. New rulemaking at this time is also bound to lead to increased cost to the taxpayer at a time when we are seeing record inflation.

Has the Board estimated the cost of enforcement of new proposals? Surely there is an awareness that commissioned law officers and search warrants will be necessary to

investigate the disposition of animal waste on private property?

Also at issue is the credibility of the Health Department. It is not reasonable to expect homeowners to accept heavy handed regulation of traditional food production activities on their private property, particularly at a time when homestead food production may be key to survival. One can easily imagine the erosion of respect resulting from any attempt to use government force to hinder necessary farming activity.

I strongly urge the Washington State Board of Health to delay the Draft Policy proposal scheduled for June 2022. I believe it is in the best interests of all citizens that a work group or task force is formed to study the concerns of all stakeholders and advise the Board prior to the drafting or adoption of any new rules regarding the keeping of animals.

Sincerely,

Jon M. Borcherding

Roy WA

From: Phillips, Theresa (DOH) Sent: 5/2/2022 4:04:28 PM To: DOH WSBOH Proposed Animal Waste Rule Subject: Animal Waste Rule Comment Letter



attachments\29F7928C8DE64C7F\_2022-05-02-SBOH-Animal Waste-Letter.pdf

attachments\72445544AB834E51\_image001.png

Dear Board Staff:

I am submitting the attached letter on behalf of Lauren Jenks, Assistant Secretary, Division of Environmental Public Health, Department of Health.

Thank you for the opportunity to comment on this important environmental public health rulemaking.

Theresa Phillips

Regulatory Affairs Manager

Office of the Assistant Secretary

Division of Environmental Public Health

Washington State Department of Health

theresa.phillips@doh.wa.gov <mailto:theresa.phillips@doh.wa.gov>

360-236-3147 | www.doh.wa.gov

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From: Kathy Russo Sent: 4/26/2022 5:40:18 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Animal waste

External Email

I respectfully request that the draft proposal from June's hearing be postponed. There are numerous concerns which should be addressed with all those who are affected by our current laws as well as these new proposals. Kathy Russo

From: Donna Hollatz Sent: 4/26/2022 12:57:21 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Please Delay Keeping of Animals Bill

External Email

Dear Legislators:

The current bill has many pitfalls, from the fact that it actually concerns "Livestock" rather than "Public Health" to the lack of coordination for Enforcement of any provisions. Please get a group task force together of Farmers/Cattlemen/Equestrians as well as urban dwellers to do a better job before passing this legislation. I don't believe that a workable solution can be accomplished by the current June deadline, so set a reasonable alternative and have knowledgeable, involved citizens work on this to avoid many nightmare situations. Livestock waste is much different than dog and cat feces and needs to be treated for what it is. Back Country Horsemen of Washington is a huge group of concerned citizens who should be involved and heard in this discussion. We are volunteers with an environmental conscience who provide many hours of service to state and federal agencies with our equines.

Jim & Donna Hollatz, BCHW-PNC 360-457-6694 Clallam County Residents From: Bobette Knapp Sent: 4/27/2022 8:37:04 AM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Keeping of Animals - Comment

External Email

I am requesting that you postpone the draft proposal from June's hearing to allow a work group/task force of stakeholders to convene and sort out the concerns. Among those many concerns are mixing livestock oversight with non-livestock, unclear/overreach on stockpiling and composting, concern of complaint abuse from urban neighbors, no uniformity of enforcement (left completely up to local health officer), and more.

Bobette Knapp

Orting, WA

Horse Owner

**BCHWA Member** 

From: Glasoe, Stuart D (SBOH) Sent: 5/9/2022 11:11:15 AM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: FW: Upside Down letter, Back Country Horsemen

*attachments\44AA9CFF47CD4D3B\_Animal Waste Letter to BOH.pdf* 

Stuart Glasoe

SBOH Health Policy Advisor

360-236-4111

From: Hisaw, Melanie (SBOH) <Melanie.Hisaw@sboh.wa.gov> Sent: Friday, May 6, 2022 4:11 PM To: Glasoe, Stuart D (SBOH) <Stuart.Glasoe@sboh.wa.gov> Cc: Herendeen, Lindsay (SBOH) <Lindsay.Herendeen@sboh.wa.gov> Subject: RE: Upside Down letter-done

Happy to help.

-Melanie

From: Glasoe, Stuart D (SBOH) <Stuart.Glasoe@sboh.wa.gov <mailto:Stuart.Glasoe@sboh.wa.gov> > Sent: Friday, May 6, 2022 2:45 PM To: Hisaw, Melanie (SBOH) <Melanie.Hisaw@sboh.wa.gov <mailto:Melanie.Hisaw@sboh.wa.gov> > Cc: Herendeen, Lindsay (SBOH) <Lindsay.Herendeen@sboh.wa.gov <mailto:Lindsay.Herendeen@sboh.wa.gov> > Subject: Upside Down letter

Melanie, the attached email includes a comment letter on the animal waste rule. It's upside down and I don't seem to have access to the tool in my version of Adobe reader to rotate it. Can you rotate and send it back so I can read and catalogue the comments? Thanks.

Health Policy Advisor

Washington State Board of Health

stuart.glasoe@sboh.wa.gov <mailto:stuart.glasoe@sboh.wa.gov>

360-236-4111

Website

<https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fsboh.wa.gov%2F&data=05%7C01 , Facebook

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<https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Ftwitter.com%2FWASBOH&data=0

From: Mitzi Schindele Sent: 4/28/2022 12:48:14 PM To: DOH WSBOH Proposed Animal Waste Rule Subject: BCHW COMMENT ON KEEPING OF ANIMALS

*attachments*\65E27C869D2D4497\_Animal Waste Letter to BOH.pdf

External Email

From: Debra Hawkins Sent: 4/27/2022 3:26:38 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Postpone until we can work together!

External Email

Hello,

I would like to ask that you postpone the draft proposal from June's hearing. Please allow us to work as a united front to sort out the concerns that are out there. We want to work together for the good of all!

Take care,

Debra Hawkins

Back Country Horseman member and horse owner

From: Glasoe, Stuart D (SBOH) Sent: 5/13/2022 10:51:46 AM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: FW: SBOH Keeping of Animals Rule clarification of comments

Stuart Glasoe

SBOH Health Policy Advisor

360-236-4111

From: McLain, Kelly (AGR) <KAardal@agr.wa.gov> Sent: Friday, May 13, 2022 10:35 AM To: Glasoe, Stuart D (SBOH) <Stuart.Glasoe@sboh.wa.gov> Subject: SBOH Keeping of Animals Rule clarification of comments

To the State Board of Health,

I am writing to clarify the position of WSDA on the proposed rule for WAC 246-203-130, the Keeping of Animals.

I would like to start by expressing my appreciation of your staff and their regular work with WSDA over the past four years on the content and intent of this rule. Subject matter expertise from WSDA has been regularly sought and used in this process and that is evident in the proposed rule. WSDA stands neutral and not opposed to this rule as drafted. Our comment letter was intended to provide for the record a robust accounting of the many programs and projects that touch on this topic, and our support of continued collaborative approaches where possible. Please feel free to follow up if you have additional questions.

Sincerel	у,
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Kelly

Kelly McLain | Legislative Liaison/Policy Advisor

Washington State Department of Agriculture

Cell: 360.359.8091 | kmclain@agr.wa.gov <mailto:kmclain@agr.wa.gov>

From: Tim and Paula Keohane Sent: 4/29/2022 11:51:54 AM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Comment on proposal

#### External Email

We are horse owners and land owners living in rural WhidbeyIsland. We purchased vacant land in 1993 with intent on building home for ourselves where we could also have our horses. Our first effort after sale was final was to contact the Whidbey Island Conservation District to ask them to help us develop a plan for locating barn, corrals and pastures so that we could minimize impact and extend gazing months on the 15 cleared acres. We also sought advice on management of the forested acres. That farm management plan which included manure compost facility, subsequently update 3 times, has served us and the land very well. The management of horses waste is not in any way related to management of dog and cat waste. In fact composted horse manure is a valuable soil amendment. Not so dog and cat waste. I ask you to reconsider including horse waste in your Health Department regulation as it will interfere with the existing very successful and accessible to all programs and services existing already through the conservation districts.

At the very least, postpone consideration at your schedule June date. Paula Keohane

Sent from my iPad

From: B. D. Sent: 4/30/2022 7:51:48 AM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: PleaseDelay

External Email

We as Equestrians have many concerns in regards to recent ramrod proposals and how it affects us or may affect us. We respectfully please ask that the Draft Policy proposal be delayed to at least June and that a work group/task force is formed to vet out our concerns. Sincerely, Barbara & David Dorning BCHWA-Members

Sent from my Verizon, Samsung Galaxy smartphone Get Outlook for Android <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Faka.ms%2FAAb9ysg&data=05%7 From: Rosemary Corn Sent: 4/26/2022 3:03:04 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Manure handling proposal

#### External Email

Please postpone June meeting until we attain more information. Thank you Rosemary Corn of rattlesnake ridge riders backcountry horse man group .

From: obard31@gmail.com Sent: 4/28/2022 5:07:41 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Animal waste rule making

#### External Email

To whom it may concern: I'd sure like see a work group or task force made up of stakeholders implemented in order to address concerns and ideas about animal waste in the State of Washington. It is very concerning that the State would allow counties to address this issue without a uniform manner or guidelines. Please delay the vote on this and implement a work group. I'd consider being on that workgroup if you were looking for help. Thanks for your time. -Andy Faubion

From: WCA Executive Vice-President Sent: 4/29/2022 3:02:06 PM To: DOH WSBOH Proposed Animal Waste Rule Subject: WCA Comments on WSBOH Proposed Rule on Keeping of Animals

attachments\157FC94563D548E3\_WCA Comments SBOH Animal Waste 042922.docx.pdf

External Email

On behalf of the Washington Cattlemen's Association, thank you for the opportunity for WCA President, Jeff Keane to provide comment on the SBOH proposed rule on Keeping of Animals.



P.O. Box 96 • Ellensburg, WA 98926 • 509-925-9871 • Fax 509-925-3004 WACATTLE@KVALLEY.COM • WWW.WASHINGTONCATTLEMEN.ORG

To: Washington State Board of Health

Date: April 29th, 2022

Re: Keeping of Animals – WAC 246-203-130

Dear Members, Washington State Board of Health:

I was just briefed by our lobbyist that represents the Washington Cattlemen's Association in Olympia about the meeting he attended with legislators and your Chair and staff regarding **WAC 246-203-130** Keeping of Animals.

While we acknowledge the Board's efforts to address grazing, we stand by our original assertion that this is unnecessary rulemaking on an already heavily regulated industry. In addition, we would point out the following:

#### Outreach on the Small Business Economic Impact Statement appears to be woefully inadequate -

I cannot name one rancher that was reached out to on this issue, and I don't believe receiving 41 responses out of 1000 contacts really meets the straight-face test as far as stakeholder input.

#### Likely violates the state's Right to Farm law -

Unfortunately, in today's world, farmers and ranchers are often under attack from some in the environmental community, who don't seem to fully understand production agriculture. This has led to much consternation when urban-minded citizens move from city to country and don't find it to meet their idyllic vision. Fortunately, farmers and ranchers are protected by the state's 'Right to Farm'' law. However, we fear this new proposal may be used as another tool to attempt to drag ranchers into court.

### While we acknowledge the attempt to address grazing, there needs to be stakeholder input to clarify terms-

The current proposal references "free-range grazing", which is a term unfamiliar to us. We use the term "open-range grazing". In addition, an earlier version included pasture grazing and yet was removed from the current proposal. While open-range grazing would describe grazing where fences are built to keep livestock out, we would consider pasture grazing to describe fences being built to keep livestock in. This needs further discussion with stakeholders.

### The WCA requests that the Board delay action on this proposed rule and create a workgroup with key stakeholders –

Rural citizens deserve a voice on the Board that can speak to agriculture and rural issues. We don't believe that currently exists. To balance that, we would request that a stakeholder workgroup that can



speak to the proposed rule with expertise in agriculture issues, be included as members of the workgroup.

Sincerely,

Jeff Keane

Jeff Keane, President Washington Cattlemen's Association From: Bob PETERS Sent: 4/29/2022 9:17:56 AM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Re: Animal Waste rule

External Email

This may not be an acceptable form for comment, but I'm surprised that there doesn't seem to be any mention of people keeping animals (poultry, etc.) in residential neighborhoods.

There are probably very few backyard chicken pens that aren't feeding as many rats as chickens.

Robert Peters Puyallup From: lourie boltz Sent: 4/26/2022 10:52:47 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Animal Waste Rule

External Email

Please delay the ruling of this issue so more discussion and information can be pursued. There is much more fact finding and possible solutions that must be reviewed in fairness to the thousands of urban and rural animal owners. As a responsible horse owner and member of Back Country Horseman of Washington this is very important to me.

Best regards, Lourie Boltz From: Alyssa Barton Sent: 5/2/2022 5:33:57 PM To: DOH WSBOH Proposed Animal Waste Rule Subject: Keeping of Animals



attachments\1E8AC39F246D4892\_Outlook-1483573618.jpg

attachments\F5BA1392FAC34EFB\_SBOH comment letter final 5.2.22.pdf

External Email

Good evening:

Please see the attached from Puget Soundkeeper. Should you have any questions or concerns, please do not hesitate to reach out at 206-297-7002 ext 114.

Regards,

Alyssa Barton (she/her/hers) Policy Manager Puget Soundkeeper Alliance 130 Nickerson Street, Suite 107 Seattle, WA 98109 (206) 297-7002 x114 alyssa@pugetsoundkeeper.org <mailto:julie@pugetsoundkeeper.org> <mailto:julie@pugetsoundkeeper.org> www.pugetsoundkeeper.org <mailto:julie@pugetsoundkeeper.org> Mr. Stuart Glasoe Washington State Board of Health 111 Israel Rd. SE Tumwater, WA 98501 Via email to: <u>stuart.glasoe@sboh.wa.gov</u> Also submitted to: <u>WSBOHProposedAnimalWasteRule@sboh.wa.gov</u>

May 2, 2022

#### Re: 2022 Draft Rule Revisions, WAC 246-203-130 Keeping of Animals

Dear Mr. Glasoe:

Puget Soundkeeper Alliance (Soundkeeper) is a 501(c)(3) non-profit environmental organization, with a mission to protect and enhance the waters of Puget Sound for the health and restoration of our aquatic ecosystems and the communities that depend on them. Founded in 1984, Soundkeeper was a founding member of the international Waterkeeper Alliance and today has more than 8,000 members, supporters and volunteers who use and enjoy Puget Sound's marine waters and freshwater tributaries, for commercial, general recreational and aesthetic purposes. At least 176 of our supporters are known to live in communities with permitted Concentrated Animal Feeding Operation (CAFO) facilities; hundreds more live in communities with unpermitted agricultural operations.

Our constituents, and thousands of residents throughout the State of Washington, are at risk due to the failure of our State's regulatory agencies to protect against the public health and environmental harms caused by the keeping of animals. The Board of Health has a unique authority and responsibility to "assure safe and reliable public drinking water and to protect the public health" (RCW 43.20.050 (2)(a)), as well as to "adopt rules and standards for prevention, control, and abatement of health hazards and nuisance related to the disposal of human and animal excreta and animal remains" (RCW 43.20.050 (2)(c)), and to "adopt rules for the prevention and control of infectious and noninfectious diseases, including food and vector borne illness, and rules governing the receipt and conveyance of remains of deceased persons, and such other sanitary matters as may best be controlled by universal rule." (RCW 43.20.050 (2)(f).

We oppose the Washington State Board of Board of Health's (hereinafter "the Board's") draft rule revisions to WAC 246-203-130 (the "Rule"). We oppose the narrowing of the title and scope of the Rule from "Keeping of Animals" to "Domestic Animal Waste" as we disagree with the premise that the Board's unique authority is best suited to local regulation of smaller-scale activities and practices around animal waste alone. We are also concerned that the proposed revisions dramatically weaken existing public health and nuisance protections; fail to set adequate minimum standards to protect the public health from various risks associated with the

keeping of animals; and completely disregard the real and existential public health threat of climate change – a threat that can be exacerbated by the keeping of animals and, in particular, by industrial farm operations – or the environmental justice implications of the Rule.

# 1) The Board's regulatory authority and responsibility extends beyond managing animal waste.

The original Rule, entitled "Keeping of Animals", was broader than the newly proposed title of "Domestic Animal Waste." In its Background and Policy Recommendations document,<sup>1</sup> ("Backgrounder") without sufficient explanation or supportive rationale, the Board recommends that "the rule should focus on practices involving the handling, storage, and disposal of livestock manure and other domestic animal waste generated on site (not off-site manure transport and use) that present a clear health, sanitation, or nuisance problem." (at 25). We disagree.

Keeping animals can produce dust, odors, haze, and noise; contribute to the spread of disease from both direct and indirect contact with animals and their waste; contaminate soils; contaminate drinking water, groundwater, and surface water; and contribute to climate change through the emissions of greenhouse gasses. These constitute public health hazards and nuisances. Air pollution, water pollution, drinking water contamination, disease, sickness, and disturbances caused by the keeping of animals results in diminished quality of health and life for those affected. The Board documents these risks and more over seven pages in its Backgrounder with more than 100 unique research articles on topics, but then fails to address most of these hazards in the draft revisions.

We object to the narrowing of the title to "Domestic Animal Waste", as an abdication of the Board's responsibility to protect the public health from the aforementioned health hazards and nuisances that may be unrelated to the management of animal waste alone. We also see no justification for excluding off-site manure transport and use from regulation, as the hazards and public health implications of animal waste do not simply disappear as it crosses a property line. We encourage the Board to leave the Rule title as-is, and to assess and regulate the health hazards and nuisance impacts of activities including but not limited to feeding, watering, housing, and transporting animals as well as their waste, to protect communities and public health.

# 2) The draft Rule revisions dramatically weaken or entirely removes existing public health and nuisance protections.

The Washington State legislature has directed the Board to regulate the storage of animal waste to protect human health. RCW 43.20.050 (2)(c)). The current Keeping of Animals rule reads as follows:

WAC 246-203-130 Keeping of animals.

<sup>&</sup>lt;sup>1</sup> Keeping of Animals Background and Policy Recommendations of the Washington State Board of Health

- (1) Any person, firm or corporation is prohibited from keeping or sheltering animals in such a manner that a condition resulting from same shall constitute a nuisance.
- (2) In populous districts, stable manure must be kept in a covered watertight pit or chamber and shall be removed at least once a week during the period from April 1st to October 1st and, during the other months, at intervals sufficiently frequent to maintain a sanitary condition satisfactory to the health officer. Manure on farms or isolated premises other than dairy farms need not be so protected and removed unless ordered by the health officer.
- (3) Manure shall not be allowed to accumulate in any place where it can prejudicially affect any source of drinking water.

The draft revisions strike all of this language. In so doing, the Board proposes to dramatically scale back current requirements by:

- eliminating broad public protections against nuisances caused by the keeping or sheltering of animals (current section 1) and replacing them with protections limited to animal waste (draft section 1)
- eliminating strong stable waste collection, storage, and removal requirements (current section 2) and replacing them with vague and poorly defined requirements to collect animal waste containment areas (draft section 3a)
- striking strong and broad public health protections for drinking water (current section 3),

We object to the elimination of language in current sections 1-3 of the Rule. Rather than backsliding, the Board should build on these foundational protections, implementing clear minimum standards to ensure the intent of these protections is assured in light of modern-day animal-keeping practices and the extensive data on the nature and scope of the problems it causes - as documented in the Board's Backgrounder.

### 3) The draft revisions lack strong minimum standards to protect the public health.

The Board should build on the existing regulations to create stronger minimum standards to protect the public health and prevent nuisances. For example, the Board could keep existing sections 1 and 3 intact and expand section 2 to:

- articulate a more frequent waste removal requirement during the rainy season between October to April
- include all manure (not just "stable" manure, but any manure on any part of the premises)
- expand beyond "populous districts" to all districts, including "isolated premises"

Rural communities can be equally if not more susceptible to the public health risks posed by the keeping of animals.

The draft revisions lay out several requirements for livestock waste stockpiling in a new section (3(d)) excluding waste that is being composted and waste being stored in a lagoon. First, should the Board modify the existing Rule to authorize livestock waste stockpiling when the number of animals or quantity of waste renders it infeasible to cover and store the waste in an airtight container prior to removal (factory farms were likely not envisioned when the original Rule was promulgated in 1936), the Board should articulate which types of livestock operations are authorized to stockpile waste (how many animals, what size footprint, or how much waste?) and which types should continue the practice of keeping the waste in covered, airtight containers with requirements to periodically dispose of the waste.

Second, the Board should outline clear, science-based and appropriately tailored standards for the management of livestock waste by different operations that stockpile waste, adjusted to account for the size and type of operation (cattle, chicken, horse, etc.), the type of waste (liquid vs. solid), and site conditions (slope, soil-type, vegetation type and density, underground geology, hydrological features, etc.). A mature milk cow produces over 120 pounds of liquid feces and urine every day, whereas a horse produces 50 pounds of solid manure a day. The differences in consistency, chemical content, and quantity compounds with each additional animal, which surely necessitates different levels of protections for the public health.

Third, we are aware of no scientific basis why waste being composted or stored in a lagoon shouldn't also be managed as stringently – if not more stringently – than other stockpiles of waste. In fact, liquid manure being stored in a lagoon likely requires far more protections for the public health (greater setbacks from water sources, requirements to be stored in areas with a higher groundwater table, etc.). It is well known that lagoons leak.



image of manure lagoon



image of manure gun © USGS

The practices of storing excess livestock manure in large manure lagoons; transferring or selling livestock manure to third parties for use as fertilizer; and applying manure to fields as fertilizer (by both animal keepers and third parties – and often with a large "gun" or cannon that shoots the liquid waste over fields in a vast spray) are three modern practices that harm the public health and have harmed drinking water in Washington. The Board has failed to address these practices whatsoever, despite its clear regulatory mandate and authority to protect public drinking water. The Board should issue a new draft Rule outlining requirements to protect the public health from these three practices, which pose real and dangerous consequence to our public drinking water supplies – as well as air quality.

Finally, airborne disease, dust and odors from the keeping of animals also pose public health hazards and nuisance risks that are not sufficiently covered in the draft revisions. Other than setbacks from certain water sources and a requirement to store stockpiled waste so as to control odors and attraction of flies, rodents, and other vectors," (presumably, disease vectors?) the draft revision lacks any clear standards or requirements to protect the public from dust, disease, or odors, which may emanate from livestock themselves or from feeding or other areas. The Board should include requirements to control dust and odors from other areas of farm operations that pose a risk to public health.

## 4) The Board should consider climate impacts to public health from the keeping of animals, and the environmental justice impacts of the draft revisions.

Board mentions climate change in its Backgrounder just once, and not again. A deeper assessment of the climate impacts caused by the keeping of animals in Washington is both necessary and appropriate. The U.S. Environmental Protection Agency (EPA) estimated that agriculture contributed 11% of the United States' greenhouse gas (GhG) emissions in 2020<sup>2</sup>; the Washington State Department of Ecology attributed 15% of Washington's GhG emissions in 2017 to agriculture, industry, landfills, and fossil fuel production.<sup>3</sup> Climate change has already resulted in more frequent and intense droughts, wildfires, dust storms, erosion, and floods in Washington; reduced glacial snowpack feeding our rivers and streams; acidification of the ocean and Puget Sound, and sea level rise threatens our coasts, wetlands and aquifers.

The Board is in a unique position to address the impacts of climate change on public health for the first time since the Rule was last substantively revised in 1936. With rule revisions coming so infrequently, now is the time to consider how the keeping of animals could – and must - be better managed to prevent or reduce climate impacts to communities throughout the State of Washington, consistent with Washington State's commitment to reducing GhG emissions to 45% below 1990 levels by 2030, 70% below 1990 levels by 2040, and 95% below 1990 levels and net zero emissions by 2050.

It is well known that the impacts of climate change hit communities of color and low-income communities first and hardest. While the Board of Health is not listed as one of the seven agencies required to comply with the <u>HEAL Act</u>; the Departments of Health, Agriculture and Ecology are. We encourage the Board of Health to coordinate with these sister organizations and opt in under the HEAL Act. Because of the strong environmental justice considerations implicated for rural and frontline communities by this Rule and any revisions to it, we also strongly urge the Board to conduct deeper community outreach and engagement around proposed Rule revisions with those whose health, lives, and families are most at risk from the Board's decision-making.

### 5) Additional concerns:

The Board should not limit "nuisance" to acts or omissions that harm, endanger, or interfere with the health or safety of another person. Such a definition is restrictively narrow and not reflective of current nuisance law. RCW 7.48 defines an actionable nuisance to include: "an obstruction to the free use of property, so as to essentially interfere with the comfortable enjoyment of the life and property, is a nuisance and the subject of an action for damages and other and further relief." We support the adoption of this definition within the Keeping of Animals rule.

We support the inclusion of a section regarding enforcement. The Rule is and should be enforceable, and language should be added to articulate when enforcement will occur. The public

<sup>&</sup>lt;sup>2</sup> Sources of Greenhouse Gas Emissions | US EPA

<sup>&</sup>lt;sup>3</sup> Improving air quality & public health - Washington State Department of Ecology

deserves concrete assurance that documented nuisances and public health hazards will be abated within a certain amount of time.

While we do not agree with all recommendations outlined in the Backgrounder, we do agree with the recommendation to develop a practical, purposeful rule, by "defining the type and scale of regulated activities; steps and standards defining and documenting health hazards and nuisance; technical standards and practices to prevent and remedy problems; technical assistance and referral procedures; methods for property access, compliance, and enforcement." We feel the current draft revisions fall short.

Thank you for accepting and considering these comments. We hope that the Board adopts our suggestions to improve upon the draft revision and better protect public health in Washington. We look forward to working with you.

Sincerely,

Alyssa Barton Policy Manager Puget Soundkeeper Alliance From: a777dude@aol.com Sent: 4/27/2022 10:28:22 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Keeping of Animals

External Email

Quit playing games!

Delay action on this proposed rule and create a work group with key stakeholders

From: linda m Sent: 4/26/2022 10:33:07 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Domestic Animal Waste

#### External Email

Many issues/concerns are unresolved. We are requesting they postpone the draft proposal from June's hearing. We suggested they allow a work group/task force of stakeholders to convene and sort out the concerns.

I'm 72 years old. I've had one to two horses all my life. I've very carefully budgeted my money so I could continue the life I grew up loving. Horse manure is organic, its grass and water. Don't ruin my life now that I am retired and can camp a little and enjoy my horses more then when I worked full time and raised a family.

From: Glasoe, Stuart D (SBOH) Sent: 3/30/2022 11:27:14 AM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: FW: Keeping of Animals (WAC 246-203-130) proposed rule comment

Stuart Glasoe

SBOH Health Policy Advisor

360-236-4111

From: DOH WSBOH <WSBOH@SBOH.WA.GOV> Sent: Wednesday, March 30, 2022 8:45 AM To: Glasoe, Stuart D (SBOH) <Stuart.Glasoe@sboh.wa.gov> Subject: FW: Keeping of Animals (WAC 246-203-130) proposed rule comment

Hi Stuart,

I let the customer below know that the email has been fixed, however I am forwarding this comment to you in case they decide not to email the animal waste inbox again.

Nathan Thai

Communications Consultant

Washington State Board of Health

Nathaniel.Thai@sboh.wa.gov <mailto:Nathaniel.Thai@sboh.wa.gov>

360-463-8928

Website

<https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fsboh.wa.gov%2F&data=04%7C01 , Facebook

<https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.facebook.com%2FWASBOH8, Twitter

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From: Emmett Wild <emmett@skagitcd.org <mailto:emmett@skagitcd.org> > Sent: Tuesday, March 29, 2022 8:54 AM To: DOH WSBOH <WSBOH@SBOH.WA.GOV <mailto:WSBOH@SBOH.WA.GOV> > Subject: Keeping of Animals (WAC 246-203-130) proposed rule comment

#### External Email

I have tried to email my comments regarding the proposed rule change to the Keeping of Animals WAC but the email address listed on the DOH website

(WSBOHProposedAnimalWasteRule@sboh.wa.gov

<mailto:WSBOHProposedAnimalWasteRule@sboh.wa.gov> ) keeps bouncing back as undeliverable. Please forward the below comments to the appropriate place and update the link on the DOH website.

I have several concerns about the proposed Keeping of Animals rule.

First, I am concerned that the term Nuisance is used as a regulatory metric when considering livestock waste. A nuisance is subject to an individual's personal thoughts or feelings, and as defined, is loose enough to continue to include personal preferences of community members to be used as the basis for a regulatory action. Complaints from people new to an agricultural area and/or by people with little knowledge or understanding of livestock management practices and stewardship consume immense amounts of public resources and agricultural producer time, often to investigate standard operating practices or legal manure applications as part of a cropland fertility management program.

Second, the use of a public health officer to investigate complaints creates unnecessary and potentially deleterious redundancies in the regulatory oversight framework for livestock producers. Agencies such as the Washington State Department of Agriculture's Dairy Nutrient Management Program have a robust dairy inspection and complaint response process, and Washington State Department of Ecology has many regional inspectors for non-point areas with a potential to discharge. Creating another office/agency from which manure management is to be regulated/supervised is redundant and risks hard-built working relationships between agricultural producers and existing regulators. It is not appropriate for a licensed physician to be investigating or enforcing land management and animal husbandry activities, as they lack the technical knowledge of these operations, the academic background, and the professional experience to fairly and reasonably execute WAC 246-203-130. The proposed rule should make clear that investigation and enforcement of livestock related complaints should be remanded to those more experienced and appropriate entities within the existing regulatory oversight system.

Finally, rather than leave investigation to a singular public health officer or their delegate, a coordinated team of regulators and professional resource planners should assess the situation in question and provide a specific prescription to address the pollution risk. This will help to maintain existing working relationships with the person being investigated and ensure a standard and cohesive approach is taken to investigations. While individual health officers may come and go, the structure of a team and the inclusion of input from professional resource planners, will ensure equity and continuity in regulatory processes. Further, resource planners are trained to identify multiple viable alternative practices when working with a land manager, creating a more flexible, achievable, and success result.

Regards,

Emmett Wild

From: Lyn Sent: 4/29/2022 4:13:11 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Animal Waste Rule

External Email

Attn: Board Members

I urge you to delay or cancel the Draft Policy proposal scheduled for June 2022.

At a minimum, more time should be allotted to allow stakeholders to research this proposed rule.

Thank you.

Lynette Borcherding

From: theresa percy Sent: 4/26/2022 10:09:50 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Request to postpone draft proposal - animal waste rule

External Email

I am writing to request a postponement of the draft proposal for animal waste from the JUne meeting until a committee of stakeholders can be formed to review the many concerns regarding: mixing livestock oversight with non-livestock, misunderstanding of stockpiling and composting manure, lack of uniformity of enforcement due to implementation by local health officers, and concern of complaint abuse by urban neighbors.

This is a critical issue which if not properly reviewed and address will a have hugh impact on animal ownership.

Thank you for your consideration,

Theresa Percy

From: Judy Babb Sent: 4/27/2022 9:18:39 AM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: animal waste ruling

External Email

requesting to postpone the draft proposal from June's hearing and allow a work group/task force of stakeholders to convene and sort out the concerns.

Among the many concerns: mixing livestock oversight with non-livestock, unclear/overreach on stockpiling and composting, concern of complaint abuse from urban neighbors, no uniformity of enforcement (left completely up to local health officer), and more.

Sent from Yahoo Mail on Android <a href="https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fgo.onelink.me%2F107872968%3F">https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fgo.onelink.me%2F107872968%3F</a>

From: Kerri Stoehr Sent: 4/29/2022 5:16:16 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: proposed policy for the Keeping of Animals.

External Email

I am asking you to postpone the draft proposal from June's hearing. Please allow a work group or task force to convene and sort out all of the concerns

Thank you Kerri Stoehr From: Dr. Jack Gillette, DVM Sent: 5/2/2022 8:59:28 AM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: WAC 246-203-130 Keeping of animals.

External Email

I believe that the proposed rule should be postponed until a working group an examine it and work out any problems and/or flaws that are unforeseen at this time.

Please retain my E-mail for notifications of further actions.

Dr. Jack Gillette | DVM

Wildflower Veterinary Services

11425 221st ST SE

Graham, WA 98338

Phone (253) 847-1626 † Please Note Our New Email Address, Below:

+ Email: HorseDoc@WildflowerVetLLC.com <mailto:horsedoc@wildflowervetllc.com>

Web: www.WildflowerVet.com <a href="https://gcc02.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.wildflowervet.com%2F&data="https://gcc02.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.wildflowervet.com%2F&data="https://gcc02.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.wildflowervet.com%2F&data="https://gcc02.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.wildflowervet.com%2F&data="https://gcc02.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.wildflowervet.com%2F&data="https://gcc02.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.wildflowervet.com%2F&data="https://gcc02.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.wildflowervet.com%2F&data="https://gcc02.safelinks.protection.com/?url=http%3A%2F%2Fwww.wildflowervet.com%2F&data="https://gcc02.safelinks.protection.com/?url=http%3A%2F%2Fwww.wildflowervet.com%2F&data="https://gcc02.safelinks.protection.com/?url=http%3A%2F%2Fwww.wildflowervet.com%2F&data="https://gcc02.safelinks.protection.com/?url=http%3A%2F%2Fwww.wildflowervet.com%2F&data="https://gcc02.safelinks.protection.com/?url=http%3A%2F%2Fwww.wildflowervet.com%2F&data="https://gcc02.safelinks.protection.com/?url=http%3A%2F%2Fwww.wildflowervet.com%2F&data="https://gcc02.safelinks.protection.com/?url=http%3A%2F%2Fwww.wildflowervet.com%2F&data="https://gcc02.safelinks.protection.com/?url=http%3A%2F%2Fwww.wildflowervet.com%2F&data="https://gcc02.safelinks.protection.com%?url=https://gcc02.safelinks.protection.protection.com%?url=https://gcc02.safelinks.protection.protection.com%?url=https://gcc02.safelinks.protection.com%?url=https://gcc02.safelinks.protection.com%?url=https://gcc02.safelinks.protection.com%?url=https://gcc02.safelinks.protection.com%?url=https://gcc02.safelinks.protection.com%?url=https://gcc02.safelinks.protection.com%?url=https://gcc02.safelinks.protection.com%?url=https://gcc02.safelinks.protection.com%?url=https://gcc02.safelinks.protection.com%?url=https://gcc02.safelinks.protection.com%?url=https://gcc02.safelinks.protection.com%?

From: Richartz, Saundra Sent: 4/29/2022 3:50:08 PM To: DOH WSBOH Proposed Animal Waste Rule Subject: Keeping of Animals rule comment



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attachments\9C199EE0EE944514\_image001.png

External Email

Please accept the attached as a comment from members of the Senate Republican Caucus.

Saundra D. Richartz

Staff Counsel

Washington State Senate Republican Caucus

Phone: (360) 786-7943, Fax: (360) 786-7815, Cell: (509)690-7648

NOTICE: This transmission is intended for the sole use of the individual and entity to whom it is addressed,

and may contain information that is privileged, confidential, and exempt from disclosure under applicable law.

You are hereby notified that any dissemination, distribution, or duplication of this transmission by someone

other than the intended addressee or its designated agent is strictly prohibited.

If your receipt of this transmission is in error, please reply to this transmission.

From: Karenlee@fairpoint.net Sent: 5/1/2022 10:35:42 AM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Private Animal Waste - Horses

#### External Email

As a horse owner, I am concerned about restrictions imposed by the Board of Health on animal waste. We are responsible horse owners who have 4 horses at our home of 6 acres in Snohomish. We bought a \$7700 Big Tex dump trailer to haul our manure out. Waste Management quoted a very high price for providing a bin to be kept at our property. Our manure pile has been at the same location since the 80s and is surrounded by neighboring pastures. But at some point those properties may be sold and contractors have been allowed to build nearly to the lot lines.

Horses bring money to the state, especially in populated areas. People with money choose to live near rustic areas where trees and horses can be found. Those people look for good hospitals, good roads, good security and spend money at the local level. They also own businesses that improve the local economy and employ people. I saw this in Southern California where there were pockets of horse ownership by the wealthy, and how it improved the surrounding middle class areas.

I need you to give careful consideration to avoid outlawing the ownership of horses by making restrictive ordinances where there are few complaints. I need you to craft rules that prevent contractors from building right up to a long existing manure pile, like you would for a large facility like a racetrack.

Please postpone the implementing of your draft proposal and allow a work/task force of stakeholders to convene and sort out concerns. The State of Washington is a great place to own a horse, and more and more, it is getting more expensive. Your ordinances could make it very expensive to own a horse.

Karen Lee

From: Tim Price Sent: 5/28/2022 7:34:22 AM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Animal waist regulation

External Email

To whom it may concern, I oppose this rule the BOH is looking to implement. This is one more infringement on our freedoms. It is written for city dwellers. It is totally unrealistic to enforce. How we've survived 200 years as a nation is beyond me. When you have to worry about my cattle's shit, you've got too much time on your hands. Or, you have a specific agenda against some one you personally live next to. I suggest you move some place else.

Thank you,

Tim Price

Get Outlook for iOS <a href="https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Faka.ms%2Fo0ukef&data=05%7C">https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Faka.ms%2Fo0ukef&data=05%7C</a>

From: Butch Havens Sent: 4/28/2022 5:07:55 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: F2E2CE96-EB18-408D-A3E0-9E141288F55A

External Email

From: Judith Hoyle Sent: 4/26/2022 10:44:25 AM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Comments on SBOH Keeping of Animals rules

External Email

Having read the proposed document, I, too, have many concerns about it.

I join with other livestock and "pet" owners in the request that you postpone the draft proposal from the June meeting so that more evaluation can be done, more clarity provided, and that a work group/task force of stakeholders be conveyed to sort out the many, many concerns this document raises.

There are concerns regarding mixing management of livestock with non-livestock rules, unclear and overreaching rules regarding stockpiling and composting, extreme concern about complaint abuse from neighbors - especially urban or the dreaded "I recently moved to the country from the city and I can't stand the noise/smells/flies" type of neighbors who move into a new situation in the "country" and want it to be just as "clean" and "pristine" as a city might be. There is also no uniformity of enforcement, as it appears to be left completely to the local health officer.

So much is simply not thought through in this draft document.

Thank you for your consideration.

Judith Hoyle 1912 West Valley Rd. Chimacum, WA 98325 From: Imulmt@yahoo.com Sent: 4/27/2022 10:37:22 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Animal waste

External Email

I think that your policies are so unclear that any one that works for your department could abuse their authority when enforcing unclear laws. I request that you hold off June law making until more fair and scientific and cultural investigating is done. We don't need more confusion.

Thank you, Lori Uhler

Sent from my iPhone

From: Jean Mendoza Sent: 5/2/2022 3:05:27 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Public Comments

*attachments\FD8ABD6F55A444DF\_Dear WA BOH IV.pdf attachments\D4496D9C4F8E4F63\_Dear WA BOH I.pdf* 

attachments\C0F1E81AB04F4E17\_Dear WA BOH V.pdf

External Email

Hello WA State Board of Health,

Please accept the attached public comments on WAC 246-203-130 from the Friends of Toppenish Creek.

Thank you for reading and taking action to protect public health.

Jean Mendoza



May 2, 2022

Washington State Board of Health PO Box 47990 Olympia, WA 98504-7990

Dear WA State BOH,

We are the Friends of Toppenish Creek from Yakima County.

Friends of Toppenish Creek is dedicated to protecting the rights of rural communities and improving oversight of industrial agriculture. FOTC operates under the simple principle that all people deserve clean air, clean water and protection from abuse that results when profit is favored over people. FOTC works through public education, citizen investigations, research, legislation, special events, and direct action.

Regarding the draft rule WAC 246-203-130, please consider this strong objection. As written WAC 246-203-130 allows a CAFO dairy in Washington state to build a million gallon manure lagoon right next to a neighbor's home or well without consequences. Here is an explanation of how the draft rule condones such an assault on human health:

Draft WAC 246-203-130, section 3 says:

(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, livestock trails, trail riding, and other diffuse sources of domestic animal waste, a person must:

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

(i) Store the waste to control odors and attraction of flies, rodents, and other vectors;

(ii) Store the waste no longer than one year; and

(iii) Site the stockpile:

(A) One hundred feet or more from a drinking water well;

(B) Two hundred feet or more from a public drinking water spring;

(C) Outside the sanitary control area of a public Irinking water source if different from the areas set forth in (d)(iii)(A) and (B) of this subsection;

(D) One hundred feet or more from a surface water body unless:

(I) The surface water body is upgradient or is protected by a levee or other physical barrier; or

(II) The surface water body is protected by one or more control or treatment practices that capture and prevent leachate. Practices include, but are not limited to, storage pads, covers, storage structures, and filter strips; and

(E) Outside seasonally or frequently flooded areas unless used or disposed of prior to flooding.

This appears to create strong protections for public health.

But look closer - there is a huge loophole in the proposed rule.

WAC 246-203-130, section 2 (j) says: "Stockpiling" means the temporary piling of domestic animal waste from livestock prior to use or disposal. <u>Stockpiling does not include active</u> composting or lagoon storage of domestic animal waste from livestock.

This more than wrong. This is a gift to the powerful interests that inflict morbidity and mortality on WA citizens by managing manure in ways that place profit above human health.

Unless the BOH can prove that a million gallon manure lagoon next to a family home does not damage the family's health, unless the BOH can prove that tossing manure into the ambient air to compost it does not damage the health of entire neighborhoods, then this loophole must, in all good conscience, be closed.

Sincerely, han Mendeza

Jean Mendoza

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



May 2, 2022

Washington State Board of Health PO Box 47990 Olympia, WA 98504-7990

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Friends of Toppenish Creek is dedicated to protecting the rights of rural communities and improving oversight of industrial agriculture. FOTC operates under the simple principle that all people deserve clean air, clean water and protection from abuse that results when profit is favored over people. FOTC works through public education, citizen investigations, research, legislation, special events, and direct action.

We appreciate your hard work on WAC 246-203-130, especially the comprehensive paper, "Keeping of Animals". The documentation of health impacts deserves close attention.

- 1. In 2013 Davis et al found higher rates of campylobacteriosis in Whatcom and Yakima Counties, the WA counties with the highest concentrations of dairies and dairy animals.<sup>\*</sup> Please add this research to your literature review.
- 2. Unfortunately, the document "Keeping of Animals" is no longer up to date. Since 2018:
  - a) The WA Legislature has approved the HEAL Act and the Climate Commitment Act.
  - b) Staff at the WA State Dept. of Agriculture have discounted the value of Tech Note 23 assessments for manure lagoons.
  - c) Ecology has not completed a plan for nonpoint source pollution as promised.
  - d) There is even more data that documents egregious pollution of WA aquifers by concentrated animal feeding operations (CAFOs).
  - e) The Yakima Regional Clean Air Agency (YRCAA) has rescinded their Air Quality Management Policy for Dairies.

- f) People who live in areas with high levels of fine particulate matter from CAFO emissions have suffered higher than average rates of morbidity and mortality from COVID 19.
- g) The WA State Court of Appeals ruled that the WA Pollution Control Hearings Board erred. Ecology's 2017 National Pollutant Discharge Elimination System (NPDES) permit does not protect waters of WA State.

Below is a more thorough analysis of "Keeping of Animals" that explains the need for updates, followed by a critique of BOH's Cost Benefit Analyses.

- 3. RCW 43.20.050 (c) states, "the State Board of Health shall . . . adopt rules and standards for prevention, control, and abatement of health hazards and nuisances related to the disposal of human and animal excreta and animal remains". We find no authority to delegate this duty to either the WA State Dept. of Agriculture or the WA State Dept. of Ecology. In fact, neither of these agencies are qualified to address human health.
- 4. RCW 34.05.310 addresses negotiated rule making. We are not sure whether the actions leading up to this draft rule constitute negotiated rule making or not. We do know that the BOH convened two stakeholder meetings in 2019 to discuss the rule. There were more advocates just for the dairy industry than advocates for the citizens. The beef industry brought their lobbyists as well. Only FOTC argued for protection of CAFO neighbors. Everyone at the table was Caucasian.

If this is negotiated rule making, there are insufficient protections to ensure that other agencies will do their part to protect public health. Currently Ecology and WSDA have the power to control air and water pollution, but they do not use that power, so air and water pollution from dairies continue. There are no memoranda of understanding to guarantee cooperation and collaboration.

Sincerely. from Mendeza

Jean Mendoza

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

<sup>\*</sup> Davis, M. A., Moore, D. L., Baker, K. N., French, N. P., Patnode, M., Hensley, J., ... & Besser, T. E. (2013). Risk factors for campylobacteriosis in two Washington state counties with high numbers of dairy farms. *Journal of clinical microbiology*, *51*(12), 3921-3927. Available at https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3838072/

## KEEPING OF ANIMALS Background and Policy Recommendations of the Washington State Board of Health for Revising WAC 246-203-130

https://sboh.wa.gov/sites/default/files/2022-01/KeepingOfAnimals-FinalReport.pdf

### Pages 4 & 15:

Regulation of livestock manure, commercial animal feeding operations, and other domestic animal waste in Washington to protect water and air quality is framed mainly around the following:

- Dairy licensing
- National Pollutant Discharge Permits
- Nonpoint source pollution prevention
- Local ordinances
- Air quality control by Ecology and local air agencies

#### Response:

WA dairies are required to have nutrient management plans, but they are not required to follow them.<sup>1</sup> See "Keeping of Animals" page 15 that says, "The law does not require producers to follow the (nutrient management) plans."

Dairies are only inspected every 18 - 22 months and the inspections focus on what is written on paper, not on what is happening on the dairy. There is only one WSDA inspector for all Eastern Washington where 2/3 of WA milk cows are housed.

Less than 10% of WA dairies have NPDES permits. Permitted dairies in Yakima County apply manure in quantities that greatly exceed agronomic rates.<sup>1</sup>

Ecology has yet to complete a nonpoint source pollution plan for the state. Ecology has worked on nonpoint source pollution since 2015 and is nowhere completion.<sup>3</sup>

Local ordinances are almost non-existent and are not enforced by local agencies, at least not in Yakima County.<sup>4</sup>

<sup>3</sup> Ecology Voluntary Water Guidance for Agriculture at <u>https://ecology.wa.gov/About-us/Accountability-</u> transparency/Partnerships-committees/Voluntary-Clean-Water-Guidance-for-Agriculture-Adv

<sup>&</sup>lt;sup>1</sup> Reports available on the Ecology PARIS website at <u>https://apps.ecology.wa.gov/paris/PermitLookup.aspx</u>

<sup>&</sup>lt;sup>2</sup>See Attachment 1

<sup>&</sup>lt;sup>4</sup> See Attachment 2 – Email from the Yakima Health District re enforcement of Solid Waste Manure Composting rules

The Yakima Regional Clean Air Agency (YRCAA) rescinded an Air Quality Management Policy for Dairies in 2019. The YRCAA does not investigate air quality complaints against dairies and has never issued a notice of violation of odor or dust.<sup>5</sup> Washington CAFOs do not report hazardous air emissions.

The summary in "Keeping of Animals" gives the impression that other WA agencies address pollution from WA CAFO dairies. This is incorrect.<sup>6</sup>

Page 10:

The Lower Yakima Valley is similarly plagued by high nitrate levels in drinking water that are closely associated with significant numbers of farm animals and large animal feeding operations. Yakima County has the most dairy cows in the state (WSDA, 2011). About a third of the Lower Yakima Valley uses private, unregulated wells for drinking water. Between 10 and 20% of these wells have nitrate concentrations that exceed the national and state drinking water standard (USEPA, 2012b).

In 2018-2019 the Lower Yakima Valley Groundwater Management Area drilled 30 monitoring wells evenly spaced throughout the Lower Yakima Valley (LYV). At the time of drilling 45% of the wells had nitrate levels above 10 mg/L. Beginning in 2021 Ecology began sampling the monitoring wells to establish a baseline for the area. In the first two 2021 samplings 45% of the samples were above 10 mg/L.<sup>7,8</sup>

The EPA has studied nitrate levels in dedicated monitoring wells on a cluster of LYV dairies. The highest reading in the EPA studies is 234 mg/L.<sup>9</sup>

<sup>6</sup> Ecology and WSDA knew about pollution on a cluster of Lower Yakima Valley dairies for years, but gave the dairies glowing reports while the dairies applied manure to cropland at up to seven times agronomic rates. See Attachment 3.

<sup>7</sup> LYV GWMA Initial Ambient Groundwater Monitoring Well Report at <u>https://www.yakimacounty.us/DocumentCenter/View/21633/GWAC-Presentation---Monitoring-Well-Report-Overview---2019620-v20-1</u>

<sup>8</sup> WA Ecology Environmental Information Management System Data Base Groundwater Data at <u>https://apps.ecology.wa.gov/eim/search/Groundwater/GWSearch.aspx?SearchType=Groundwater&State=newsearch</u> <u>&Section=all</u>

<sup>9</sup> EPA Region X LYV Groundwater Fact Sheet 2014 Yakima Dairies Consent Order Update at <u>https://www.epa.gov/sites/default/files/2017-12/documents/lower-yakima-valley-groundwater-fact-sheet-december-2014.pdf</u>

<sup>&</sup>lt;sup>5</sup> Arguments for Dissolving the Yakima Regional Clean Air Agency at http://www.friendsoftoppenishcreek.org/cabinet/data/FOTC%20Arguments%20for%20Dissolving%20the%20YRC AA.pdf

#### Page 15:

WSDA has conducted lagoon inspections in the Yakima Valley based on the site inventory and assessment procedure of Natural Resources Conservation Service (NRCS) Tech Note 23. Between 2015 and 2017, WSDA inspected most dairy lagoons in the Yakima Valley with a minimum of two site visits, to evaluate the lagoons when full and when empty. The lagoons are scored on criteria (e.g., soil type, aquifer susceptibility, proximity to water bodies, compliance with design standards) and ranked on a risk probability matrix for site risk and seepage/structure risk. The evaluations are being carried out in concert with the CAFO permit, giving facilities with high risks two years to develop and implement plans to address the deficiencies.

WSDA now says that the Tech Note 23 Inspections re invalid. WSDA has not completed Tech Note 23 Inspections outside Yakima County as promised. Tech Note 23 Inspections in Yakima County are missing essential data and those dairies with high risk lagoons have not developed and implemented plans to address the deficiencies as stated in "Keeping of Animals"<sup>10</sup>

Page 16:

Any commercial or industrial operation that discharges waste material to state waters is required to have a permit from Ecology.

This is simply not true. Two dairies in the LYV dairy cluster that have well documented discharges are not covered by NPDES permits.<sup>11</sup>

Discharges are allowed in limited situations and cannot violate water quality standards or impair other uses of the waters.

Many dairies in Whatcom County are located in flood plains. Manure from these dairies flowed into the floodwaters of the Nooksack River in 2021. Taxpayers spent hundreds of thousands of dollars to help Whatcom County dairies pump manure from lagoons that were at risk of overtopping during the 2021 floods.<sup>12</sup>

<sup>&</sup>lt;sup>10</sup> See Ecology and WSDA Do Not Inspect Manure Lagoons at <u>http://www.friendsoftoppenishcreek.org/issues/water.html</u>

<sup>&</sup>lt;sup>11</sup> The EPA has found egregious pollution from crop land and from unlined manure lagoons on the Henry Bosma Dairy and the Liberty Dairy in the LYV dairy cluster. Neither of these dairies has an NPDES permit.

<sup>&</sup>lt;sup>12</sup> Verbal communication from Laura Watson, Director of the WA Dept. of Ecology at the April meeting of Ecology's Ag and Water Quality Advisory Committee.

Decision on CAFO Permit Appeal On October 25, 2018, the Washington State Pollution Control Hearings Board (PCHB) issued an order on an appeal of the CAFO permits by a number of organizations on all sides of the issue. The order upheld and affirmed the permits with the exception of a condition associated with lagoon assessments. Ecology is expected to reissue the permits consistent with the order (WSPCHB, 2018).

A coalition of environmental groups successfully appealed the PCHB decision to the WA State Court of Appeals. In 2021 the Court of Appeals ruled that the 2017 NPDES permits for CAFOs do not protect waters of the state.<sup>13</sup>

Ecology and WSDA jointly administer CAFO permits and also work cooperatively on the Dairy Nutrient Management Program and Agricultural Nonpoint Source Program. The agencies are guided by a Memorandum of Understanding (MOU) that was last updated in 2011.

The referenced MOU protects WA dairies from enforcement of the Clean Water Act. The WSDA Dairy Nutrient Management Program (DNMP) hardly ever documents a discharge to waters of the state. Consequently, there is no justification for requiring a dairy to obtain an NPDES permit. The DNMP typically states that a dairy complies with best management practices (BMPs) although WSDA and Ecology state that there is no approved list of BMPS for dairies.<sup>14</sup>

Page 19:

Ecology is currently undertaking a major project to develop voluntary clean water guidance for agricultural activities. The project aims to identify agricultural practices that are most effective in addressing nonpoint source impacts and achieving compliance with water quality standards. Impetus for the project is federal law, specifically the Clean Water Act and Coastal Zone Act Reauthorization Amendments of 1990, which require the agency to identify suites of practices for different sources of nonpoint pollution. The project is part of Ecology's 2015 Nonpoint Source Pollution Plan. The planning, stakeholder involvement, and technical analysis are expected to take a couple years (WSDOE, 2015b, 2015c, 2017).

After at least seven years Ecology's nonpoint source plan is nowhere near completion.<sup>3</sup>

<sup>13</sup> Puget Soundkeeper et al v. WA Ecology 2021, available at <u>http://www.friendsoftoppenishcreek.org/cabinet/data/D2%2052952-1-II%20PUBLISHED%200PINION%20(2).pdf</u>

<sup>14</sup> WSDA & Ecology Memorandum of Understanding – A Chain of Errors, available at <u>http://www.friendsoftoppenishcreek.org/cabinet/data/MOU%20Problems%20and%20Sequelae.pdf</u> Page 20:

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.

In Yakima County officials have never investigated the adverse public health effects of agricultural activities such as:

- Polluting groundwater
- Polluting surface waters and contaminating fish
- Polluting the air with particulate matter, ammonia, hydrogen sulfide, volatile organic compounds, ozone, methane, and nitrous oxide. <sup>5</sup>

Because there are no documented impacts officials refuse to take actions against allegedly "good agricultural practices" such as:

- Composting hundreds of dead cows in small areas
- Composting manure in the pens where cows live
- Discharging pollutants into aquifers that people access for drinking water.<sup>5</sup>

Morbidity and mortality from COVID 19 are well above the state average in Yakima County. Harvard University has documented a relationship between counties with high levels of particulate matter and deaths from COVID 19.<sup>15</sup>

Chapter 35.88 RCW applies to protection of public water supplies and explains that animal operations such as hog pens and feed yards that pollute municipal water supplies, storage, or conveyance are illegal and should be abated as nuisance.

The Outlook Elementary School in Yakima County had to drill two new wells due to nitrate contamination. The only likely source of this pollution is nearby dairies with well documented discharge to groundwater. Officials took no actions against the dairies but simply expected taxpayers to cover the expense of drilling new wells.

The City of Mabton has been forced to drill several new municipal wells due to a falling aquifer and nitrate contamination that reached 20 mg/L. Officials took no actions against upgradient dairies but simply expected taxpayers to cover the expense of drilling new wells.

<sup>15</sup> COVID 19 Incidence and Death Rates for Yakima County, available at

<sup>&</sup>lt;sup>5</sup> Arguments for Dissolving the Yakima Regional Clean Air Agency at <u>http://www.friendsoftoppenishcreek.org/cabinet/data/FOTC%20Arguments%20for%20Dissolving%20the%20YRC</u> AA.pdf

http://www.friendsoftoppenishcreek.org/cabinet/data/COVID%2019%20Demographics%20for%20Yakima%20Cou nty%20IV.pdf

*RCW* 70.54.010 and *RCW* 90.48.080 respectively make it illegal to deposit anything deleterious that affects public water supplies or to discharge polluting matter to waters of the state.

Dairy discharges to waters of the state are well documented, yet Ecology does nothing to stop this illegal activity.

Chapter 70.95 RCW sets requirements for solid waste management, which extends to animal waste and includes provisions that prohibit dumping or depositing waste in waters of the state or creating a nuisance. Companion solid waste handling standards, chapter 173-350 WAC, exempt land application of manure if applied at agronomic rates. If piled, over-applied, or otherwise mismanaged to create a problem, manure can be regulated as a solid waste.

Over application of manure to cropland is well documented, yet WSDA and Ecology do nothing to stop this illegal activity.<sup>1, 2, 6, 9</sup>

Page 21:

King County first adopted its livestock management ordinance in the mid1990s. The purpose of KCC 21A.30, sections 040 – 075, is to support the raising and keeping of livestock and to minimize impacts on water quality and salmon habitat. The code also regulates small animals. The code regulates lot size, livestock densities, farm planning, and management practices to prevent nonpoint pollution. The management standards include many requirements for manure storage and spreading. Section 122 of KCC 21A.12 complements this with a manure storage setback of 35 feet from the property line. <u>Commercial dairies are exempt</u> and must meet the requirements of DNMP (King County, 2009, 2013).

The Keller Dairy in King County, located next to the Snoqualmie River, spreads manure within 10 feet of the river, according to their manure pollution prevention plan (MPPP).

<sup>1</sup> Reports available on the Ecology PARIS website at <u>https://apps.ecology.wa.gov/paris/PermitLookup.aspx</u>

<sup>6</sup> Ecology and WSDA knew about pollution on a cluster of Lower Yakima Valley dairies for years, but gave the dairies glowing reports while the dairies applied manure to cropland at up to seven times agronomic rates. See Attachment 3.

<sup>9</sup> EPA Region X LYV Groundwater Fact Sheet 2014 Yakima Dairies Consent Order Update at <u>https://www.epa.gov/sites/default/files/2017-12/documents/lower-yakima-valley-groundwater-fact-sheet-december-</u>2014.pdf

<sup>&</sup>lt;sup>2</sup>See Attachment 1

See the Keller Manure Pollution Prevention Plan, page 11/22 that says:

In addition to using the MSA and ARM tools year-round, the appropriate seasonal setback distance will be utilized when applying manure. These seasonal setbacks are based on scientific studies which recommend specific distances for sediment and nutrient removal based on seasonal precipitation, soil saturation conditions, and surface runoff potential. This includes a more robust setback during the high risk months of October 1-February 28 of 100 feet, reduced to 40 feet from March 1-May 31 and September 1-September 30 when soils are drying, and <u>10 feet in the dry summer months of June 1-August 31 when precipitation is minimal and soils dry.</u> The following table lists the appropriate setback distances per season.<sup>16</sup>

#### Page 24:

Registration and Reporting: Feedlots with 1,000 or more cattle in operation between June 1 and October 1 are required to register with Ecology or their local air agency under WAC 173-400-099 to WAC 173-400-104, report emissions of certain criteria and toxic air pollutants, and undergo inspections every one to three years. Emissions are estimated based on the size, processes, and pollution controls of the animal feeding operation. Ecology recently conducted a comprehensive literature review and issued revised emissions factors for cattle feedlots in 2016.

Are dairies classified as feedlots? None of the 50 CAFO dairies in Yakima County register as sources of air pollution, or report emissions of air pollutants. There are about 100,000 milk cows in a 273 square mile area in the Lower Yakima Valley (LYV).

Controlling Fugitive Emissions, Dust, and Odor: Under RCW 70.94.640, odors or fugitive dust from animal feeding operations that are applying BMPs<sup>17</sup> are exempt from the requirements of the state Clean Air Act unless they have a substantial adverse effect on public health. Feedlots with 1,000 or more cattle are included in this agricultural activity exemption except they must:

- Follow BMPs<sup>17</sup> and develop and implement a fugitive dust control plan;
- Comply with the State Implementation Plan (SIP) for air quality; and

• Additional controls may be required as part of the SIP if an area is designated as nonattainment for particulate matter under national ambient air quality standards (NAAQS).

<sup>&</sup>lt;sup>16</sup> Manure Pollution Prevention Plan (MPPP) Keller Dairy, page 11/22, available at file:///C:/Users/Jean%20Mendoza/Downloads/2020-07-28%20MPPP%20(5).pdf

<sup>&</sup>lt;sup>17</sup> According to WA Ecology there are no approved best management practices for WA dairies. See Attachment 4.

Ecology or the appropriate local air agency review and approve fugitive dust control plans, inspect sources, <u>respond to complaints</u>, provide compliance assistance, and may issue enforcement actions. In 1995, Ecology issued guidelines on fugitive dust control for beef cattle feedlots and best management practices. These guidelines are included in the SIP to help the state meet and maintain the NAAQS and protect public health. Yakima Regional Clean Air Agency has also established policies and BMPs for animal feeding operations in their jurisdiction, <u>specifically for dairy operations</u>, confined heifer replacement feeding operations, and confined beef cattle feeding operations. As an added note, Ecology is working to interpret and implement changes to RCW 70.94.640 made in the 2017 legislative session by SSB 5196 (C 217, L 17) that extend the Clean Air Act exemption for odor and fugitive dust caused by agricultural activities to cattle feedlots. This will change aspects of the regulatory structure when finalized.

Washington law requires Ecology to approve a list of best management practices for CAFOs. Friends of Toppenish Creek submitted public records requests for a listing of these BMPS in 2021. Both Ecology and WSDA replied that there are none.<sup>17</sup>

The Yakima Regional Clean Air Agency rescinded their policy for dairies in 2019. The YRCAA does not investigate complaints regarding odor and dust from dairies.<sup>5</sup>

Page 25:

Capitalize on Local Health Authority The rule should capitalize on the authority and responsibility of local health boards and local health officers under chapter 70.05 RCW. This includes authority to:

- Supervise the maintenance of all health and sanitary measures;
- Enact and enforce local regulations as needed to preserve, promote, and improve public health; and

• *Provide for the prevention, control, and abatement of nuisances detrimental to public health.* 

In response to a 2021 public records request the Yakima Health District informed FOTC that the YHD does not enforce WAC 173-350-220 with respect to manure composting facilities.

http://www.friendsoftoppenishcreek.org/cabinet/data/FOTC%20Arguments%20for%20Dissolving%20the%20YRC AA.pdf

<sup>4</sup> See Attachment 2 – Email from the Yakima Health District re enforcement of Solid Waste Manure Composting rules

<sup>&</sup>lt;sup>5</sup> Arguments for Dissolving the Yakima Regional Clean Air Agency at

Leave Regulation of Large Animal Feeding Operations to Established Programs WSDA manages the Dairy Nutrient Management Program and Ecology and WSDA comanage the CAFO permit. For many reasons, the programs are complicated and hard to implement. Despite the challenges, the two agencies are best positioned to regulate the state's large commercial animal feeding operations given their legal authorities, expertise, resources, and support from many partner agencies. The same holds true for regulation of air emissions by Ecology and the local air agencies. In keeping with the preceding recommendations, the Board's rule should avoid duplicating core work of these programs and should aim to support these existing state programs with complementary authority and functions.

We have shown that Ecology and WSDA have failed to protect the environment from water and air pollution related to CAFO dairies. These agencies barely talk about human health. Leaving implementation of public health to Ecology and WSDA is a recipe for failure.

## Small Business Economic Impact Statement WAC 246-203-130 a Rule Concerning Keeping of Animals

Page 4:

NAICS Code 1121, Description "Cattle Ranching and Farming", # of businesses in WA "534", MCT (1% average annual payroll) "\$3,657.58", MCT (0.03% annual receipts) "\$3,864.14"

We believe the cost estimates in this category that includes the multi-million dollar dairy industry, are inaccurate. We do not believe that the payroll for veterinary services exceeds the payroll for dairies as stated in the Economic Impact Statement.

## Significant Legislative Rule Analysis WAC 246-203-130 a Rule Concerning Keeping of Animals Revising the Section Title to Domestic Animal Waste

Page 16:

WAC 246-203-130(3)(d)(iii)(D)(II) Site stockpiled livestock waste one hundred feet or more from a surface water body unless the surface water body is protected by one or more control or treatment practices that capture and prevent leachate and runoff.

Description: If waste from livestock is stockpiled for later use or disposal, this proposed exception to WAC 246-203-130(3)(d)(iii)(D) allows people to site stockpiles closer than one hundred feet of a surface water body if practices are applied to mitigate runoff and leachate. This can include practices to mitigate stockpiles such as covers and pads, or alternate methods of storing stackable waste, such as stacking and composting structures.

Common conservation practices for stackable waste include the following, listed by NRCS code. Practices can be applied individually or in combination. Practices may or may not be designed and constructed to NRCS standards but should always be designed to account for anticipated storage needs, surface loads, drainage, and possible seepage.

This section fails to inform the reader that the definition of "stockpiling" in the draft WAC 246-203-130 exempts manure composting and manure lagoons from the definition. In Yakima County there are over 500 acres of manure compost on bare ground.<sup>18</sup> In Yakima County there are over 200 acres of manure lagoons, and most are simply "clay lined" which means they are lined with compacted soil.<sup>18</sup> Leaching from these lagoons is significant and well documented.<sup>19</sup>

WAC 246-203-130 does not sufficiently address groundwater pollution or air pollution.

NRCS standards are guidelines and non-enforceable.

<sup>18</sup>Lower Yakima Valley Groundwater Management Area Nitrogen Availability Assessment at <u>https://www.yakimacounty.us/2131/Nitrogen-Availability-Assessment</u>

<sup>19</sup> Bosma Dairy Lagoon 3 shows massive nitrogen loadings leading to ground water contamination, available at <a href="http://charlietebbutt.com/files/CAFOs/Bosma%20Lagoon%203%20Abandonment%20Plan\_20220118.pdf">http://charlietebbutt.com/files/CAFOs/Bosma%20Lagoon%203%20Abandonment%20Plan\_20220118.pdf</a>

# Attachment 1: Reports available on the Ecology PARIS website at <u>https://apps.ecology.wa.gov/paris/PermitLookup.aspx</u>

## Annual NPDES reports from DBD Dairy 2018 to 2021

Field Risk Level	Field	Nitrate at 2'	Required Actions	Required Actions Based Upon Trends	Comments
Low	24	10			
	Old Mint	3			
Fall Soil Test Nitrate Range:			None	None	Canal break resulted in no water for 1.5 weeks, resulting
Less than 15 ppm	-				in loss of yield.
Less than 55 lbs/acre		- No			
Medium	01B	17			
meanan	02EC	18	1		
Fall Soil Test Nitrate Range:	08-11B	27	Continue with agronomic rate	None	Canal break resulted in no water for 1.5 weeks, resultin
<ul> <li>15-30 ppm</li> </ul>	00 440		continue with agronomic rate	None	in loss of yield.
<ul> <li>55-110 lbs/acre</li> </ul>		1			
	Alexander and			Martin President of Provide	
	02EB	45			
High	07	45	<ul> <li>3' samples to be taken</li> </ul>		
Fall Soil Test Nitrate Range:	08-11C	46	next fall.		
<ul> <li>31-45 ppm</li> </ul>	21	42		None	Canal break resulted in no water for 1.5 weeks, resultin
<ul> <li>111-165 lbs/acre</li> </ul>	22CP	39	<ul> <li>Re-evaluate agronomic</li> </ul>	1.02300300	in loss of yield.
	23	36	rate.		2
					x.
Very High	01C	117			
	02NWB	65			
Fall Soil Test Nizrate Range	02SWB	52	<ul> <li>3' samples to be taken</li> </ul>		
<ul> <li>More than 45 ppm</li> </ul>	02WC	67	next fall.		
<ul> <li>More than 160</li> </ul>	03B	161			Canal break resulted in no water for 1.5 weeks, resultin in loss of yield.
	03C	140	<ul> <li>Reduce application</li> </ul>		an loss of yield.
	04	64	(evaluate agronomic	None at this time	Some fields have produced residual ppm levels that are
	05	65	rate).		well above what would typically be expected given the
	06	54			applied manure rates.
	2255	63	<ul> <li>Get approval of nutrient</li> </ul>		
	25	48	budget from DOE.		

Field Risk Level	Field	Nitrate at 2'	Required Actions	Required Actions based	Comments
Low Fall Soil Test Nitrate Range • Less than 15 ppm • Less than 55 lbs/acre	Old Mint	1.7	None.	upon Trends	
Medium	01 C	30.3	Constinue with some sta	Contraction of the last	
all Soil Test Nitrate Range	08-11 C		Continue with agronomic		
<ul> <li>15-30 ppm</li> </ul>	22 55	18.8	rate.		
<ul> <li>55-110 lbs/acre</li> </ul>	22 33	19.3			
- 33 110 103/ del C	25	19.5			
High	02 EC	38.3	Adjust application timing.	None at this time	
all Soil Test Nitrate Range	04	40.5	3' fall soil sampling.	None at this time	
<ul> <li>31-45 ppm</li> </ul>	06	40.1	Adjust application rates		
<ul> <li>111-165 lbs/acre</li> </ul>	07	39.6	rigase appreciation rates		
	23	32.3			
	24	38.8			
Testing and the second			Variation and the		
	01 B	62.3	Adjust application timing.	None at this time	Emergency applications in 2019 are the main
	02 EB	67.5	3' fall soil sampling.		reason for the higher residual nitrate levels
<ul> <li>None than 45 ppm.</li> </ul>	02 NWB	94.1	Reduce application rate		
<ul> <li>More than 165 fbs/acre</li> </ul>	02 SWB	48.5			
	02 WC	56.6	Get DOE approval for		
	03 B	132.7	nutrient budgets.		
	03 C	143.5	Contraction of the second s		
	05	47.7			
	08-11 B	53.4			
	21	50.4			
	22 CP	50.2			

Field Risk Level	Field	Nitrate at 2'	Required Actions	Required Actions Based Upon Trends	Comments
Low	23	14.3			
<ul> <li>Fall Soil Test Nitrate Range:</li> <li>Less than 15 ppm</li> </ul>	25	8.0			
Less than 55 lbs/acre	Old Mint	5.5			
Medium	06	28.9			
Fall Soil Test Nitrate Range:	05				
• 15-30 ppm	22 SS	24.2			
<ul> <li>55-110 lbs/acre</li> </ul>	22.55	16.6			
	24	29.0			
High	01 C	43.9			
Fall Soil Test Nitrate Range:	02 EC	41.2	The nutrient budgets will be		
• 31-45 ppm	02 SWB	33.5	adjusted downward		
• 111-165 lbs/acre	05	40.8			
	01 B	50.7			
Very High	02 EB	65.1	-		
Fall Soil Test Nitrate Range:	02 NWB	50.0	-		
More than 45 ppm	02 WC	54.7			
More than 165	03 B	164.9	The following fields will		
lbs/acre	03 C	193.3	receive limited to no application until the values		
	04	48.2	come down. Values are down		
	08-11 B	95.5	from 2019.		
	08-11 C	126.5			
	21	66.1	1		
	22 CP	62.5	1 1		

3. Adaptive Management		, WA Fa Nitrate	all 2021	Required Actions	1
Field Risk Level	Field	at 2'	Required Actions	Based Upon Trends	Comments
Low	Field 07	11.0	None		
Fall Soil Test Nitrate Range:	Field 22 SS	5.1			
<ul> <li>Less than 15 ppm</li> <li>Less than 55 lbs/acre</li> </ul>	Field 25	5.3			
Less than 55 lbs/acre	Old Mint	12.6			
	1			1	
Medium	Field 02 EC	15.5	None		
Fall Soil Test Nitrate Range: 15-30 ppm	Field 05	25.3			
<ul> <li>15-50 ppm</li> <li>55-110 lbs/acre</li> </ul>	Field 06	16.9			
• 55-110 lbs/acre	Field 08-11 C	23.0			
	Field 23	25.3			
High	Field 01 B	41.0	No application for 2022		
Coll Coll Tool Mitsele Deserve	Field 01 C	36.6	Reduced application		
Fall Soil Test Nitrate Range: • 31-45 ppm	Field 02 EB	33.0	No application for 2022		
<ul> <li>111-165 lbs/acre</li> </ul>	Field 02 WC	44.8	No application for 2022		
	Field 24	43.5	Reduced application		
		-			
Very High	Field 02 NWB	71.7	No application for 2022		Fields in the High to Very High risk levels continue to
Fall Soil Test Nitrate Range:	Field 02 SWB	45.5	No application for 2022		decrease as in 2019 there were 17 total fields in these
<ul> <li>45 ppm</li> </ul>	Field 03 B	106.0	No application for 2022		categories and in 2020 there were 15 and now in 2021
More than 165	Field 03 C	214.7	No application for 2022		there are 13.
lbs/acre	Field 04	56.0	No application for 2022		
	Field 08-11 B	69.8	No application for 2022		
	Field 21	54.6	No application for 2022		
	Field 22 CP	52.9	No application for 2022		

Sunnyside Dairy		-			
Field Risk Level	Field	Nitrate at 2'	Required Actions	Required Actions based upon Trends	Comments
Low	70 ac Pivot 02 Karl's	5.3	None.	No trends have been	
Fall Soil Test Nitrate Range	Airport 02	9.1		established.	
<ul> <li>Less than 15 ppm</li> </ul>	Airport 03	4.8		-1.50%8332%8332%	
<ul> <li>Less than 55 lbs/acre</li> </ul>					
	P01	13.7			
	P02	12.6			
	P03	3.1			
	Tom 03 70 ac	5.5			
	Sanda Carteria de Las	1.1.1.1	A REAL PROPERTY AND A REAL PROPERTY.	Station and a state of the stat	
Medium	70 ac Pivot 01 Karl's	23.6	None.	No trends have been	
Fall Soil Test Nitrate Range	70 ac Pivot 03 Karl's	22.7		established.	
<ul> <li>15-30 ppm</li> </ul>	Airport 01	25.0			
<ul> <li>55-110 lbs/acre</li> </ul>	Case	21.1			
	Field 01	18.9			
	Field 02	17.7			
	Field 03 CP	25.6			
	P05	18.0			
	Tom 01	28.4			
	Tom 02	30.7			
Contraction of the second			And and the second second		
High	Field 04	38.9	Adjust application timing.	No trends have been	
Fall Soil Test Nitrate Range	Little Dairy E	35.7	3' fall soil sampling.	established.	
<ul> <li>31-45 ppm</li> </ul>	Little Dairy N	32.3	Document reasons for		
<ul> <li>111-165 lbs/acre</li> </ul>	P04	36.9	higher residual.		
	Wade's 02	33.5			
Statistics of the state of the state	State of the second second				
VERYSHIP	60 ac	125.8	Adjust application timing.	No trends have been	
	100 ac	62.7	3' fall soil sampling.	established.	
<ul> <li>Attace than 45 ppm</li> </ul>	Field 03 Linear	51.3	Document reasons for		
<ul> <li>None that 255 No./Anne.</li> </ul>	Field 05	66.4	higher residual.		
	Guerra	80.4	Get DOE approval for		
	Little Dairy W	62.2	nutrient budgets.		
	Orchard	65.3			
	Rick	88.3			
	Wade's 01	48.9			
	Wade's 03	181.6			
TABLE 3: Adaptive Manag					
	ement Actions Sunnys	ide Dairy	2020 Fall		
Sunnyside Dairy					
Field Risk Level	Field	Nitrate at 2'	Required Actions	Required Actions based upon Trends	Comments
Low	70 ac Pivot 02 Karl's	4			
Fall Soil Test Nitrate Range	Airport 01	3			
Less than 15 ppm     Less than 55 lbs/acre	Airport 03	4			
and the second second second	A PROPERTY OF A PROPERTY OF	10000		Contraction of the local division of the loc	
and the second se	60 ac	24.6	and the second se		
Medium					

## Annual NPDES reports from Sunnyside Dairy 2019 to 2021

Field Risk Level	Field	Nitrate at 2'	Required Actions	Required Actions based upon Trends	Comments
Low	70 ac Pivot 02 Karl's	4		upon trends	
Fall Soil Test Nitrate Range	Airport 01	3			
<ul> <li>Less than 15 ppm</li> </ul>	Airport 03	4			
<ul> <li>Less than 55 lbs/acre</li> </ul>	rangeoit au	-			
	A Part of Contractory and	10000	Construction of the local sector	Contraction of the owner of the owner	
Medium	60 ac	24.6			
Fall Soil Test Nitrate Range	100 ac	29.8			
<ul> <li>15-30 ppm</li> </ul>	Airport 02	15			
<ul> <li>55-110 lbs/acre</li> </ul>	Field 01	22			
	Field 02	24			
	Field 03 CP	16			
	Little Dairy N	17			
	Little Dairy W	26.1			
	P05	30			
	Tom 03 70 ac	15	1		
	Wade's 01	22.5			
	Wade's 02	22			
	Construction West		NOR TO REAL	Sta 142 - 0. 10 1	End Shire States and Shire Shire
High	Case's	31	Nutrient budgets will be		
Fall Soil Test Nitrate Range	Field 04	37	adjusted downward		
<ul> <li>31-45 ppm</li> </ul>	Little Dairy E	34			
<ul> <li>111-165 lbs/acre</li> </ul>	P01	15			
	P02	20			
	P03	44			1
	Rick's	35.5			
	Tom 01 N	38			
		1		Carlo Maria Maria	and and the state of the state
Very High	70 ac Pivot 01 Karl's	60	Nutrient budgets will be		
Fall Soil Test Nitrate Range	70 ac Pivot 03 Karl's	52	adjusted downward.		
<ul> <li>More than 45 ppm</li> </ul>	Field 03 Linear	56	Some fields will not		
<ul> <li>More than165 lbs/acre</li> </ul>	Field 05	48	receive nutrient.		
	Guerra	53.6			
	Orchard	70			
	P04	59			
	Tom 02 W	66			
	Wade's 03	92.9			

TABLE 3: Adaptive Manage	ement Actions Sunnysi	de Dairy	2021 Fall		
Sunnyside Dairy					
Field Risk Level	Field	Nitrate at 2'	Required Actions	Required Actions based upon Trends	Comments
Low	60 ac	7.9	None		
Fall Soil Test Nitrate Range	70 Pivot 01 Karl's	8.6	1		
<ul> <li>Less than 15 ppm</li> </ul>	100 ac	10.3	1		
<ul> <li>Less than 55 lbs/acre</li> </ul>	70 ac Pivot 01 Karl's	8.6	1		
	70 ac Pivot 02 Karl's	8.0	]		
	Field 01	9.0	]		
	Orchard	13.4	]		
	Tom 01 N	11.8	]		
	Case's	12.3	]		
	Tom 03 70 ac	5.6			
	Airport 01	3.4	]		
	Airport 03	7.5			
Medium	Wade's 02	15.4	None		
Fall Soil Test Nitrate Range	70 ac Pivot 03 Karl's	19.2			
<ul> <li>15-30 ppm</li> </ul>	Field 02	22.5			
<ul> <li>55-110 lbs/acre</li> </ul>	Field 03 CP	23.7			
	Rick's	15.7			
	Tom 02 W	19.3			
	Field 05	28.5			
	Guerra	17.6			
	Little Dairy E	16.0			
	Little Dairy N	20.1			
	Little Dairy W	24.6			
	P 01	23.3			
	P 02	28.2			
	P 03	21.9			
	P 05	21.9			
High	Field 03 Linear	38.4	Reduce application	Watch Field 03 Linear	
Fall Soil Test Nitrate Range	Field 04	31.8	]	and Field 04 as two	
<ul> <li>31-45 ppm</li> </ul>	Wade's 01	39.4		years in High or Very	
<ul> <li>111-165 lbs/acre</li> </ul>				High	
Very High	Wade's 03	54.8	Reduce application	Watch P04 and Wade's	
Fall Soil Test Nitrate Range	Airport 02	49.4		03 as two years in High	
<ul> <li>More than 45 ppm</li> </ul>			4	or Very High	
<ul> <li>More than165 lbs/acre</li> </ul>	P 04	58.3			

Attachment 2: Email from Shawn Magee at the Yakima Health District, October 20, 2021:

## Follow-Up Info for Public Records Request Email 1 of 2

Good Afternoon Ms. Mendoza,

Below is a the response to the question you asked in a follow-up email for the records request you submitted. Also, attached are the records we have for your follow-up request.

Please note that many facilities, including exempt composters, are supposed to submit a notice of intent – many have not. Also, many facilities, including exempt composters, are supposed to submit an annual report – many have not. These records are from 2010-present.

. . . . . . .

Shawn Magee, R.S.

**Environmental Health Director** 

Yakima Health District

Office: (509) 249-6533



## Attachment 3: Soil Nitrate Reports from George DeRuyter & Son Dairy

CONSULTANTS	-		Web: agrimp	ji dom					Fert	tilit	y R	epo	rt	
George DeR	uvter	& Sons	(Y281	)							-	-		F13-06
Field: GDS	-		(		cres:	99.1			Sa	nple D	ate:	10/17/2	013	75
										ious C		2013 A		
Crop: Tritic	ale-Suc	lan		h	rigation	: whe	ei line			rent C	-		riticale Su	dan
Soil series:	Seco	n silt loar	~		Leash	Hana	rd: Lov			o. of S		30		
					Leach	naza	ra: co			-		3.0		
Topography:		y undula	~						Sampl	ng De	pin:	3.0		
Restrictive laye					surface,									
Residue Incorp	p? N	Type?	Alfalfa	a cultivat	ed, Tritic	cale-Su	idan pla	anted.						
Commenter o								T-11-1			- 11 17	al unite a	- alfalfa	
					site. At a knolls an	d ridge	<b>S</b> .							
		Whitish s	ioil color	on the		d ridge	<b>S</b> .						r alfalfa, Other	
w		Whitish s	ioil color	on the	knolls an ts (Ibs/	d ridge	<b>S</b> .	/ Solu	ible Ba			100g)		Data
w Sample Area	veeds. \	Whitish s ppm	ioil color <b>fobile f</b>	on the Nutrien	knolls an ts (Ibs/	id ridge (ac)	s. Exch.	/ Solu Mg	ible Ba	ses (I	neq/	100g)	Other VolWt	Data %AW 75%
W Sample Area Field Composite Field Composite	Depth	Whitish s ppm 7 <u>NO</u> 3	ioil color fobile f <u>NO 3</u> 65 81	on the Nutrien	knolls an ts (Ibs/ <u>SO ₄</u>	id ridge (ac) <u>B</u>	8. Exch. Ca	/ Solu Mg	ible Ba	ses (n Na	neq/. T.B.	100g) CEC	Other VolWt 1.25	Data %AW 75% 88%
W Sample Area Field Composite Field Composite	Depth	Whitish s ppm 2 <u>NO</u> 3 19 24 14	noil color <b>10bile 1</b> <u>NO 3</u> 65 81 49	Mutrien	knolls an ts (Ibs/ SO₄ 37	id ridge (ac) <u>B</u> 1.6	8. Exch. Ca	/ Solu Mg	ible Ba	ses (n Na	neq/. T.B.	100g) CEC	Other VolWt	Data %AW 75% 88%
	Depth	Whitish s <i>ppm</i> <u>NO</u> 3 19 24	ioil color fobile f <u>NO 3</u> 65 81	on the Nutrien	knolls an ts (Ibs/ <u>SO ₄</u>	id ridge (ac) <u>B</u>	8. Exch. Ca	/ Solu Mg	ible Ba	ses (n Na	neq/. T.B.	100g) CEC	Other VolWt 1.25	Data %AW 75% 88%
W Sample Area Field Composite Field Composite Field Composite	Depth 1' 2' 3'	Whitish s ppm 7 NO 3 19 24 14 Totals: dual nitra	NO 3         65         81         49         195           tes are 1         1	on the Nutrien	knolls an ts (Ibs/ SO₄ 37	d ridge (ac) <u>B</u> 1.6 1.6	Exch. , <u>Ca</u> 16.20	/ Solu <u>Mg</u> 3.90	<b><i>ible Ba</i></b> <u>K</u> 1.04	ses (n <u>Na</u> 0.30	meq/. <u>T.B.</u> 21.44	100g) <u>CEC</u> 19.2	Other VolWt 1.25 1.25 1.25	Data %AW 75% 88% 81%
W Sample Area Field Composite Field Composite Field Composite	Depth 1' 2' 3' The resid ossibly	Whitish s ppm 7 NO 3 19 24 14 Totals: dual nitra margina Immob	toil color <b>10bile 1</b> <b>10bile 1</b> <b>10bil</b>	Nutrien Nutrien <u>NH 1</u> 7 7 moderat m is favo	ts (Ibs/ <u>SO₄</u> 37 e. Amm prably low	ad ridge (ac) ( <u>B</u> 1.6 1.6 1.6 (onium wer.	Exch. , <u>Ca</u> 16.20	/ Solu <u>Mg</u> 3.90	<b><i>ible Ba</i></b> <u>K</u> 1.04	ses (n <u>Na</u> 0.30	meq/. <u>T.B.</u> 21.44	100g) <u>CEC</u> 19.2	Other VolWt 1.25 1.25 1.25	Data %AW 75% 88% 81%
W Sample Area Field Composite Field Composite Field Composite	Depth 1' 2' 3' The resid ossibly	Whitish s ppm <u>NO</u> 3 19 24 14 Totals: dual nitra margina Immob	toil color <b>10bile 1</b> <b>10bile 1</b> <b>10bil</b>	Nutrien Nutrien <u>NH 4</u> 7 7 moderat m is fav	ts (Ibs/ <u>SO₄</u> 37 e. Amm prably low	d ridge (ac) (B) (1.6) (	ss. Exch. , Ca 16.20 is in ec	/ Solu Mg 3.90 quilibriu Data	<b><i>ible Ba</i></b> <u>K</u> 1.04	ses (n <u>Na</u> 0.30	<b><i>T.B.</i></b> 21.44	100g) <u>CEC</u> 19.2	Other VolWt 1.25 1.25 1.25 ie boron	Data %AW 75% 88% 81%

Fertility and chemical data used here to formulate a recommendation was processed and reported by Soil Test, Inc., and Agrimanagement, Inc. soil lab for deep profile nitrates.

			AGRIMETRI
	Yakima, WA 98901	Fea: (509) 588-1672	
CONSULTANTS	Web: apr	ingt.com	

AGRIMETRIC SERVICES - MEASURING CROP NEEDS FOR GREATER PROFITS

## Fertility Report

George DeRu	uyter & Sons (Y281)					F13-0560
Field: GDS-	SU-04	Acres:	135.6	Sample Date:	10/14	/2013 7572
Crop: Tritica	ale-Silage Corn	Irrigation:	Center pivot	Previous Crop:	2013	Triticale-Silage com
	-		-	Current Crop:	2014	Triticale-Silage com
Soil series:	Warden silt loam	Leach I	Hazard: Low	No. of Sites:	30	
Topography:	Gently divided sloping			Avg Sampling Depth:	3.0	

Restrictive layer? Y Where? Some rocks, mainly in the NW corner.

Residue Incorp? N Type? Scattered cultivation strips.

Comments: Sampled a three foot field composite. Light weed cover. Corn stalk size was normal. Soil surface was dry.

		ppm	Mobile N	lutrient	ts (Ibs,	/ac)	Exch. /	Solub	le Ba	ses (I	meq/1	(00g)	Other	Data
Sample Area	Depth	NO ;	NO 3	NH 4	SO 4	B	Ca	Mg	K	Na	T.B.	CEC	VolWt	%AW
Field Composite	1'	184	624	7	925	10.8	17.10	4.80	6.79	1.27	29.96	16.0	1.25	90%
Field Composite	2	166	564										1.25	85%
Field Composite	3'	173	587										1.25	100%
		Totals:	1774	7	925	10.8								

Comments: The residual nitrates are excessive. Ammonium is in equilibrium. Sulfur and boron are very high. Sodium is slightly to moderately elevated.

		Imr	nobile	Nutr	ients	(ppi	m)	Chemica	l Data	1	
Sample Area	Depth	P	<sup>Yaca)</sup> K	Zn	Mn	Fe	Си	О.М.	pН	EC mmhos/cm	Eff/Calc.
Field Composite	1	398	2650	13.5	2.9	31	2.8	3.3%	7.8	2.34	Yes
								high. Mn is le and salts		hile Iron and Coppe ph.	er are adequ

Fertility and chemical data used here to formulate a recommendation was processed and reported by Soil Test, Inc., and Agrimanegement, Inc. soil lab for deep profile nitrates.
Totalis: GDS-SU-07Acres: 76.6Sample Date: 10/9/2013Field: GDS-SU-07Acres:76.6Sample Date:10/9/2013Crop: AlfalfaIrrigation: Center pivotPrevious Crop:2013 AlfalfaGoil series:Warden silt loamLeach Hazard: LowNo. of Sites:30Fopography:Gently undulating.Avg Sampling Depth:2.6Residue Incorp?NType?Comments:Sampled a three foot field composite. Harvested recently. Alfalfa at 2-3" tall with a 50% canopy overall.Sample AreaDepthNO3NH4SO4BSample AreaDepthNO3NH4SO4BCaMgKNaT.B.CECVolWt%AWSeld Composite2742521.2574%Totals:61352865.119.904.001.94NaT.B.CECVolWt%AWTotals:61352865.119.904.001.94NaT.B.CECVolWt%AWTotals:61352865.119.904.001.94NaT.B.CECVolWt%AWTotals:61352865.119.904.001.94NaT.B.CECVolWt%AWTotals:61352865.119.904.001.94NaT.B.CECVolWt%AWTotals:61352865.1		-		Web: agrimç				- 1	Fert	ilit	y R	epo	ort	
Field: GDS-SU-07Acres:76.6Sample Date: $10/9/2013$ Crop: AlfalfaIrrigation: Center pivotPrevious Crop: $2013$ AlfalfaColl series:Warden silt loamLeach Hazard: LowNo. of Sites: $30$ Fopography:Gently undulating.Acres: $Acres:76.6Sample Date:10/9/2013Composite Incorp?YWhere? Rocks in scattered sites.Acres:avg Sampling Depth:2.6Residue Incorp?NType?Type?Exch. / Soluble Bases (meq/100g)Other DataComments:Sample AreaDepthNO_3NH_4SO_4BCaMgKNaT.B.CECVolWt%AWSeld Composite2742521.2578\%1.2578\%Totals:61352865.119.904.001.940.7228.66CECVolWt%AW$	George DeR	Ruyter &	& Sons	(Y281	)									F13-054
Current Crop: 2014 AlfalfaCurrent Crop: 2014 AlfalfaCurrent Crop: 2014 AlfalfaCurrent Crop: 2014 AlfalfaCourrent Crop: 2014 AlfalfaAvg Sampling Depth: 2.6Restrictive layer? Y Where? Rocks in scattered sites.Comments: Sampled a three foot field composite. Harvested recently. Alfalfa at 2-3" tall with a 50% canopy overall.PopmMobile Nutrients (Ibs/ac)Exch. / Soluble Bases (meq/100g)Other DataNo 3NO 3NH 4SO 4BCaMgKNaT.B.CEC VolWt%AWNeid Composite2'742521.2582%1.2582%Neid Composite3'762571.2574%1.2574%	Field: GDS	S-SU-07			A	cres:	76.6		San	nple D	ate:	10/9/20	013	757
Current Crop: 2014 AlfalfaKoll series:Warden silt loamLeach Hazard: LowNo. of Sites:30Topography:Gently undulating.Avg Sampling Depth:2.6Restrictive layer?YWhere? Rocks in scattered sites.Residue Incorp?NType?Comments:Sampled a three foot field composite.Harvested recently.Alfalfa at 2-3" tall with a 50% canopy overall.Sample AreaDepthNO 3NH 4SO 4BCaMgKNaT.B.CEC VolWt%AWNeid Composite2'742521.2582%1.2578%Neid Composite3'762571.2578%1.2574%	Cron: Alfal	fa			T	rigation	Center pivo	at	Previ	ous C	rop:	2013 /	Vifalfa	
For states of statesFor prography: Gently undulating.Avg Sampling Depth: 2.6Restrictive layer?YWhere? Rocks in scattered sites.Residue Incorp?NType?Comments:Sampled a three foot field composite. Harvested recently. Alfalfa at 2-3" tall with a 50% canopy overall.Sample AreaDepthNO3NH4SO4BNo3NO3NH4SO4BCaMgKNaT.B.CEC VolWt%AWSample AreaDepthNO3NH4SO4BCaMgKNaT.B.CEC VolWt%AWSample AreaDepthNO3NH4SO4BCaMgKNaT.B.CEC VolWt%AWSample AreaDepth10452865.119.904.001.940.7226.5616.11.2582%Sample Composite2'742521.252865.11.2574%Seld Composite3'762572865.11.2574%	crop. raid					1.5			Cur	rent C	rop:	2014	Vifalfa	
Fopography:Gently undulating.Avg Sampling Depth:2.6Restrictive layer?YWhere? Rocks in scattered sites.Avg Sampling Depth:2.6Residue Incorp?NType?Type?Comments:Sample AreaDepthNO3NH4SO4BNopolite $1^{11}$ $31$ $104$ $5$ $286$ $5.1$ New Composite $2^{12}$ $74$ $252$ $252$ $1.25$ $82\%$ New Composite $2^{12}$ $74$ $252$ $1.25$ $82\%$ New Composite $3^{12}$ $76$ $257$ $1.25$ $74\%$ Totals: $613$ $5$ $286$ $5.1$ $19.90$ $4.00$ $1.94$ $0.72$ $26.56$ $16.1$ $1.25$ $82\%$ New Composite $3^{12}$ $76$ $257$ $1.25$ $74\%$ $1.25$ $74\%$	Soil series:	Ward	en silt lo	am		Leach	Hazard: Lo	w	N	o. of S	ites:	30		
Restrictive layer? Y Where? Rocks in scattered sites. Residue Incorp? N Type? Comments: Sampled a three foot field composite. Harvested recently. Alfalfa at 2-3" tall with a 50% canopy overall. Sample Area NO <sub>3</sub> NO <sub>3</sub> NO <sub>3</sub> NH <sub>4</sub> SO <sub>4</sub> B Second State of the second sites of the second sites. Sample Area Sample Area Sampl		Gently	/ undula	tina.		measure a						2.6		
Residue Incorp?NType?Comments:Sampled a three foot field composite.Harvested recently. Alfalfa at 2-3" tall with a 50% canopy overall.Sample Area leid CompositeDepth 1"NO 3 104NH 4 5SO 4 286B 5.1Exch. / Soluble Bases (meq/100g)Other DataSample Area leid CompositeDepth 1"NO 3 104NH 4 5SO 4 286B 5.1Ca 19.90Mg 4.00K 1.94Na 0.72T.B. 26.66CEC 16.1VolWt 1.25%AW 78%Sample Area leid Composite2"74 25225226.6616.11.2582%3"76 Totals:257 6135 2865.12865.11.2574%			·	-	in ecot	torod citos			- angen		P			
Comments: Sampled a three foot field composite. Harvested recently. Alfaifa at 2-3" tall with a 50% canopy overall.Sample AreaMobile Nutrients (lbs/ac)Exch. / Soluble Bases (meq/100g)Other DataSample AreaDepthNO 3NH 4SO 4BCaMgKNaCECVolWt%AWTotals:1°3110452865.119.904.001.940.7226.5616.11.2582%Totals:61352865.119.904.001.940.7226.5616.11.2582%1.2574%762571.2574%1.2574%1.2574%					, in soar									
Sample Area         Depth         NO <sub>3</sub> NO <sub>3</sub> NH <sub>4</sub> SO <sub>4</sub> B         Ca         Mg         K         Na         T.B.         CEC         VolWt         %AW           Noile Composite         1°         31         104         5         286         5.1         19.90         4.00         1.94         0.72         26.56         16.1         1.25         78%           Noile Composite         2°         74         252         125         125         82%         1.25         82%           Noile Composite         3°         76         257         1.25         74%         1.25         74%		-9 N												
Sample Area         Depth         NO <sub>3</sub> NH <sub>4</sub> SO <sub>4</sub> B         Ca         Mg         K         Na         T.B.         CEC         VolWt         %AW           ield Composite         1'         31         104         5         286         5.1         19.90         4.00         1.94         0.72         26.56         16.1         1.25         78%           ield Composite         2'         74         252         1.25         82%         1.25         82%           ield Composite         3'         76         257         1.25         74%         1.25         74%           Totals:         613         5         286         5.1         1.25         74%														
NO3         NO3         NH4         SO4         B         Ca         Mg         K         Na         T.B.         CEC         VolWt         %AW           leid Composite         1°         31         104         5         286         5.1         19.90         4.00         1.94         0.72         26.56         16.1         1.25         78%           leid Composite         2°         74         252         1         19.90         4.00         1.94         0.72         26.56         16.1         1.25         82%           leid Composite         3°         76         257         1.25         74%         1.25         74%					l compo	site. Harv	vested recen	tly. Alfa	lfa at 2	2-3" ta	ll with	a 50%	canopy	overall.
ield Composite 2' 74 252 1.25 82% ield Composite 3' 76 257 1.25 74% Totals: 613 5 286 5.1			a three	foot field				-						
ield Composite 3' 76 257 1.25 74% Totals: 613 5 286 5.1	Comments: §	Sampled	a three	foot field Mobile N	lutrien	ts (lbs/a	c) Exch.	/ Solut	ole Ba	ses (I	neq/	100g)	Other	Data
Totals: 613 5 286 5.1	Comments: S	Sampled	a three	foot field Mobile N NO 3	NH 4	ts (lbs/a SO₄	c) Exch. B Ca	/ Solut	ole Ba	ses (I Na	neq/: T.B.	100g) <u>CEC</u>	Other VolWt	Data %AW
-	Comments: S Sample Area Field Composite Field Composite	Sampled	a three ppm 7 NO 3 31 74	foot field Mobile N NO 3 104 252	NH 4	ts (lbs/a SO₄	c) Exch. B Ca	/ Solut	ole Ba	ses (I Na	neq/: T.B.	100g) <u>CEC</u>	Other VolWt 1.25	Data %AW 78% 82%
Comments: Residual nitrates are high. Ammonium is in equilibrium. Sulfur and boron are also high. Sodium is only	Comments: S Sample Area Field Composite Field Composite	Sampled	a three ppm <u>NO</u> 3 31 74 76	foot field Mobile M NO 3 104 252 257	iutrien <u>NH 4</u> 5	ts (lbs/a <u>SO 4</u> 286	$\frac{B}{5.1} \frac{Ca}{19.90}$	/ Solut	ole Ba	ses (I Na	neq/: T.B.	100g) <u>CEC</u>	Other VolWt 1.25	Data %AW 78% 82%
		Sampled	a three ppm <u>NO</u> 3 31	foot field Mobile M <u>NO 3</u> 104	NH 4	ts (lbs/a SO₄	c) Exch. B Ca	/ Solut	ole Ba	ses (I Na	neq/: T.B.	100g) <u>CEC</u>	Other VolWt	<b>D</b> a %
	Comments: S Sample Area Field Composite Field Composite Field Composite Comments: F	Sampled <u>Depth</u> 1' 2' 3'	a three ppm <u>NO</u> 31 74 76 Totals: nitrates	foot field <b>NO 3</b> 104 252 257 613	NH 4 5	ts (Ibs/a SO 4 286	c) Exch. <u>B</u> Ca 5.1 19.90 5.1	/ Solut Mg 4.00	ole Ba <u>K</u> 1.94	ses (1 <u>Na</u> 0.72	<b>T.B.</b> 26.56	100g) <u>CEC</u> 16.1	Other VolWt 1.25 1.25	Data %AW 78% 82% 74%
	Comments: S Sample Area Field Composite Field Composite Field Composite Comments: F	Sampled <u>Depth</u> 1' 2' 3' Residual	a three ppm <u>NO</u> 31 74 76 Totals: nitrates	foot field <b>NO 3</b> 104 252 257 613	NH 4 5	ts (Ibs/a SO 4 286	c) Exch. <u>B</u> Ca 5.1 19.90 5.1	/ Solut Mg 4.00	ole Ba <u>K</u> 1.94	ses (1 <u>Na</u> 0.72	<b>T.B.</b> 26.56	100g) <u>CEC</u> 16.1	Other VolWt 1.25 1.25	Data %AW 78% 82% 74%
Immobile Nutrients (ppm) Chemical Data	Comments: S Sample Area Field Composite Field Composite Field Composite	Sampled <u>Depth</u> 1' 2' 3' Residual lightly el	a three ppm NO 3 31 74 76 Totals: nitrates evated.	foot field Mobile M 104 252 257 613 are high	NH 4 5	ts (Ibs/a <u>SO 4</u> 286 286 286 conium is ir	c) Exch. <u>B</u> <u>Ca</u> 5.1 19.90 5.1 n equilibrium	/ Solut <u>Mg</u> 4.00	ole Ba <u>K</u> 1.94	ses (1 <u>Na</u> 0.72	<b>T.B.</b> 26.56	100g) <u>CEC</u> 16.1	Other VolWt 1.25 1.25	Data %AW 78% 82% 74%
	Comments: S Sample Area Field Composite Field Composite Field Composite Comments: F	Sampled <u>Depth</u> 1' 2' 3' Residual lightly el	a three ppm NO 3 31 74 76 Totals: nitrates evated. Tmmob	foot field Mobile I 104 252 257 613 are high <i>ile Nutr</i>	1 Amme	ts (Ibs/a <u>SO 4</u> 286 286 286 ppm)	Exch.           B         Ca           5.1         19.90           5.1         Chemical	/ Solut <u>Mg</u> 4.00 . Sulfur Data	<i>K</i> 1.94	ses (/ <u>Na</u> 0.72	neq/2 T.B. 26.56	200g) <u>CEC</u> 16.1	Other 1.25 1.25 Sodium	Data %AW 78% 82% 74%

comments: Soil P, K, and Zn are high. Mn is low while Fe and Cu are sufficient. Organic matter is above average. Soil pH is moderately alkaline, while salts are okay.

	1		Wab: agringt	loom				ŀ	ert	ilit	y R	еро	rt	
George DeF	Ruvter &	Sons	(Y281)											F13-058
Field: GDS			(,		cres:	84.5			San	nple D	ate:	10/16/2	013	757
Crop: Tritic	cale-Silaç	je Corn		Ir	rigation:	Cente	er pivot		Previ	ous C rent C	rop:		riticale-Sil riticale-Sil	-
Soil series: Topography: Restrictive lay	Gently er? Y		ting ? Scatte		-	ompac	ted zor	Avg S	ampli	•	pth:	32 2.7		
Residue Incor Comments:	Sampled		foot field	compos	ate stalk ite. Post ible on th	harve	st. Soi							
	scattered	_									maali	100-11	Other	
	Scattered	_	Mobile N	utrient	s (lbs/a	c) E	xch. /	Solub	le Ba	ses (/	neq/ 1	1009/	ouner	Data
ŝ	Depth			utrient NH ₄	s (lbs/a SO 4	B B	ixch. / Ca	Solub Mg	K K	ses (1 Na	T.B.		VolWt	
Sample Area		ppm M	Mobile N		• •	L				-				%AW
Sample Area	Depth	ррт М <u>NO</u> 3	Mobile N	NH₄	SO 4	B	Ca	Mg	K	Na	<i>T.B</i> .	CEC	VolWt	%AW 65%
Sample Area Field Composite	Depth 1'	ррт М <u>NO</u> 3 47	Mobile N <u>NO 3</u> 161	NH₄	SO 4	B	Ca	Mg	K	Na	<i>T.B</i> .	CEC	VolWt 1.25	%AW 65% 75%

# Comments: Residual nitrates are high. Ammonium is in equilibrium. Sulfur and boron are high. Sodium is slightly elevated.

Sample Area		Immobile Nutrients (ppm)						Chemical Data				
	Depth	P	<sup>(ace)</sup> K	Zn	Mn	Fe	Cu	О.М.	pН	EC mmhos/cm	Eff/Calc.	
Field Composite	17	162	1320	10.1	1.6	17	2.0	2.5%	7.9	0.74	Yes	

Comments: Soil P, K, and Zn are high. Mn is low, while Fe is marginal, and Cu is sufficient. Organic matter is above average. Soil pH is quite alkaline, while salts are only slightly elevated.

	_		Web: agringt	.com				F	ert	ilit	y R	epo	rt	
George DeR	avter 8	Sons	(Y281)											F13-060
Field: GDS			(		cres:	165.5			San	ıple D	ate	10/17/20	013	767
									Previ	-				
Crop: Tritic	ale-Sila	ge Corn		Ir	rigation	Cente	r pivot			ent C			ticale-Sila ticale-Sila	
Soil series:	Ward	en silt loa	m		Leach	Hazara	Low		No	. of S	ites:	30		
Topography:	Gentle	e undulat	tion, sou	th slope				Avg S	ampli	ng De	pth:	2.6		
Restrictive law	er? N	Where	? Hard p	an start	ing at ab	out 24".			-					
Residue Incor		Type?	-		ill standir									
		a three f				-	were s	a fair to	overa	ne in	size w	eak and	i strong	stalks
		ed throug												
		ppm M	Iobile N	utrient	s (lbs/a	ic) E	cch. /	Solub	le Bas	ses (I	neq/1	(00g)	Other	Data
Sample Area	Depth	NO,	NO,	NH 4	SO 4	B	Ca	Mg	K	Na	T.B.	CEC	VolWt	%AW
Field Composite		161	549	4	755	9.2	17.10	5.00	7.63	1.27	31.00	17.6	1.25	77%
Field Composite	2	161	546										1.25	79%
Field Composite	3'	139	472										1.25	74%
		Totals:	1567	4	755	9.2								
Tommontos T		lual nitrat		iign. An	nmonium	i is in ec	uilibriu	m. su	nur an	a Bon	on are	nign. S	ioaium i	5
••••••	noderate	Immobi		lents (j	opm)	Chen	ical D	ata						
	noderate		le Nutri		opm) Fe Cu	Chen O.			C mm	hos/ci	m E	ff/Calc	 •	
, n Sample Area	Depth	, Immobi	le Nutri X Zn	Mn 1		0.	М. р		C mm 1.6			ff/Calc	•	
Sample Area Field Composite Comments: T	Depth 1'	Immobi	Ve Nutri K Zn 5 13.7 Zn are v	Mn 1 2.2 1	<sup>7</sup> e <u>Cu</u> 25 <u>4.0</u> h. Mn is	0.1 3. low, wh	<u>M. p</u>	<u>H</u> <u>E</u>	1.6	3	- 7	es	_	nigh. S
Sample Area Field Composite Comments: T	Depth 1' The soil F H is alka	<b>Immobil</b> <b>P<sup>P(ext)</sup></b> 243 2976 P, K, and	Zn are salts an	Mn 1 2.2 1	<sup>7</sup> e <u>Cu</u> 25 <u>4.0</u> h. Mn is	0.1 3. low, wh	<u>M. p</u>	<u>H</u> <u>E</u>	1.6	3	- 7	es	_	high. S
Sample Area Field Composite Comments: T	Depth 1' The soil F H is alka	<b>P</b> <sup>P(ace)</sup> <b>A</b> 243 2970 P, K, and aline and	<i>Le Nutri</i> <u>Zn</u> Zn are salts are ata	Mn 1 2.2 1	Re     Cu       25     4.0       h. Mn is       rately ele	O 3. low, wh vated.	<u>M.</u> <u>p</u> 4% 7 ile Fe a	<u>H</u> <u>E</u>	1.6 are su	3 ufficier	- 7	es	_	high. S

AGRICULTURAL CONSULTANTB	To: (509) 453-4851 Fax: (509) 583-1672 gt.com		SERVICES - MEASURING CRC Fertility	P	
George DeRuyter & Sons (Y281	)			F1	3-0539
Field: GDS-SU-05	Acres:	100.6	Sample Date:	10/9/2013	7573
Crop: Triticale-Silage Corn	Irrigation:	Center pivot	Previous Crop: Current Crop:	2013 Triticale-Silage 2014 Triticale-Silage	
Soil series: Warden silt loam	Leach 1	Hazard: Low	No. of Sites:	30	
Topography: Gently to moderately	-		Avg Sampling Depth:	2.4	
	s throughout at sca stalks, partly diske i composite. Ther	d in early fall.	derate to heavy weeds	s in this field.	
ppm Mobile I	Nutrients (Ibs/a	c) Exch. / 5	Soluble Bases (meq,	(100g) Other Da	ta
Sample Area Depth NO 3 NO 3	NH, SO,	B Ca	Mg K Na T.B	. CEC VolWt %.	4W
Field Composite 1' 263 894	4 972 1	2.3 17.10	5.10 7.62 1.45 31.2	7 17.4 1.25	74%
Field Composite 2' 254 864				1.25	72%

Comments: Residual nitrates are excessive. Ammonium is in equilibrium. Sulfur and boron are very high. Sodium is moderately elevated.

12.3

		Imn	nobile	Nutr	ients	(ppr	n)	Chemic	al Data	1		
Sample Area	Depth	P	(ace) <u>K</u>	Zn	Mn	Fe	Cu	О.М.	pН	EC mmhos/cm	Eff/Calc.	
Field Composite	1'	529	2970	12.8	2.1	17.1	2.6	1.6%	7.7	3.56	Yes	
	Soil P, K Ilkaline,						ngane	ese is low,	while Ir	on and Copper are	adequate.	Soil pH

Field Composite

263

Totals:

3'

894

4

972

2652

Fertility and chemical data used here to formulate a recommendation was processed and reported by Soil Test, Inc., and Agrimanagement, Inc. soil lab for deep profile nitrates.

1.25

81%

AGRICULTURAL CONSULTANTS	ADB N. 1st St. Yakima, WA 88601 Web: egringer	Tel: (500) 453-4851 Fax: (500) 588-1672	- I against an	Fertility F		
Field: GDS	uyter & Sons (Y281) -SU-09 ale-Silage Corn	Acres: Irrigation:	34.6 Center Pivot	Sample Date: Previous Crop: Current Crop:	10/14/2013 2013 Alfalfa 2014 Triticale-Sila	F13-0561 7577 age Com
Soil series: Topography:	Warden silt loam Split by swale, gently ur	ndulating	Hazard: Low	No. of Sites: Avg Sampling Depth:	30 2.9	

Restrictive layer? Y Where? Some rocks and hard pan.

Residue Incorp? N Type? Light to moderate crowns.

Comments: Sampled a three foot field composite. The average sampling depth was at 34". At the time of sampling the alfalfa was at 1-3" tall. The soil surface was dry. Weeds were minimal, some dandelion. The soil was very compacted. Water in the swale with grassy vegetation.

		ppm	Mobile N	lutrient	ts (Ibs/	/ac)	Exch. /	Solub	le Ba	ses (I	meq/1	00g)	Other	Data
Sample Area	Depth	NO;	NO 3	NH 4	<i>S0</i> ₄	B	Ca	Mg	K	Na	T.B.	CEC	VolWt	%AW
Field Composite	1'	25	84	3	160	4.3	19.40	4.00	2.05	0.61	26.06	14.5	1.25	70%
Field Composite	2'	28	96										1.25	40%
Field Composite	3'	27	92										1.25	50%
		Totals:	272	3	160	4.3								

Comments: Residual nitrates are moderate to high. Ammonium is at equilibrium. Sulfur and boron are plenty high. Sodium is only slightly elevated.

		Imm	obile	Nutr	ients	(ppr	n)	Chemica	l Data	1	
Sample Area Field Composite	<u> </u>	P //	<sup>we)</sup> <u>K</u> 800	Zn 8.5	<u>Mn</u> 2.5	<u>Fe</u> 26	Cu 2.0	0.M. 2.4%	<u>pH</u> 7.5	EC mmhos/cm	Eff/Calc. Yes
										nd Cu are adequate. slightly elevated.	Organic matte

AGRICULTURAL CONSULTANTS		ENT ® NC 809 453-4851 509 588-1672	AGRIMETRIC		P NEEDS FOR GREATER PROFITS
George DeRu Field: GDS-S Crop: Alfalfa		Acres: Irrigation:	38.5 Center pivot	Sample Date: Previous Crop:	F13-0568 7578 10/15/2013 2013 Triticale-Silage com
	Warden silt loam	-	azard: Low	Current Crop: No. of Sites:	2014 Alfalfa 25
2011 201 1021	Gently undulating ? Y Where? Scattered of		nes at 26-36",	Avg Sampling Depth:	3.0

Comments: Sampled a three foot field composite. Post harvest. Very light scattered salts on the surface. Light to moderate weeds. Generally good stalk diameter.

		ppm	Mobile N	lutrien	ts (lbs/	(ac)	Exch. /	Solub	le Ba	ses (I	neq/1	(00g)	Other	Data
Sample Area	Depth	NO,	NO 3	NH 4	SO 4	B	Ca	Mg	K	Na	T.B.	CEC	VolWt	%AW
Field Composite	1'	49	167	2	153	2.2	19.80	3.00	1.85	0.69	25.34		1.25	75%
Field Composite	2	38	128										1.25	74%
Field Composite	3'	22	74										1.25	72%
		Totals:	369	2	153	2.2								

Comments: The residual nitrates are high. Ammonium is in equilibrium. Sulfur is plenty high, and boron is sufficient. Sodium is slightly elevated.

		Immobile Nutrients (ppm)						Chemical Data				
Sample Area	Depth	P <sup>P</sup>	723	<u>Zn</u>	<u>Mn</u>	<u>Fe</u>	<u>Си</u>	0.M.	<u>pH</u>	EC mmhos/cm	Eff/Calc.	
Field Composite	1	53		4.0	1.2	11	1.1	2.2%	7.8	0.56	Yes	

Comments: The soil P, K, and Zn are plenty high. Mn and Fe are low, while Cu is sufficient. Organic matter is above average. Soil pH is moderately alkaline, while salts are favorably lower.

CONSULTANTS		Web: agrim	(LOON)				Fe	ertili	ty R	lep	ort	
George DeRuyte	er & Sor	s (Y281	)									F13-05
Field: GDS-SU-	11			cres:	8.1			Sample	Date:	10/16	/2013	75
Crop: Alfalfa			1	rrigation	: Wheel	line		revious Current	Crop:		Triticale-Se Alfalfa	udan gra:
Soil series: Wa	arden silt	loam		Leach	Hazard.	Low		No. of	Sites:	18		
Topography:					•		Ave Sa	mpling L		2.7		
Restrictive laver?	Y Whe	re? Scatt	ered are	as of mo	derately		-		-	in the	20-36" ra	nge.
test tente tuyert		ier ooan			a sharen y		, said and g	- Stripslot				
Peridue Incore 9	N Trees	2 Light	Sudan r	esidue								
	N Type		Sudan r									
	led a thre	? Light e foot field			st harves	. Alfalf	a plante	ed. Scat	tered a	reas of	f light sai	ts on th
Comments: Samp	led a thre		d compo	site. Po			-	ed. Scat				
Comments: Samp surfac	led a thre e. <i>ppm</i>	e foot field	i compo Nutrien	site. Pos ts (Ibs/		ch. / S	-		(meq/	(100g)		Data
Comments: Sample Sample Area Dep	led a thre e. <i>ppm</i>	e foot field Mobile I	d compo	site. Pos ts (Ibs/	ac) Ex	ch. / S Ca	Soluble Mg	Bases	(meq/	(100g) CE	) Other	Data %AW
Comments: Sampl surfac	ed a thre e. ppm th <u>NO</u>	e foot field Mobile I	i compo Nutrien	site. Pos ts (Ibs/ <u>SO 4</u>	ac) Ex B	ch. / S Ca	Soluble Mg	Bases	(meq/	(100g) CE	) Other C VolWt	Data %AW 70%
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Comments: Given the scattered soil compaction, it is recommended that you could do some ripping. Ripping is best done when the soil profile is slightly moist (as post harvest in the fall).

#### Attachment 4:

#### WSDA Public Records Request January 2022

Completed

WA Department of Agriculture Public Records Request about a month ago R002625-110621 I write to request access to, and copies of all best management practices for dairies that have been officially approved by the WA State Dept. of Ecology and the WA State Dept. of Agriculture, from Jan. 1, 1990, to the present. I request copies of any best management practices that approve composting animal waste in the pens and corrals where dairy cows live. Best management practices are defined in WAC 173-201A-020 as "physical, structural, and/or managerial practices approved by the department that, when used singularly or in combination, prevent or reduce pollutant discharges." Status : No Records Exist

1 Mrs. Jean Mendoza

Dear Mrs. Jean Mendoza.

The Washington State Department of Agriculture received a public records request from you on November 06, 2021. Your request mentioned:

#### "Dear Public Records Officer:

Pursuant to the WA State Public Records Act RCW §§ 42.56.001 to 42.56.904, I write to request access to, and copies of all best management practices for dairies that have been officially approved by the WA State Dept. of Ecology and the WA State Dept. of Agriculture, from Jan. 1, 1990, to the present. I request copies of any best management practices that approve composting animal waste in the pens and corrals where dairy cows live. Best management practices are defined in WAC 173-201A-020 as "physical, structural, and/or managerial practices approved by the department that, when used singularly or in combination, prevent or reduce pollutant discharges."

If your agency does not maintain these public records, please let me know who does and include the proper custodian's name and address. If WSDA contends that any responsive material is exempt from disclosure, please provide a redaction log containing a description of each redaction or document withheld, the statutory basis for each redaction or withholding, and an explanation sufficient for us to ascertain the applicability of each claimed exemption (e.g. a summary of the document's contents, the date of its creation, the parties who participated in drafting it, the parties to whom it was disseminated, etc.). RCW § 42.56.210(3): WAC 44-14-04004(4)(b)(ii): PAWS v. Univ. of Wash., 125 Wn.2d 243, 270-71 (1994).

If the cost would be greater than \$50.00, please notify me. Please provide a receipt indicating the charges for each document.

As provided by the open records law, I will expect your response within five (5) business days of the date of this request. RCW § 42.56.520.

Thank you for your assistance."

We have searched the department's records and found no records which respond to your request.

This completes my response. I have closed this request.

If you have any questions, please feel free to contact me at 360-902-1935.

Sincerely,

Pamela Potwin Public Records Officer 360-902-1935

#### WA Ecology Public Records Request January 2022

#### P008198-110621

Dear Public Records Officer: Pursuant to the WA State Public Records Act RCW §§ 42.56.001 to 42.56.904, I write to request access to, and copies of all best management practices for dairies that have been officially approved by the WA State Dept. of Ecology and the WA State Dept. of Agriculture, from Jan. 1, 1990, to the present. I request copies of any best management practices that approve composting animal waste in the pens and corrals where dairy cows live. Best management practices are defined in WAC 173-201A-020 as "physical, structural, and/or managerial practices approved by the department that, when used

singularly or in combination, prevent or reduce pollutant discharges." If your agency does not maintain these public records, please let me know who does and include the proper custodian's name and address. If Ecology contends that any responsive material is exempt from disclosure, please provide a redaction log containing a description of each redaction or document withheld, the statutory basis for each redaction or withholding, and an explanation sufficient for us to ascertain the applicability of each claimed exemption (e.g. a summary of the document's contents, the date of its creation, the parties who participated in drafting it, the parties to whom it was disseminated, etc.). RCW § 42.56.210(3); WAC 44-14-04004(4)(b)(ii); PAWS v. Univ. of Wash., 125 Wn.2d 243, 270-71 (1994). If the cost would be greater than \$50.00, please notify me. Please provide a receipt indicating the charges for each document. As provided by the open records law, I will expect your response within five (5) business days of the date of this request. RCW § 42.56.520. Thank you for your assistance.

Status : No Responsive Records



May 2, 2022

Washington State Board of Health PO Box 47990 Olympia, WA 98504-7990

#### Dear WA BOH,

We are the Friends of Toppenish Creek from Yakima County.

Friends of Toppenish Creek is dedicated to protecting the rights of rural communities and improving oversight of industrial agriculture. FOTC operates under the simple principle that all people deserve clean air, clean water and protection from abuse that results when profit is favored over people. FOTC works through public education, citizen investigations, research, legislation, special events, and direct action.

People who live near animal feeding operations suffer from pollution of drinking water, air pollution, and infectious disease. State and local officials appear helpless to address this public health issue.

The magnitude of problems related to manure management has increased many fold since the introduction of concentrated animal feeding operations (CAFOs) to animal agriculture. Law makers who wrote rules to minimize health impacts from livery stables could not have envisioned storing animal excreta in million gallon lagoons or tossing it into the air to compost.

Remember that each mature milk cow excretes over 120 lbs of feces and urine every day. Multiply this by thousands of cows and that is a lot of manure.

A possible solution to this serious problem is to authorize citizen lawsuits against polluters when they cause or contribute to human illness or death. There is precedent for holding people responsible when they create conditions that harm others.

By herself, a woman whose husband dies from E-coli 0157 has little hope of winning against a multi-million dollar corporation that flaunts the law. But a change in the rules could make it possible to hold responsible parties accountable, by providing for cost recovery in litigation. Thank you for seriously considering this option.

Sincerely, cerely, kan Mendoza

Jean Mendoza

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

# Rationale for Citizen Lawsuits to Protect Public Health from Manure Pollution

### Legal Authority:

#### RCW 43.20.050

#### Powers and duties of state board of health—Rule making—Delegation of authority— Enforcement of rules.

(2) In order to protect public health, the state board of health shall:

(c) Adopt rules and standards for prevention, control, and abatement of health hazards and nuisances related to the disposal of human and animal excreta and animal remains;

#### WAC 246-203-130

#### Keeping of animals.

(1) Any person, firm or corporation is prohibited from keeping or sheltering animals in such a manner that a condition resulting from same shall constitute a nuisance.

(2) In populous districts, stable manure must be kept in a covered watertight pit or chamber and shall be removed at least once a week during the period from April 1st to October 1st and, during the other months, at intervals sufficiently frequent to maintain a sanitary condition satisfactory to the health officer. Manure on farms or isolated premises other than dairy farms need not be so protected and removed unless ordered by the health officer.

(3) Manure shall not be allowed to accumulate in any place where it can prejudicially affect any source of drinking water.

## Facts:

Human and animal excreta carry pathogens that endanger human and animal health. This is why we teach children to wash their hands after they go to the bathroom.

People who live in close proximity to animal feeding operations suffer from pollution of drinking water, air pollution and infectious disease.

The WA DOH and local health agencies do not monitor pollutants from AFOs, do not surveil for related health impacts, do not investigate complaints or health impacts, do not control discharges and emissions, and do not assist those whose health has been harmed. The WA State Dept. of Ecology and the WA State Dept. of Agriculture do very little, and specifically do not evaluate impacts on human health. It appears that the agencies lack the resources to characterize, assess, and evaluate health impacts from AFOs.

People who live in close proximity to AFOs spend millions of dollars out of pocket to purchase safe drinking water, address health impacts such as asthma, cardiovascular and lung disease, and infections.

Taxpayers spend millions of dollars to subsidize AFO actions to reduce and mitigate pollution, and to keep AFOs in business.

Cost benefit analysis of the proposed WAC 246-203-130 does not address costs to citizens, only costs to business.

Meeting legal standards to prove health hazards is expensive. In reality, a citizen who suffers illness or even death due to sloppy manure management does not have the financial resources to prove a cause and effect relationship. Public health agencies rarely make these connections.

Current WA rules and regulations do not protect citizens from the adverse health impacts of air and water pollution from improper manure management.

## Proposed change to the Draft WAC 246-203-130:

One solution to this problem is provision for citizen lawsuits against those who damage public health. Such lawsuits could be allowed by provisions similar to those in the Clean Water Act. Citizens could seek injunctive relief (court orders prohibiting the pollution from continuing), civil penalties, and reimbursement of legal costs and attorneys' fees.

Proposed addition to WAC 246-203-130:

Any citizen may commence a civil action on his own behalf or on behalf of dependents:

- 1. Against any person, or collective of persons, who are alleged to discharge pollutants into a drinking water aquifer, or the ambient air in amounts that inflict illness or death.
- 2. Against responsible officials for failure to perform an act or duty to investigate negative health impacts from airborne or waterborne pollutants from animal manure.

The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing or substantially prevailing party, whenever the court determines such award is appropriate.

## **Arguments:**

People who live near animal feeding operations where large amounts of manure are (mis)managed suffer documented adverse health impacts, but state and local officials appear helpless to change this situation. Citizen lawsuits could play a role in providing relief. Citizen lawsuits could realistically be undertaken if attorneys and expert witnesses could reasonably expect payment for their services.

Criteria for proving adverse health impacts will undoubtedly be subject to intense debate, but this obstacle is not insurmountable.

From: Kim E Merrick Sent: 4/26/2022 6:20:17 PM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: Comment from livestock owner

External Email

Hello State Board of Health;

I keep 2 mules on a small property in Jefferson county. I am a member of Back Country Horsemen of Washington (BCHW), and I have attended two 'Horses for Clean Water' classes to learn the proper way to manage my mules. This 'Keeping of Animals' proposal is an issue that could really impact horse owners all over the state, especially small farms.

I don't think there was enough collaboration with stakeholders for this policy change. Different jurisdictions will treat this very differently, depending on the understanding of livestock diet and best practices of managing manure. If the Health department in Yakima County and the health department in King County enforce the rules differently, it will greatly impact who is keeping their horses where. I would say that King county has more and better managed equestrian trails than Yakima County, but there is a greater chance their health dept. officials will have less experience with livestock, thus reducing the horse population in King County.

It's clear to me that this proposed policy has a long way to go before it will be fair and relevant to the livestock lovers of Washington State.

Responsible livestock owners WANT to be good neighbors.

Please delay the draft policy proposal until some kind of task force with STAKEHOLDERS can be formed to address these issues

Thank you, Kim Merrick Sequim, WA 253-262-6188 From: Glasoe, Stuart D (SBOH) Sent: 5/2/2022 8:36:06 AM To: DOH WSBOH Proposed Animal Waste Rule Cc: Subject: FW: CR 102 Domestic Animal Waste

Stuart Glasoe

SBOH Health Policy Advisor

360-236-4111

From: Jon Borcherding <jonreadsitall@protonmail.com> Sent: Sunday, May 1, 2022 3:28 PM To: Glasoe, Stuart D (SBOH) <Stuart.Glasoe@sboh.wa.gov> Subject: CR 102 Domestic Animal Waste

External Email

The Washington State Board of Health has chosen a remarkably inopportune moment to address what is described as a long-standing issue.

With supply-chain problems and fertilizer shortages affecting the global food supply, many experts including the Biden Administration are predicting food shortages. The recent destruction of at least 12 major food production plants will likely also contribute to food shortages. The nation's railways are refusing shipment of nitrogen fertilizers during the current planting season. The FBI has just released a bulletin outlining the threat of cyber attacks against agricultural facilities. There is NO shortage of threats to America's food supply.

In addition to the looming specter of food scarcity is the alarming rate of inflation which disproportionately impacts the poor by making food more and more unaffordable.

In an effort to stave off shortages and hunger, many homeowners are engaging in small scale food production i.e., vegetable gardens, raising chickens, rabbits, pigs, goats, sheep, etc. Any new regulation that impedes the homestead production of vital food resources is bound to be met with fierce resistance.

In an era when we are experiencing global shortages of nitrogen fertilizers due to foreign conflict, it seems like a good time to review our attitudes about animal waste products and learn to treat them like the resource they are.

There are already laws on the books regarding proper animal husbandry and the Board would be well advised to address current problems within the existing framework. New rulemaking at this time is also bound to lead to increased cost to the taxpayer at a time when we are seeing record inflation.

Has the Board estimated the cost of enforcement of new proposals? Surely there is an

awareness that commissioned law officers and search warrants will be necessary to investigate the disposition of animal waste on private property?

Also at issue is the credibility of the Health Department. It is not reasonable to expect homeowners to accept heavy handed regulation of traditional food production activities on their private property, particularly at a time when homestead food production may be key to survival. One can easily imagine the erosion of respect resulting from any attempt to use government force to hinder necessary farming activity.

I strongly urge the Washington State Board of Health to delay the Draft Policy proposal scheduled for June 2022. I believe it is in the best interests of all citizens that a work group or task force is formed to study the concerns of all stakeholders and advise the Board prior to the drafting or adoption of any new rules regarding the keeping of animals.

Sincerely,

Jon M. Borcherding

Roy WA

Sent with ProtonMail <https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fprotonmail.com%2F&data=05%76 secure email.







April 27, 2022

Washington State Board of Health

Re: CR-102, Proposed Rule, for WAC 246-203-130, Keeping of Animals.

Good Day

Upon review of the proposal rule, its claim that it "applies to everyone" is misleading. Areas that are incorporated and on municipal water systems already have regulations regarding livestock (i.e. quantity limits, type of livestock such as chickens, no roosters) and domestic pets (i.e. leash laws, waste disposal and quantity).

As such, it appears the target for this proposed rule would be imposed on unincorporated commercial and private acreage with livestock.

As such, we are of the opinion that this proposal should fall under the scope of authority of the Washington State Department of Agriculture (WSDOA). The Department of Agriculture's charter provides the agriculture community ensuring agricultural regulations are observed. They work extensively with commercial operations, but their responsibilities range from ensuring food safety to environmental protections for water quality.

They also have the ability to work with landowners who have self-imposed farm plans that regulate animal waste. These plans need to be grandfathered in.

If the regulations under the WSDOA for waste management are insufficient, those should be updated. They have the authority and infrastructure to mandate and enforce the waste management regulations.

The Conservation Districts who submitted this rulemaking petition, have a charter to engage people with voluntary actions that keep our air, water, soil, habitats, and **farmland healthy** for all. They should be petitioning the Department of Agriculture for changes, and not the Board of Health.

Regarding the regulations proposed these need to be more specific, if not they are subject to bias by those who implement and enforce.

For examples, Standards for non-livestock:

For landowners with acreage, would land owners be required to pick their field to find their pet animal waste for temporary storage in a water tight container and disposal?

Would land owners be required to fence property to prevent their cats and dogs from migrating to adjacent neighbors? What regulations would be in place, or recourse would a landowner have, if their neighbors deliberately allow, or walk their dogs or cats to defecate on their neighbor's property to avoid collection/containment/disposal? Would land owners be required to sign their property "No Trespassing" to prevent this?

Will domestic pets be restricted from retention ponds, creeks, and rivers on one's property?

Standards for stockpiled waste from livestock:

What is considered stockpiled? Collected for composting? piled up like an equine stud pile? concentrated defecation in a confinement area?

Is **all** livestock waste to be removed, including poultry, goats, sheep, ducks, if found within the 100 ft setback?

Will livestock waste need to be separated by omnivore (i.e pigs, ducks, chickens) or herbivore, to allow it to be composted? And if so, how is the omnivore waste to be disposed of?

Is composted livestock waste allowed to be spread on lands within the 100 ft setbacks?

What criteria will be set to determine if composted waste is acceptable to be spread? And who will make that determination?

What odors need to be controlled? Waste odors, composting odors, animal odors?

What constitutes odor control and at what distance and duration does a landowner have responsibility to control the odor? What device will be used to detect odors?

Will chicken compost be prohibited from being utilized?

Can you specify what pests are to be controlled?

These are just some of the clarifications needed before moving forward with regulation with the Department of Agriculture.

Thank you for your time,

Regards,

Jim and Cindy Reece

Small acreage land owner









#### STATE OF WASHINGTON DEPARTMENT OF HEALTH DIVISION OF ENVIRONMENTAL PUBLIC HEALTH PO Box 47820 • Olympia, Washington 98504-7820 (360) 236-3000 • 711 Washington Relay Service

May 2, 2022

Mr. Keith Grellner, Chair Washington State Board of Health PO Box 47990 Olympia, WA 98504-7990

RE: Proposed rulemaking, WAC 246-203-130, Animal Waste, WSR 22-08-003

Dear Chair Grellner:

Thank you for the opportunity to provide comments on the proposed rule. This proposal modernizes a longstanding outdated rule. The Department of Health's Division of Environmental Public Health expects the proposal to result in better public health outcomes by giving our local health jurisdiction partners the necessary tools to address and resolve animal waste problems when called upon by the communities they serve.

Although we do not play a direct regulatory role in this rule proposal, we do have an interest in how the management of animal waste might impact those public health programs that we currently regulate. Most notably protecting wellhead sanitary control areas for public drinking water supplies, protecting shellfish harvesting areas from pollution due to hazardous surface run-off, protecting outdoor water recreation areas so they are safe for swimmers, and reducing harmful algal blooms in vulnerable bodies of water. Through collaboration with our local health jurisdictions, we believe that the proposed animal waste rule will better protect public health.

The proposed rule dovetails with our role and local health jurisdiction's role to protect public health, and compliments other state agency's regulatory roles and authorities to protect water and air quality.

We support the proposed amendments to WAC 246-203-130, Animal Waste rule.

Sincerely,

Lauren Jenks, MPH, CHES Assistant Secretary Environmental Public Health Washington State Department of Health

Mr. Keith Grellner May 2, 2022 Page 2 of 2

cc: Joe Laxson, Washington Department of Health Michelle Davis, Washington State Board of Health



BACK COUNTRY HORSEMEN OF WASHINGTON PO Box 1132 ELLENSBURG, WA 98926 WWW.BCHW.ORG

April 28, 2022

Mr. Stuart Glasoe SBOH Health Policy Advisor

Mr. Glasoe and Board Staff,

We appreciate the task you have of revising the <u>Keeping of Animals</u> policy and also your language mitigation in response to our members' past concerns.

We are requesting that you delay putting the CR 102 Keeping of Animals Draft Policy Proposal on the June 8<sup>th</sup> agenda. There are many unresolved concerns. We also request time to form a stakeholder work group to address these concerns. The pandemic has caused delays and interruptions to many forms of business. Our members need time to work out the concerns in this draft policy.

Among the many concerns: mixing livestock oversight with non-livestock, unclear/overreach on stockpiling and composting, concern of complaint abuse from urban neighbors, no uniformity of enforcement (left completely up to local health officer), and more.

Thank you for your time, your consideration, and the opportunity to comment.

Sincerely,

Dana L'Chemlu Dana Chambers

Dana Chambers President Back Country Horsemen of Washington president@bchw.org



MMM'BCHM'OBC EFFEN8BRBC' MV 38359 BVCK CORNLKA HOBSEWEN OF MV2HINCLON April 28, 2022

Mr. Stuart Glasoe SBOH Health Policy Advisor

Mr. Glasoe and Board Staff,

We appreciate the task you have of revising the <u>Keeping of Animals</u> policy and also your language mitigation in response to our members' past concerns.

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Among the many concerns: mixing livestock oversight with non-livestock, unclear/overreach on stockpiling and composting, concern of complaint abuse from urban neighbors, no uniformity of enforcement (left completely up to local health officer), and more.

Thank you for your time, your consideration, and the opportunity to comment.

president@bchw.org Back Country Horsemen of Washington President Dana Chambers na L Chur Sincerely,

Back Country Horsemen of Washington (BCHW), is a 501 (c) (3) organization with 32 chapters across the state dedicated to: keeping trails open for all users; educating horse users in Leave-No-Trace practices; and providing volunteer service to resource agencies.





P.O. Box 96 • Ellensburg, WA 98926 • 509-925-9871 • Fax 509-925-3004 WACATTLE@KVALLEY.COM • WWW.WASHINGTONCATTLEMEN.ORG

To: Washington State Board of Health

Date: April 29th, 2022

Re: Keeping of Animals – WAC 246-203-130

Dear Members, Washington State Board of Health:

I was just briefed by our lobbyist that represents the Washington Cattlemen's Association in Olympia about the meeting he attended with legislators and your Chair and staff regarding **WAC 246-203-130** Keeping of Animals.

While we acknowledge the Board's efforts to address grazing, we stand by our original assertion that this is unnecessary rulemaking on an already heavily regulated industry. In addition, we would point out the following:

#### Outreach on the Small Business Economic Impact Statement appears to be woefully inadequate -

I cannot name one rancher that was reached out to on this issue, and I don't believe receiving 41 responses out of 1000 contacts really meets the straight-face test as far as stakeholder input.

#### Likely violates the state's Right to Farm law -

Unfortunately, in today's world, farmers and ranchers are often under attack from some in the environmental community, who don't seem to fully understand production agriculture. This has led to much consternation when urban-minded citizens move from city to country and don't find it to meet their idyllic vision. Fortunately, farmers and ranchers are protected by the state's 'Right to Farm'' law. However, we fear this new proposal may be used as another tool to attempt to drag ranchers into court.

# While we acknowledge the attempt to address grazing, there needs to be stakeholder input to clarify terms-

The current proposal references "free-range grazing", which is a term unfamiliar to us. We use the term "open-range grazing". In addition, an earlier version included pasture grazing and yet was removed from the current proposal. While open-range grazing would describe grazing where fences are built to keep livestock out, we would consider pasture grazing to describe fences being built to keep livestock in. This needs further discussion with stakeholders.

# The WCA requests that the Board delay action on this proposed rule and create a workgroup with key stakeholders –

Rural citizens deserve a voice on the Board that can speak to agriculture and rural issues. We don't believe that currently exists. To balance that, we would request that a stakeholder workgroup that can



speak to the proposed rule with expertise in agriculture issues, be included as members of the workgroup.

Sincerely,

Jeff Keane

Jeff Keane, President Washington Cattlemen's Association





May 2, 2022

SENT VIA ELECTRONIC TRANSMITTAL

Washington State Board of Health PO Box 47990 Olympia, WA 98504-7990

#### RE: PROPOSED REVISIONS TO CHAPTER 246-203-130, DOMESTIC ANIMAL WASTE

Dear Board of Health:

Thank you for the opportunity to provide comments on the proposed rule. This proposal provides a much-needed update to existing, out of date rule language. The Washington State Environmental Health Directors support this proposed language revision as it will result in a more useful rule that can be utilized by local health jurisdictions if necessary.

We believe that the proposed rule, if used by a local health jurisdiction, will result in better health outcomes as the language provides for clear standards for compliance to protect surface and ground waters which in turn protects drinking water supplies, shellfish resources, and recreational waters. Additionally, the proposed rule language provides clear standards for animal keepers to understand and implement in order to protect public health and natural resources in their own communities.

We support the proposed amendments to WAC 246-203-130, Keeping of Animals. If you have questions or would like additional information, you can reach me at 360-728-2290, or john.kiess@kitsappublichealth.org.

Sincerely,

ien

John Kiess, WSEHD Chair Environmental Health Director Kitsap Public Health District

Past Chair Ray Byrne Spokane Co EH Director (509)324-1588 rbyrne@srhd.org Chair John Kiess Kitsap Co EH Director (360)728-2290 John.kiess@kitsappublichealth.org Chair Elect Stephanie Shopbell Grant Co EH Manager (509)766-7960x41 shopbell@granthealth.org Secretary/Treasurer Season Long Cowlitz Co EH Manager (360)414-5592x6445 longs@co.cowlitz.wa.us Member at Large Jessica Gehle Pierce Co EH Director (253)649-1845 jgehle@tpchd.org

# **WASHINGTON FARM BUREAU**

- To: Washington State Board of Health
- Date: April 26, 2022
- RE: Proposed rulemaking: WAC 246-203-130 Domestic Animal Waste

Dear Members of the Board of Health,

The Washington Farm Bureau is the state's largest general agricultural organization representing more than 47,000 member families statewide. We are a voluntary, grassroots advocacy organization representing the social and economic interests of farm and ranch families at the local, state and national levels. That is why Washington Farm Bureau is called the voice of agriculture.

In July 2019 we provided written comments expressing the serious concerns we had with staffgenerated amendments to WAC 246-203-130 related to animal waste. We found the amendatory language was too broad, exceeded the scope outlined in the originating CR-101, created opportunities for frivolous and expensive lawsuits, duplicated existing state and federal laws addressing manure management on ranches and dairies, impacted the protections provided to our farmers under the state's Right to Farm laws and created create an unfunded mandate on local governments.

The March 2022 version of the draft rule represents an improvement over earlier drafts, but still has internal problems that need to be addressed if the rule is to be eventually approved.

Here are the remaining areas of concern:

#### • Expands authority of LHO beyond provided statutory authorities.

- In subsection (1) of the proposed rule it states, "The purpose of this section is to establish standards for the prevention, control, and abatement of <u>health hazards and nuisance</u> <u>detrimental to human health related to the disposal of domestic animal waste</u>..." (emphasis added). The proposed rule also states in (2)(g) that ""Nuisance" includes an act of omission that harms, endangers, or interferes with the <u>health or safety</u> of another person." (emphasis added). The inclusion of "safety" in this definition seeks to broaden the authority of local health officers far beyond what is provided in state law. Laws for worker safety are found in the authorizing statutes for Department of Labor & Industries.
- Wrong WAC cited for livestock manure management.
  - In subsection (3)(d)(i) it states that domestic animal waste from livestock that is collected and stockpiled for later use or disposal must be stored in a manner that controls odors and attraction of flies, rodents, and other vectors. In the "Significant Legislative Rule Analysis" presented to the BOH dated March 1, 2022, it states on page 3 under "Rationale for Determination" the following: "This standard incorporates by reference, without material

change, standards/rules of another Washington state agency. It incorporates requirements of the state solid waste rules, chapter 173-350 WAC, including WAC 173-350-320(6) regulating agricultural waste piles."

However, subsection (6) of WAC 173-35-320 is the wrong subsection since it is for "Piles used for storage or treatment – Permit requirements." In this section it does require the operator to ensure the facility is operated in a way as to control nuisance odors, as well as litter, dust, rodents, insects, etc. <u>However</u>, <u>subsection (6)</u> is the wrong section to cite since it addresses permitted activities. Agricultural wastes are addressed in subsection (2) under the title "Piles used for storage or treatment – Permit exemptions." This section includes the following language: "In accordance with RCW 70.95.305, facilities managing solid wastes in piles meeting the conditions listed in <u>Table 320-A</u> and the conditions of (a) of this subsection <u>are exempt from solid waste handling permitting</u>." (emphasis added). Table 320-A includes "Agricultural waste and on-farm vegetative wastes stored on farms." More importantly, subsection (2)(a)(ii) states that farms must "Manage the operation to prevent fugitive dust and the attraction of vectors..." WAC 173-350-100 further clarifies that subsection (2) is the appropriate language by defining agricultural waste to include livestock manure.

Please note that WAC 173-35-100 (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.

#### Violates the state's Right to Farm law.

The Washington State Right to Farm law states in RCW 7.48.305 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 <u>unless the activity or practice has a substantial adverse effect on public health and safety</u>." (emphasis added). The proposed rule before you has no qualifying language such as this. Rather it provides a broad requirement 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? In addition, nothing in your documentation cites any scientific research, or state and federal laws to substantiate this expansion of authority. Please also note that RCW 7.48.310, also part of the Right to Farm law, includes odors as a normal, acceptable condition related to agricultural activities.

#### Additional specificity required

 In subsection (4), the proposed rule states that "Before taking enforcement action the local health officer <u>must attempt</u> 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>allow the person reasonable time</u> to correct the violation."
(emphasis added). We appreciate this language to allow for a conversation and the ability for additional information to be collected before enforcement action is taken. However, 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.

#### • Pasture livestock and Free-range grazing

- Earlier versions of the proposed changes to WAC 246-203-130 excluded both "pasture livestock" and "free-range grazing" from the requirements of this rule. The March 2022 version no longer specifically excludes pasture livestock. By what principles, proven health concerns, or medical or scientific findings did you justify the removal of pasture livestock from this exemption?
- For the purposes of this proposed rule, what do these two terms mean and what are the specifics or definitions that a LHO will use to determine whether livestock in a pasture fall into either of these two categories. Please note, that in general livestock producers do not use these terms. I encourage you to do a Google search for "free range grazing" and you will find pictures or written descriptions of pasture livestock. Free-range grazing is more popularly used as a synonym for organically raised rather than a rangeland management practice.

#### Inaccurate Small Business Economic Impact Statement

The data used to validate the SBEIS is woefully inadequate. Of the 1000 businesses identified to receive the cost survey, only 41 or 4.1 percent of the recipients responded. Worse yet, the USDA National Agricultural Statistics Service (NASS) has identified 12,656 farms in Washington that raise cattle or pigs. That means the BOH reached out to less than 8 percent of just the cattle and pig producers in the state identified by NASS. This does not even include farms that raise other types of livestock. This is clearly not enough data to adequately quantify the potential impacts of this proposed rule.

Given these serious 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.

Sincerely,

Tom Davis Government Relations Director



#### Washington State Legislature

May 2, 2022

#### **ELECTRONIC DELIVERY**

Washington State Board of Health P.O. Box 47990 Olympia, WA 98504-7990

Dear Board Members:

We want to thank Board Chair Keith Grellner and Board of Health staff for taking time to discuss the proposed rulemaking for Washington Administrative Code (WAC) 246-203-130, Keeping of Animals, with legislators. However, we maintain this rule change is unnecessary and as written, will exacerbate the current issues it is trying to resolve. We are respectfully requesting the board pause the rulemaking and conduct a process that brings stakeholders and impacted individuals to the table to find real solutions that will work for everyone.

In the meeting, it was presented to us that the proposed rule would add clarity to the current statute to better resolve complaints over animal waste management. However, no examples were provided that demonstrate how the current WAC language impedes resolution. It is our understanding local boards of health utilize local ordinances or other statutes to make rulings on these types of cases when they arise. In fact, Kitsap County created their own rule to address the unique situations in their district. We have not heard of any instances where local boards were unable to find resolution using existing language making this feel more like a solution looking for a problem.

If this rule is intended to add clarity, then it still misses the mark. Impacted stakeholders are concerned this rule will create more confusion citing a lack of understanding around which entities are impacted. The rule is silent on if these organizations are commercial or private, urban, or rural, and are affected regardless of their size.

Additionally, the rule misses key health factors by not discerning different health impacts of the various types of animal waste. Carnivores' waste poses a much greater health risk than herbivores. 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.

Compounding matters is the lack of survey responses to the small business economic impact statement. A response rate of four percent does not adequately capture the true impact of this rule. Without more responses, we do not have a clear picture of totality of the rule's consequences. It would set a dangerous precedent to move forward without additional insight and input.

It is for these reasons we are requesting a more comprehensive and detailed stakeholder process to ensure common ground is identified and solutions are clear and provide the most benefit for Washingtonians. Without these voices, there will be unintended consequences. As state Representatives, we represent the people of Washington and are ready to bring those voices to you to help achieve this goal.

Sincerely,

om / Kin

Representative Tom Dent 13<sup>th</sup> Legislative District

Jac Shuik

Representative Joe Schmick 9<sup>th</sup> Legislative District

EithW. Gozhazk

Representative Keith Goehner 12<sup>th</sup> Legislative District

Representative Mark Klicker 16<sup>th</sup> Legislative District

That

Representative Rob Chase 4<sup>th</sup> Legislative District

Representative Larry Hoff 18<sup>th</sup> Legislative District

anolyn Tslice

Representative Carolyn Eslick 39<sup>th</sup> Legislative District

Chandler

Representative Bruce Chandler 15<sup>th</sup> Legislative District

Representative Cyndy Jacobsen 25<sup>th</sup> Legislative District

Gradley A. Klippert

Representative Brad Klippert 8<sup>th</sup> Legislative District

Representative Matt Boehnke 8<sup>th</sup> Legislative District

Representative Gina Mosbrucker 14<sup>th</sup> Legislative District

Representative Mary Dye 9<sup>th</sup> Legislative District

Wil

Representative J.T. Wilcox 2<sup>nd</sup> Legislative District

Representative Jenny Graham 6<sup>th</sup> Legislative District

Representative Chris Corry 14<sup>th</sup> Legislative District



#### **Environmental Health Services Division**

401 Fifth Avenue, Suite 1100 Seattle, WA 98104-1818 **206-263-9566** Fax 206-296-0189 TTY Relay: 711 www.kingcounty.gov/health



April 29, 2022

Washington State Board of Health,

Public Health – Seattle & King County thanks you for the opportunity to provide comments on this update of WAC 246-203-130.

We have copied the sections and added only the places we have comments or additions. Our comments or additions are the <u>underlined portions</u>, embedded or added to the text below.

(1) A person may not keep or shelter animals in such a manner that the domestic animal waste creates a nuisance or <u>direct and immediate</u> health hazard. The purpose of this section is to establish standards for the prevention, control, and abatement of health hazards and nuisance detrimental to human health related to the disposal of domestic animal waste, including handling and storage of domestic animal waste, as described in the subsection (3) of this section.

**COMMENT:** Add "direct and immediate" for consistency with proposed definition of health hazard, and to emphasize this quality of the health hazard.

#### (2) Definitions

(k) "Surface Water" means a body of water open to the atmosphere and subject to surface runoff including, but not limited to, lakes, ponds, streams, rivers, and marine waters, <u>as well as conveyance systems to surface waters.</u>

**COMMENT:** Suggested additional clause to include conveyance systems to surface waters.

(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 nuisances and health hazards related to the handling and disposal of domestic animal waste. Except for free-range grazing, livestock trails, trail riding, and other diffuse sources of domestic animal waste, a person must:

•••

(c)(i) hold the waste in a <u>hard-sided</u> container with a lid that closes securely to prevent access by animals and waste overflow from falling rain or snow if stored for more than one day prior to proper disposal;

**COMMENT:** Replace "watertight" 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".

(ii) Bag and dispose of the waste as solid waste, <u>unless waste is composted by a licensed compost</u> <u>facility per WAC 173-350-220.</u>

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

(ii) store the waste no longer than one year; ((and))

(iii) Site the stockpile: ...[etc.]

**COMMENT:** Add new subsections (d)(iv) and (d)(v) as shown.

(iv) Domestic animal waste from livestock shall be collected and stockpiled in accordance with an approved jurisdictional farm management plan; and

(v) Domestic animal waste from non-herbivores may not be composted at the site of origin or used for land application.

(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 seek <u>compliance by education and prevention as a first step</u> and, if the local health officer determines that a violation has occurred, allow the person reasonable time to correct the violation.

**COMMENT:** Replace "explore the facts" with "seek compliance by education and prevention as a first step..."

We appreciate the opportunity to provide comments. If you have questions or want clarification, please contact us.

Sincerely,

)and A. Rodger

Darrell Rodgers-Richardson Director, Environmental Health Services Public Health – Seattle & King County Darrell.Rodgers@Kingcounty.gov



#### STATE OF WASHINGTON DEPARTMENT OF AGRICULTURE P.O. Box 42560 • Olympia, Washington 98504-2560 • (360) 902-1800

May 2, 2022

Washington State Board of Health PO Box 47990 Olympia, WA 98504-7990

Dear Board of Health:

One behalf of Washington State Department of Agriculture, I am writing to provide our comments related to the Proposed Rule for WAC 246-203-130, Keeping of Animals. The proposed action would include a title change to Domestic Animal Waste, and propose new standards for the handling and disposal of animal excreta, or animal waste, for the purpose of preventing and controlling nuisance and health hazards. While we agree that these various issues are of potential concern, we would like to express concerns about a new layer of regulatory actions and responsibility related to authorities and duties of other agencies, while potentially not utilizing existing efforts and opportunities for success through educational and voluntary methods.

The Washington State Department of Agriculture (WSDA) is the agency with responsibility over Dairy Nutrient Management (Chapter 90.64 RCW) and rules. The Dairy Nutrient Management laws and rules require dairy animal feeding operations to have dairy nutrient management plans created and approved. The WSDA Dairy Nutrient Management Program (DNMP) staff and Conservation District partners conduct the work to ensure plans are properly implemented, while conducting inspections, education, and technical support. Other partners such as Washington State University researchers and extension staff assist with research, education, technical support, and specialized training. The DNMP staff also conduct specialized water quality monitoring in certain locations where there is increased precipitation and also where facilities are in close proximity to surface water that may lead to impacts to vulnerable aquatic systems and shellfish production locations. The DMNP efforts are an example of how concentrated animal agricultural systems are successfully regulated for the protection of water quality and human health. Part of the success is that the Washington State dairy industry is highly cooperative and supportive of efficient regulation. Every milk producing dairy farm is registered and also regulated for other aspects of operations such as milk production, milk quality and food safety.

When considering how to protect water quality and human health from other diverse animal manure sources around the state, these same kinds of regulatory approaches would be very difficult to apply to many thousands of small animal waste sources. Diverse and complex

nonpoint source pollution is most commonly handled through the implementation of the Washington State Nonpoint Source Plan and associated pollution abatement structures, programs and systems of voluntary approaches. Our agency believes that working with the thousands and thousands of landowners on animal waste management would be more efficient and effective if the efforts were voluntary and supported by state and local coordination, funding of preventative programs, and education and technical assistance. The Washington State agency system of working with nonpoint source and smaller animal systems are structured around voluntary approaches to protect water quality. The attempt for Board of Health to regulate landowners that own and manage small numbers of animals would be contrary to the existing systems and would be confusing and very onerous for the Board of Health and the associated agency partners. Landowners often look to the Washington State Conservation Commission (WSCC), Conservation Districts (CDs), USDA Natural Resources Conservation Service (NRCS), Washington State University (WSU), Ecology, and WSDA for assistance, cost share programs, and technical assistance. A sudden regulatory effort would be very difficult to implement and would all of sudden affect the opportunity for the thousands of property owners to work with the voluntary processes and programs. There are currently many examples of CDs and other partners successfully working with landowners on manure management. We encourage the Board of Health and the Department of Health (DOH) to work within the existing Washington State Nonpoint Source Plan and strategies for achieving federal and state goals for managing animal waste and protecting water quality and human health.

The tasks of managing general small farm manure sources for the protection of water quality and human health can be best taken care of through voluntary and educational processes. We suggest that the Board of Health and DOH review the successful efforts in the state and look for opportunities to collaborate with other state and local agencies to focus on effective and efficient processes in a cooperative process. A combination of education, outreach, and technical assistance efforts would provide for an effective process, combined with existing DOH Office of Drinking Source Water Assessment planning, capture zone and time of travel analysis, and contaminant inventories for all Group A and B public drinking water systems. Instead of attempting to regulate many thousands of landowners with small animal systems, it would be more prudent to pursue a coordinated effort for voluntary efforts while providing education, technical assistance and local support. Our agency has extensive experience with animal agriculture regulation and management. We know there are many manure management issues to tackle and we would like to highlight some of the existing state and local voluntary processes and successes that exist in our state and other locations in the country. We look to highlight how the main state and local groups are working on this, and provide some suggestions for what is working and potentially how Washington State DOH and ODW can join the efforts that would be complimentary. Our agency suggests that we collectively strive to provide tools for land owners and farmers to recognize their own resource concerns and become engaged in their on farm solutions whether they produce their own food, supply food to local markets, or own hobby farm, working, or recreational animals.

We provide this list and summarization of the overall state processes combined with a few examples of state and local groups are working on the manure management topic. Some of these

efforts could be a future focus of partnerships and efforts that could be complimentary and assist in providing solutions.

- There is the broader Ecology Clean Water Act Nonpoint Source Plan approach in Washington State, where the Washington State approach to abating nonpoint sources of pollution are outline. The state's nonpoint source plan provides descriptions of roles and responsibilities, and regulatory and voluntary approaches. The WSDA DNMP effort is described in the plan and other voluntary approaches for smaller potential pollution sources are described outlining management through voluntary, educational and technical approaches.
  - The overall Washington State NPS Plan <u>https://apps.ecology.wa.gov/publications/documents/1510015.pdf</u>
- The nonpoint source agricultural pollutant sources come under the purview and jurisdiction of a number of state and local agencies under the state Clean Water Act Washington State Nonpoint Source Plan and associated programs.
- Ecology is leading the Voluntary Clean Water Guidance for Ag Effectiveness Workgroup and producing Best Management Practice (BMP) guides and manuals including materials geared toward small farms, heaving use areas, grazing, nutrient management, irrigation water management, and manure management. WSDA, WSCC, WSU, EPA, USDA NRCS, Conservation Districts, and other public and private sector groups are teaming together to support Ecology in this Voluntary Clean Water Guidance for Ag Effectiveness Workgroup. We encourage the Board of Health and DOH, or a designated group such as the Office of Drinking Water (ODW), to reach out to Ecology staff to join the group and contribute the ongoing efforts to produce guides for agricultural nonpoint groups and provide for prevention approaches. The collective group is active with producing science-based products and then working to find implementation and funding opportunities to engage local landowners to prevent pollution. All the combined groups are engaged and working toward effective and efficient government processes to collectively tackle these issues. We encourage DOH and the ODW to join and support these approaches.
- There is an ongoing approach with Ecology and the nonpoint source team for developing a new Agricultural BMP guidance. Ecology has been leading meetings for several years of the Voluntary Clean Water Guidance for Ag Effectiveness Workgroup. WSDA and numerous others agencies and groups are a part of this workgroup supporting Ecology in developing the agricultural BMPs.
- This rule making seems contrary to the current approaches developed through the Ecology meetings of the Voluntary Clean Water Guidance for Ag Effectiveness Workgroup <a href="https://ecology.wa.gov/About-us/Accountability-transparency/Partnerships-committees/Voluntary-Clean-Water-Guidance-for-Agriculture-Adv">https://ecology.wa.gov/About-us/Accountability-transparency/Partnerships-committees/Voluntary-Clean-Water-Guidance-for-Agriculture-Adv</a>, to implement the Washington State NPS Plan.
- There are many resources and examples of work being done in Washington State and around the nation and we encourage the support those efforts for voluntary solutions prior to moving to some regulation that could be wasteful. How would an agency actually regulated many thousands of small farms?

- We encourage an approach where successful current and cooperative efforts are inventoried and assessed, and then additional funding is sought for improving voluntary systems.
- The WSDA Natural Resources Assessment Section (NRAS) and DOH ODW team is already working on pilot efforts for ground water protection in source water areas where agriculture is the primary land use.
- The DOH ODW is working to fund new and updated Source Water delineation modeling in the Yakima Ground Water Management Area (GWMA) to assist in focusing on the GWMA implementation in delineated capture zones. The Yakima GWMA Plan is located here: <u>https://www.yakimacounty.us/541/Groundwater-Management</u>.
- Completing capture zone, time of travel, and contaminant source inventory work in the Yakima GWMA and statewide would be an important step for aquifer and drinking water protection. Source water assessments can be combined with other GIS based mapping tools and modeling to assist in focusing precious state and local resources for making protection improvements in source water areas.
- Small farm and landowner management of nonpoint source pollution should be voluntary and prevention efforts is supported by state and local efforts and supported from other partners such as the USDA NRCS.
- Prevention of contamination of surface water, ground water, and public and private drinking water systems is best accomplished with voluntary education and training programs.
- There are many national, regional, state and local organizations that have worked on the topic of animal waste and manure management with small farms and rural landowners.
- There are many resources as well as funding sources available to implement programs that can be targeted to the appropriate audience and stakeholders.
- In Washington there are many groups that have been working on these strategies and education and prevention programs including the WSCC, CDs, WSU, NRCS, WSDA and others.
- The management of small farm and rural potential contaminants such as nutrients, sediment, pathogens, and other nonpoint source pollutants is best handling through non regulatory and educational and prevention programs.
- While DOH has authority to create and focus rules on certain potential contaminants to protect human health and drinking water systems; we recommend that the agency consider assessing the potential power and success of state, federal and local government partnerships; along with agriculture associations and groups to tackle this issue in a more focus and preventative manner.
- Creating new rules that would have a broad and comprehensive approach to the whole state would be difficult to implement and enforce when there are many thousands of potential private property owners around the state that would become newly regulated. There would be many impacts to DOH staff and associated state and local governmental partners with a difficult and potentially contentious rulemaking such as this. This type of rule and the potential implementation would actually be counterproductive to the already active and challenging task of implementing educational and voluntary measures with landowners.
- Our view is that the current approaches of education, technical assistance, and voluntary efforts is currently building and gaining momentum with the Ecology Voluntary Clean

Water Guidance for Ag Effectiveness Workgroup Team and various agency efforts. Some key partners working to create partnerships and successful programs are the WSCC and CD efforts, NRCS cost share and farm planning efforts, and the WSCC Voluntary Stewardship Program (VSP) <u>https://www.scc.wa.gov/vsp</u>. There are a number of key ground water protection program efforts around the state including the: Yakima GWMA, Grant County SDWA project with WSDA and DOH, and the Ground Water Protection Program efforts in Whatcom Country with the CD, Ecology and WSDA. In addition, the unique interagency and international effort with the Nooksack Fraser Transboundary Nitrogen (NTF-N) project is a very important cooperative effort supporting sound science and solutions for nitrogen issues in the Nooksack watershed. These are just a few examples of ongoing successful efforts that are gaining momentum.

- There are many ongoing programs, efforts, and technical tools available for manure and small farm animal waste management such as:
  - o <u>https://lpelc.org/manure-management-on-small-farms/</u>
  - https://lpelc.org/manure-management-on-small-farms/#.VOtCiEJEjDM
  - <u>https://www.rd.usda.gov/programs-services/water-environmental-programs/solid-waste-management-grants/wa</u>
  - https://www.usda.gov/topics/farming/resources-small-and-mid-sized-farmers
  - <u>https://www.nrcs.usda.gov/wps/portal/nrcs/detail/national/technical/nra/rca/?cid=</u> <u>nrcs143\_014211</u>
  - https://www.nrcs.usda.gov/wps/portal/nrcs/main/?ss=16&navtype=SubNavigation &cid=null&navid=15018011000000&pnavid=15018000000000&position=Sub Navigation&ttype=main&pname=Manure%20&%20Nutrient%20Management% 20%257C%20NRCS
  - <u>https://connect.extension.org/event/equipment-and-facilities-for-managing-</u> <u>manure-on-small-farms</u>
  - https://bentonswcd.org/mud-and-manure/
  - o <u>http://whatcom.wsu.edu/ag/nutrient/guidel\_1.pdf</u>
  - <u>https://puyallup.wsu.edu/soils/manure/</u>
  - <u>https://extension.oregonstate.edu/collection/mud-manure-management-resources-</u> <u>small-farms</u>
  - <u>https://nerc.org/documents/manure\_management/guide\_to\_providing\_manure\_management\_ed.pdf</u>
  - <u>https://www.extension.iastate.edu/smallfarms/manure-management-acreages-and-small-farms</u>
  - <u>https://www.scc.wa.gov/vsp</u>
  - Michigan Agriculture Environmental Assurance Program, <u>https://maeap.org/</u>
  - https://www.nrcs.usda.gov/wps/portal/nrcs/detail/vt/technical/dma/?cid=nrcs142p
     <u>2\_010561</u>
  - o <u>https://aces.nmsu.edu/farmasyst/</u>
  - o <u>https://bookstore.ksre.ksu.edu/pubs/homeasst.pdf</u>
  - <u>https://extension.psu.edu/programs/nutrient-management/related-programs/pennsylvania-farm-a-syst</u>
  - <u>https://www.landcan.org/</u>
  - $\circ \quad \underline{https://www.epa.gov/sourcewaterprotection/assess-plan-and-protect-source-water}$
  - $\circ \quad \underline{https://www.epa.gov/sourcewaterprotection/source-water-assessments}$

- <u>https://ecology.wa.gov/About-us/Accountability-transparency/Partnerships-</u> <u>committees/Voluntary-Clean-Water-Guidance-for-Agriculture-Adv</u>
- We recommend that the Board of Health place more effort, resources, funding, and partnership effort into further developing the SDWA and DOH ODW programs <a href="https://www.epa.gov/sourcewaterprotection/assess-plan-and-protect-source-water">https://www.epa.gov/sourcewaterprotection/assess-plan-and-protect-source-water</a> for Group A and B source water modeling and system delineations and capture zone and time of travel analysis updates to properly assess the source areas for each public systems.
- This process in Washington State is very incomplete and the protection of ground water, source water, and public drinking water systems would be great enhanced if DOH, Ecology, WSDA, WSCC, CDs, and NRCS actually knew what spatial land areas up gradient of drinking water systems to focus on for our collective and current FTE staff time, resources, and funding.
- Our WSDA NRAS team is currently fulling engaged with DOH ODW staff in assessing all the Group A and B public drinking water data for nitrate, pesticides, and any other potential contaminant of concern.
- Our team has been very successful in proactively reviewing all the data, prioritizing what areas could be assessed and worked on in a systematic process. The goal has been to conduct a few focused projects such as the Yakima GWMA Implementation and Grant County ground water project to conduct update capture zone analysis and provide for programs to educate and provide technical assistance for nonpoint pollution issues that are voluntary in nature.
- These efforts should be pursued prior to some broad scope regulatory approach that would pull all the state and local agencies into something that would be misguided and result in wasting resources, funding, and antagonizing local land owners and small farm owners. It is our view, through first hand experiences, that small farm owners will make improvements once they're engaged with their local technical service provide through VSP and other programs which are lead with the CD, WSU Extension, WSDA and local watershed groups.

We appreciate the opportunity to comment on this draft rule making. We recommend that the state and local partners work to combine efforts and develop strategies that will incorporate effective and efficient use of staff, resources, and technical expertise. Our collective efforts should be strategically focused to work with agriculture and local landowners for farm system management, resiliency, and human health and environmental protection. We respectfully request that this proposed rule not be pursued. We look forward to working with the Board of Health to provide any additional input and helpful comments.

Thank you for considering our input, and we look forward to hearing back from you.

Respectfully,

Dary Bahr

Gary Bahr

Science Liaison Office of the Director Washington State Department of Agriculture Olympia, Washington Contact information: 360-349-0522, Gary.Bahr@agr.wa.gov

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May 2, 2022

Washington State Board of Health PO Box 47990 Olympia, WA 98504-7990

#### Dear WA BOH,

We are the Friends of Toppenish Creek from Yakima County.

Friends of Toppenish Creek is dedicated to protecting the rights of rural communities and improving oversight of industrial agriculture. FOTC operates under the simple principle that all people deserve clean air, clean water and protection from abuse that results when profit is favored over people. FOTC works through public education, citizen investigations, research, legislation, special events, and direct action.

People who live near animal feeding operations suffer from pollution of drinking water, air pollution, and infectious disease. State and local officials appear helpless to address this public health issue.

The magnitude of problems related to manure management has increased many fold since the introduction of concentrated animal feeding operations (CAFOs) to animal agriculture. Law makers who wrote rules to minimize health impacts from livery stables could not have envisioned storing animal excreta in million gallon lagoons or tossing it into the air to compost.

Remember that each mature milk cow excretes over 120 lbs of feces and urine every day. Multiply this by thousands of cows and that is a lot of manure.

A possible solution to this serious problem is to authorize citizen lawsuits against polluters when they cause or contribute to human illness or death. There is precedent for holding people responsible when they create conditions that harm others.

By herself, a woman whose husband dies from E-coli 0157 has little hope of winning against a multi-million dollar corporation that flaunts the law. But a change in the rules could make it possible to hold responsible parties accountable, by providing for cost recovery in litigation. Thank you for seriously considering this option.

Sincerely, cerely, kan Mendoza

Jean Mendoza

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

## Rationale for Citizen Lawsuits to Protect Public Health from Manure Pollution

#### Legal Authority:

#### RCW 43.20.050

#### Powers and duties of state board of health—Rule making—Delegation of authority— Enforcement of rules.

(2) In order to protect public health, the state board of health shall:

(c) Adopt rules and standards for prevention, control, and abatement of health hazards and nuisances related to the disposal of human and animal excreta and animal remains;

#### WAC 246-203-130

#### Keeping of animals.

(1) Any person, firm or corporation is prohibited from keeping or sheltering animals in such a manner that a condition resulting from same shall constitute a nuisance.

(2) In populous districts, stable manure must be kept in a covered watertight pit or chamber and shall be removed at least once a week during the period from April 1st to October 1st and, during the other months, at intervals sufficiently frequent to maintain a sanitary condition satisfactory to the health officer. Manure on farms or isolated premises other than dairy farms need not be so protected and removed unless ordered by the health officer.

(3) Manure shall not be allowed to accumulate in any place where it can prejudicially affect any source of drinking water.

## Facts:

Human and animal excreta carry pathogens that endanger human and animal health. This is why we teach children to wash their hands after they go to the bathroom.

People who live in close proximity to animal feeding operations suffer from pollution of drinking water, air pollution and infectious disease.

The WA DOH and local health agencies do not monitor pollutants from AFOs, do not surveil for related health impacts, do not investigate complaints or health impacts, do not control discharges and emissions, and do not assist those whose health has been harmed. The WA State Dept. of Ecology and the WA State Dept. of Agriculture do very little, and specifically do not evaluate impacts on human health. It appears that the agencies lack the resources to characterize, assess, and evaluate health impacts from AFOs.

People who live in close proximity to AFOs spend millions of dollars out of pocket to purchase safe drinking water, address health impacts such as asthma, cardiovascular and lung disease, and infections.

Taxpayers spend millions of dollars to subsidize AFO actions to reduce and mitigate pollution, and to keep AFOs in business.

Cost benefit analysis of the proposed WAC 246-203-130 does not address costs to citizens, only costs to business.

Meeting legal standards to prove health hazards is expensive. In reality, a citizen who suffers illness or even death due to sloppy manure management does not have the financial resources to prove a cause and effect relationship. Public health agencies rarely make these connections.

Current WA rules and regulations do not protect citizens from the adverse health impacts of air and water pollution from improper manure management.

## Proposed change to the Draft WAC 246-203-130:

One solution to this problem is provision for citizen lawsuits against those who damage public health. Such lawsuits could be allowed by provisions similar to those in the Clean Water Act. Citizens could seek injunctive relief (court orders prohibiting the pollution from continuing), civil penalties, and reimbursement of legal costs and attorneys' fees.

Proposed addition to WAC 246-203-130:

Any citizen may commence a civil action on his own behalf or on behalf of dependents:

- 1. Against any person, or collective of persons, who are alleged to discharge pollutants into a drinking water aquifer, or the ambient air in amounts that inflict illness or death.
- 2. Against responsible officials for failure to perform an act or duty to investigate negative health impacts from airborne or waterborne pollutants from animal manure.

The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing or substantially prevailing party, whenever the court determines such award is appropriate.

## **Arguments:**

People who live near animal feeding operations where large amounts of manure are (mis)managed suffer documented adverse health impacts, but state and local officials appear helpless to change this situation. Citizen lawsuits could play a role in providing relief. Citizen lawsuits could realistically be undertaken if attorneys and expert witnesses could reasonably expect payment for their services.

Criteria for proving adverse health impacts will undoubtedly be subject to intense debate, but this obstacle is not insurmountable.



May 2, 2022

Washington State Board of Health PO Box 47990 Olympia, WA 98504-7990

Dear WA State Board of Health,

We are the Friends of Toppenish Creek from Yakima County.

Friends of Toppenish Creek is dedicated to protecting the rights of rural communities and improving oversight of industrial agriculture. FOTC operates under the simple principle that all people deserve clean air, clean water and protection from abuse that results when profit is favored over people. FOTC works through public education, citizen investigations, research, legislation, special events, and direct action.

We appreciate your hard work on WAC 246-203-130, especially the comprehensive paper, "Keeping of Animals". The documentation of health impacts deserves close attention.

- 1. In 2013 Davis et al found higher rates of campylobacteriosis in Whatcom and Yakima Counties, the WA counties with the highest concentrations of dairies and dairy animals.<sup>\*</sup> Please add this research to your literature review.
- 2. Unfortunately, the document "Keeping of Animals" is no longer up to date. Since 2018:
  - a) The WA Legislature has approved the HEAL Act and the Climate Commitment Act.
  - b) Staff at the WA State Dept. of Agriculture have discounted the value of Tech Note 23 assessments for manure lagoons.
  - c) Ecology has not completed a plan for nonpoint source pollution as promised.
  - d) There is even more data that documents egregious pollution of WA aquifers by concentrated animal feeding operations (CAFOs).
  - e) The Yakima Regional Clean Air Agency (YRCAA) has rescinded their Air Quality Management Policy for Dairies.

- f) People who live in areas with high levels of fine particulate matter from CAFO emissions have suffered higher than average rates of morbidity and mortality from COVID 19.
- g) The WA State Court of Appeals ruled that the WA Pollution Control Hearings Board erred. Ecology's 2017 National Pollutant Discharge Elimination System (NPDES) permit does not protect waters of WA State.

Below is a more thorough analysis of "Keeping of Animals" that explains the need for updates, followed by a critique of BOH's Cost Benefit Analyses.

- 3. RCW 43.20.050 (c) states, "the State Board of Health shall . . . adopt rules and standards for prevention, control, and abatement of health hazards and nuisances related to the disposal of human and animal excreta and animal remains". We find no authority to delegate this duty to either the WA State Dept. of Agriculture or the WA State Dept. of Ecology. In fact, neither of these agencies are qualified to address human health.
- 4. RCW 34.05.310 addresses negotiated rule making. We are not sure whether the actions leading up to this draft rule constitute negotiated rule making or not. We do know that the BOH convened two stakeholder meetings in 2019 to discuss the rule. There were more advocates just for the dairy industry than advocates for the citizens. The beef industry brought their lobbyists as well. Only FOTC argued for protection of CAFO neighbors. Everyone at the table was Caucasian.

If this is negotiated rule making, there are insufficient protections to ensure that other agencies will do their part to protect public health. Currently Ecology and WSDA have the power to control air and water pollution, but they do not use that power, so air and water pollution from dairies continue. There are no memoranda of understanding to guarantee cooperation and collaboration.

Sincerely. from Mendeza

Jean Mendoza

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

<sup>\*</sup> Davis, M. A., Moore, D. L., Baker, K. N., French, N. P., Patnode, M., Hensley, J., ... & Besser, T. E. (2013). Risk factors for campylobacteriosis in two Washington state counties with high numbers of dairy farms. *Journal of clinical microbiology*, *51*(12), 3921-3927. Available at https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3838072/

## KEEPING OF ANIMALS Background and Policy Recommendations of the Washington State Board of Health for Revising WAC 246-203-130

https://sboh.wa.gov/sites/default/files/2022-01/KeepingOfAnimals-FinalReport.pdf

#### Pages 4 & 15:

Regulation of livestock manure, commercial animal feeding operations, and other domestic animal waste in Washington to protect water and air quality is framed mainly around the following:

- Dairy licensing
- National Pollutant Discharge Permits
- Nonpoint source pollution prevention
- Local ordinances
- Air quality control by Ecology and local air agencies

#### Response:

WA dairies are required to have nutrient management plans, but they are not required to follow them.<sup>1</sup> See "Keeping of Animals" page 15 that says, "The law does not require producers to follow the (nutrient management) plans."

Dairies are only inspected every 18 - 22 months and the inspections focus on what is written on paper, not on what is happening on the dairy. There is only one WSDA inspector for all Eastern Washington where 2/3 of WA milk cows are housed.

Less than 10% of WA dairies have NPDES permits. Permitted dairies in Yakima County apply manure in quantities that greatly exceed agronomic rates.<sup>1</sup>

Ecology has yet to complete a nonpoint source pollution plan for the state. Ecology has worked on nonpoint source pollution since 2015 and is nowhere completion.<sup>3</sup>

Local ordinances are almost non-existent and are not enforced by local agencies, at least not in Yakima County.<sup>4</sup>

<sup>3</sup> Ecology Voluntary Water Guidance for Agriculture at <u>https://ecology.wa.gov/About-us/Accountability-</u> transparency/Partnerships-committees/Voluntary-Clean-Water-Guidance-for-Agriculture-Adv

<sup>&</sup>lt;sup>1</sup> Reports available on the Ecology PARIS website at <u>https://apps.ecology.wa.gov/paris/PermitLookup.aspx</u>

<sup>&</sup>lt;sup>2</sup>See Attachment 1

<sup>&</sup>lt;sup>4</sup> See Attachment 2 – Email from the Yakima Health District re enforcement of Solid Waste Manure Composting rules

The Yakima Regional Clean Air Agency (YRCAA) rescinded an Air Quality Management Policy for Dairies in 2019. The YRCAA does not investigate air quality complaints against dairies and has never issued a notice of violation of odor or dust.<sup>5</sup> Washington CAFOs do not report hazardous air emissions.

The summary in "Keeping of Animals" gives the impression that other WA agencies address pollution from WA CAFO dairies. This is incorrect.<sup>6</sup>

Page 10:

The Lower Yakima Valley is similarly plagued by high nitrate levels in drinking water that are closely associated with significant numbers of farm animals and large animal feeding operations. Yakima County has the most dairy cows in the state (WSDA, 2011). About a third of the Lower Yakima Valley uses private, unregulated wells for drinking water. Between 10 and 20% of these wells have nitrate concentrations that exceed the national and state drinking water standard (USEPA, 2012b).

In 2018-2019 the Lower Yakima Valley Groundwater Management Area drilled 30 monitoring wells evenly spaced throughout the Lower Yakima Valley (LYV). At the time of drilling 45% of the wells had nitrate levels above 10 mg/L. Beginning in 2021 Ecology began sampling the monitoring wells to establish a baseline for the area. In the first two 2021 samplings 45% of the samples were above 10 mg/L.<sup>7,8</sup>

The EPA has studied nitrate levels in dedicated monitoring wells on a cluster of LYV dairies. The highest reading in the EPA studies is 234 mg/L.<sup>9</sup>

<sup>6</sup> Ecology and WSDA knew about pollution on a cluster of Lower Yakima Valley dairies for years, but gave the dairies glowing reports while the dairies applied manure to cropland at up to seven times agronomic rates. See Attachment 3.

<sup>7</sup> LYV GWMA Initial Ambient Groundwater Monitoring Well Report at <u>https://www.yakimacounty.us/DocumentCenter/View/21633/GWAC-Presentation---Monitoring-Well-Report-Overview---2019620-v20-1</u>

<sup>8</sup> WA Ecology Environmental Information Management System Data Base Groundwater Data at <u>https://apps.ecology.wa.gov/eim/search/Groundwater/GWSearch.aspx?SearchType=Groundwater&State=newsearch</u> <u>&Section=all</u>

<sup>9</sup> EPA Region X LYV Groundwater Fact Sheet 2014 Yakima Dairies Consent Order Update at <u>https://www.epa.gov/sites/default/files/2017-12/documents/lower-yakima-valley-groundwater-fact-sheet-december-2014.pdf</u>

<sup>&</sup>lt;sup>5</sup> Arguments for Dissolving the Yakima Regional Clean Air Agency at http://www.friendsoftoppenishcreek.org/cabinet/data/FOTC%20Arguments%20for%20Dissolving%20the%20YRC AA.pdf

#### Page 15:

WSDA has conducted lagoon inspections in the Yakima Valley based on the site inventory and assessment procedure of Natural Resources Conservation Service (NRCS) Tech Note 23. Between 2015 and 2017, WSDA inspected most dairy lagoons in the Yakima Valley with a minimum of two site visits, to evaluate the lagoons when full and when empty. The lagoons are scored on criteria (e.g., soil type, aquifer susceptibility, proximity to water bodies, compliance with design standards) and ranked on a risk probability matrix for site risk and seepage/structure risk. The evaluations are being carried out in concert with the CAFO permit, giving facilities with high risks two years to develop and implement plans to address the deficiencies.

WSDA now says that the Tech Note 23 Inspections re invalid. WSDA has not completed Tech Note 23 Inspections outside Yakima County as promised. Tech Note 23 Inspections in Yakima County are missing essential data and those dairies with high risk lagoons have not developed and implemented plans to address the deficiencies as stated in "Keeping of Animals"<sup>10</sup>

Page 16:

Any commercial or industrial operation that discharges waste material to state waters is required to have a permit from Ecology.

This is simply not true. Two dairies in the LYV dairy cluster that have well documented discharges are not covered by NPDES permits.<sup>11</sup>

Discharges are allowed in limited situations and cannot violate water quality standards or impair other uses of the waters.

Many dairies in Whatcom County are located in flood plains. Manure from these dairies flowed into the floodwaters of the Nooksack River in 2021. Taxpayers spent hundreds of thousands of dollars to help Whatcom County dairies pump manure from lagoons that were at risk of overtopping during the 2021 floods.<sup>12</sup>

<sup>&</sup>lt;sup>10</sup> See Ecology and WSDA Do Not Inspect Manure Lagoons at <u>http://www.friendsoftoppenishcreek.org/issues/water.html</u>

<sup>&</sup>lt;sup>11</sup> The EPA has found egregious pollution from crop land and from unlined manure lagoons on the Henry Bosma Dairy and the Liberty Dairy in the LYV dairy cluster. Neither of these dairies has an NPDES permit.

<sup>&</sup>lt;sup>12</sup> Verbal communication from Laura Watson, Director of the WA Dept. of Ecology at the April meeting of Ecology's Ag and Water Quality Advisory Committee.

Decision on CAFO Permit Appeal On October 25, 2018, the Washington State Pollution Control Hearings Board (PCHB) issued an order on an appeal of the CAFO permits by a number of organizations on all sides of the issue. The order upheld and affirmed the permits with the exception of a condition associated with lagoon assessments. Ecology is expected to reissue the permits consistent with the order (WSPCHB, 2018).

A coalition of environmental groups successfully appealed the PCHB decision to the WA State Court of Appeals. In 2021 the Court of Appeals ruled that the 2017 NPDES permits for CAFOs do not protect waters of the state.<sup>13</sup>

Ecology and WSDA jointly administer CAFO permits and also work cooperatively on the Dairy Nutrient Management Program and Agricultural Nonpoint Source Program. The agencies are guided by a Memorandum of Understanding (MOU) that was last updated in 2011.

The referenced MOU protects WA dairies from enforcement of the Clean Water Act. The WSDA Dairy Nutrient Management Program (DNMP) hardly ever documents a discharge to waters of the state. Consequently, there is no justification for requiring a dairy to obtain an NPDES permit. The DNMP typically states that a dairy complies with best management practices (BMPs) although WSDA and Ecology state that there is no approved list of BMPS for dairies.<sup>14</sup>

Page 19:

Ecology is currently undertaking a major project to develop voluntary clean water guidance for agricultural activities. The project aims to identify agricultural practices that are most effective in addressing nonpoint source impacts and achieving compliance with water quality standards. Impetus for the project is federal law, specifically the Clean Water Act and Coastal Zone Act Reauthorization Amendments of 1990, which require the agency to identify suites of practices for different sources of nonpoint pollution. The project is part of Ecology's 2015 Nonpoint Source Pollution Plan. The planning, stakeholder involvement, and technical analysis are expected to take a couple years (WSDOE, 2015b, 2015c, 2017).

After at least seven years Ecology's nonpoint source plan is nowhere near completion.<sup>3</sup>

<sup>13</sup> Puget Soundkeeper et al v. WA Ecology 2021, available at <u>http://www.friendsoftoppenishcreek.org/cabinet/data/D2%2052952-1-II%20PUBLISHED%200PINION%20(2).pdf</u>

<sup>14</sup> WSDA & Ecology Memorandum of Understanding – A Chain of Errors, available at <u>http://www.friendsoftoppenishcreek.org/cabinet/data/MOU%20Problems%20and%20Sequelae.pdf</u> Page 20:

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.

In Yakima County officials have never investigated the adverse public health effects of agricultural activities such as:

- Polluting groundwater
- Polluting surface waters and contaminating fish
- Polluting the air with particulate matter, ammonia, hydrogen sulfide, volatile organic compounds, ozone, methane, and nitrous oxide. <sup>5</sup>

Because there are no documented impacts officials refuse to take actions against allegedly "good agricultural practices" such as:

- Composting hundreds of dead cows in small areas
- Composting manure in the pens where cows live
- Discharging pollutants into aquifers that people access for drinking water.<sup>5</sup>

Morbidity and mortality from COVID 19 are well above the state average in Yakima County. Harvard University has documented a relationship between counties with high levels of particulate matter and deaths from COVID 19.<sup>15</sup>

Chapter 35.88 RCW applies to protection of public water supplies and explains that animal operations such as hog pens and feed yards that pollute municipal water supplies, storage, or conveyance are illegal and should be abated as nuisance.

The Outlook Elementary School in Yakima County had to drill two new wells due to nitrate contamination. The only likely source of this pollution is nearby dairies with well documented discharge to groundwater. Officials took no actions against the dairies but simply expected taxpayers to cover the expense of drilling new wells.

The City of Mabton has been forced to drill several new municipal wells due to a falling aquifer and nitrate contamination that reached 20 mg/L. Officials took no actions against upgradient dairies but simply expected taxpayers to cover the expense of drilling new wells.

<sup>15</sup> COVID 19 Incidence and Death Rates for Yakima County, available at

<sup>&</sup>lt;sup>5</sup> Arguments for Dissolving the Yakima Regional Clean Air Agency at <u>http://www.friendsoftoppenishcreek.org/cabinet/data/FOTC%20Arguments%20for%20Dissolving%20the%20YRC</u> AA.pdf

http://www.friendsoftoppenishcreek.org/cabinet/data/COVID%2019%20Demographics%20for%20Yakima%20Cou nty%20IV.pdf

*RCW* 70.54.010 and *RCW* 90.48.080 respectively make it illegal to deposit anything deleterious that affects public water supplies or to discharge polluting matter to waters of the state.

Dairy discharges to waters of the state are well documented, yet Ecology does nothing to stop this illegal activity.

Chapter 70.95 RCW sets requirements for solid waste management, which extends to animal waste and includes provisions that prohibit dumping or depositing waste in waters of the state or creating a nuisance. Companion solid waste handling standards, chapter 173-350 WAC, exempt land application of manure if applied at agronomic rates. If piled, over-applied, or otherwise mismanaged to create a problem, manure can be regulated as a solid waste.

Over application of manure to cropland is well documented, yet WSDA and Ecology do nothing to stop this illegal activity.<sup>1, 2, 6, 9</sup>

Page 21:

King County first adopted its livestock management ordinance in the mid1990s. The purpose of KCC 21A.30, sections 040 – 075, is to support the raising and keeping of livestock and to minimize impacts on water quality and salmon habitat. The code also regulates small animals. The code regulates lot size, livestock densities, farm planning, and management practices to prevent nonpoint pollution. The management standards include many requirements for manure storage and spreading. Section 122 of KCC 21A.12 complements this with a manure storage setback of 35 feet from the property line. <u>Commercial dairies are exempt</u> and must meet the requirements of DNMP (King County, 2009, 2013).

The Keller Dairy in King County, located next to the Snoqualmie River, spreads manure within 10 feet of the river, according to their manure pollution prevention plan (MPPP).

<sup>1</sup> Reports available on the Ecology PARIS website at <u>https://apps.ecology.wa.gov/paris/PermitLookup.aspx</u>

<sup>6</sup> Ecology and WSDA knew about pollution on a cluster of Lower Yakima Valley dairies for years, but gave the dairies glowing reports while the dairies applied manure to cropland at up to seven times agronomic rates. See Attachment 3.

<sup>9</sup> EPA Region X LYV Groundwater Fact Sheet 2014 Yakima Dairies Consent Order Update at <u>https://www.epa.gov/sites/default/files/2017-12/documents/lower-yakima-valley-groundwater-fact-sheet-december-</u>2014.pdf

<sup>&</sup>lt;sup>2</sup>See Attachment 1

See the Keller Manure Pollution Prevention Plan, page 11/22 that says:

In addition to using the MSA and ARM tools year-round, the appropriate seasonal setback distance will be utilized when applying manure. These seasonal setbacks are based on scientific studies which recommend specific distances for sediment and nutrient removal based on seasonal precipitation, soil saturation conditions, and surface runoff potential. This includes a more robust setback during the high risk months of October 1-February 28 of 100 feet, reduced to 40 feet from March 1-May 31 and September 1-September 30 when soils are drying, and <u>10 feet in the dry summer months of June 1-August 31 when precipitation is minimal and soils dry.</u> The following table lists the appropriate setback distances per season.<sup>16</sup>

#### Page 24:

Registration and Reporting: Feedlots with 1,000 or more cattle in operation between June 1 and October 1 are required to register with Ecology or their local air agency under WAC 173-400-099 to WAC 173-400-104, report emissions of certain criteria and toxic air pollutants, and undergo inspections every one to three years. Emissions are estimated based on the size, processes, and pollution controls of the animal feeding operation. Ecology recently conducted a comprehensive literature review and issued revised emissions factors for cattle feedlots in 2016.

Are dairies classified as feedlots? None of the 50 CAFO dairies in Yakima County register as sources of air pollution, or report emissions of air pollutants. There are about 100,000 milk cows in a 273 square mile area in the Lower Yakima Valley (LYV).

Controlling Fugitive Emissions, Dust, and Odor: Under RCW 70.94.640, odors or fugitive dust from animal feeding operations that are applying BMPs<sup>17</sup> are exempt from the requirements of the state Clean Air Act unless they have a substantial adverse effect on public health. Feedlots with 1,000 or more cattle are included in this agricultural activity exemption except they must:

- Follow BMPs<sup>17</sup> and develop and implement a fugitive dust control plan;
- Comply with the State Implementation Plan (SIP) for air quality; and

• Additional controls may be required as part of the SIP if an area is designated as nonattainment for particulate matter under national ambient air quality standards (NAAQS).

<sup>&</sup>lt;sup>16</sup> Manure Pollution Prevention Plan (MPPP) Keller Dairy, page 11/22, available at file:///C:/Users/Jean%20Mendoza/Downloads/2020-07-28%20MPPP%20(5).pdf

<sup>&</sup>lt;sup>17</sup> According to WA Ecology there are no approved best management practices for WA dairies. See Attachment 4.

Ecology or the appropriate local air agency review and approve fugitive dust control plans, inspect sources, <u>respond to complaints</u>, provide compliance assistance, and may issue enforcement actions. In 1995, Ecology issued guidelines on fugitive dust control for beef cattle feedlots and best management practices. These guidelines are included in the SIP to help the state meet and maintain the NAAQS and protect public health. Yakima Regional Clean Air Agency has also established policies and BMPs for animal feeding operations in their jurisdiction, <u>specifically for dairy operations</u>, confined heifer replacement feeding operations, and confined beef cattle feeding operations. As an added note, Ecology is working to interpret and implement changes to RCW 70.94.640 made in the 2017 legislative session by SSB 5196 (C 217, L 17) that extend the Clean Air Act exemption for odor and fugitive dust caused by agricultural activities to cattle feedlots. This will change aspects of the regulatory structure when finalized.

Washington law requires Ecology to approve a list of best management practices for CAFOs. Friends of Toppenish Creek submitted public records requests for a listing of these BMPS in 2021. Both Ecology and WSDA replied that there are none.<sup>17</sup>

The Yakima Regional Clean Air Agency rescinded their policy for dairies in 2019. The YRCAA does not investigate complaints regarding odor and dust from dairies.<sup>5</sup>

Page 25:

Capitalize on Local Health Authority The rule should capitalize on the authority and responsibility of local health boards and local health officers under chapter 70.05 RCW. This includes authority to:

- Supervise the maintenance of all health and sanitary measures;
- Enact and enforce local regulations as needed to preserve, promote, and improve public health; and

• *Provide for the prevention, control, and abatement of nuisances detrimental to public health.* 

In response to a 2021 public records request the Yakima Health District informed FOTC that the YHD does not enforce WAC 173-350-220 with respect to manure composting facilities.

http://www.friendsoftoppenishcreek.org/cabinet/data/FOTC%20Arguments%20for%20Dissolving%20the%20YRC AA.pdf

<sup>4</sup> See Attachment 2 – Email from the Yakima Health District re enforcement of Solid Waste Manure Composting rules

<sup>&</sup>lt;sup>5</sup> Arguments for Dissolving the Yakima Regional Clean Air Agency at

Leave Regulation of Large Animal Feeding Operations to Established Programs WSDA manages the Dairy Nutrient Management Program and Ecology and WSDA comanage the CAFO permit. For many reasons, the programs are complicated and hard to implement. Despite the challenges, the two agencies are best positioned to regulate the state's large commercial animal feeding operations given their legal authorities, expertise, resources, and support from many partner agencies. The same holds true for regulation of air emissions by Ecology and the local air agencies. In keeping with the preceding recommendations, the Board's rule should avoid duplicating core work of these programs and should aim to support these existing state programs with complementary authority and functions.

We have shown that Ecology and WSDA have failed to protect the environment from water and air pollution related to CAFO dairies. These agencies barely talk about human health. Leaving implementation of public health to Ecology and WSDA is a recipe for failure.

## Small Business Economic Impact Statement WAC 246-203-130 a Rule Concerning Keeping of Animals

Page 4:

NAICS Code 1121, Description "Cattle Ranching and Farming", # of businesses in WA "534", MCT (1% average annual payroll) "\$3,657.58", MCT (0.03% annual receipts) "\$3,864.14"

We believe the cost estimates in this category that includes the multi-million dollar dairy industry, are inaccurate. We do not believe that the payroll for veterinary services exceeds the payroll for dairies as stated in the Economic Impact Statement.

## Significant Legislative Rule Analysis WAC 246-203-130 a Rule Concerning Keeping of Animals Revising the Section Title to Domestic Animal Waste

Page 16:

WAC 246-203-130(3)(d)(iii)(D)(II) Site stockpiled livestock waste one hundred feet or more from a surface water body unless the surface water body is protected by one or more control or treatment practices that capture and prevent leachate and runoff.

Description: If waste from livestock is stockpiled for later use or disposal, this proposed exception to WAC 246-203-130(3)(d)(iii)(D) allows people to site stockpiles closer than one hundred feet of a surface water body if practices are applied to mitigate runoff and leachate. This can include practices to mitigate stockpiles such as covers and pads, or alternate methods of storing stackable waste, such as stacking and composting structures.

Common conservation practices for stackable waste include the following, listed by NRCS code. Practices can be applied individually or in combination. Practices may or may not be designed and constructed to NRCS standards but should always be designed to account for anticipated storage needs, surface loads, drainage, and possible seepage.

This section fails to inform the reader that the definition of "stockpiling" in the draft WAC 246-203-130 exempts manure composting and manure lagoons from the definition. In Yakima County there are over 500 acres of manure compost on bare ground.<sup>18</sup> In Yakima County there are over 200 acres of manure lagoons, and most are simply "clay lined" which means they are lined with compacted soil.<sup>18</sup> Leaching from these lagoons is significant and well documented.<sup>19</sup>

WAC 246-203-130 does not sufficiently address groundwater pollution or air pollution.

NRCS standards are guidelines and non-enforceable.

<sup>18</sup>Lower Yakima Valley Groundwater Management Area Nitrogen Availability Assessment at <u>https://www.yakimacounty.us/2131/Nitrogen-Availability-Assessment</u>

<sup>19</sup> Bosma Dairy Lagoon 3 shows massive nitrogen loadings leading to ground water contamination, available at <a href="http://charlietebbutt.com/files/CAFOs/Bosma%20Lagoon%203%20Abandonment%20Plan\_20220118.pdf">http://charlietebbutt.com/files/CAFOs/Bosma%20Lagoon%203%20Abandonment%20Plan\_20220118.pdf</a>

# Attachment 1: Reports available on the Ecology PARIS website at <u>https://apps.ecology.wa.gov/paris/PermitLookup.aspx</u>

## Annual NPDES reports from DBD Dairy 2018 to 2021

Field Risk Level Fiel		Nitrate at 2'	Required Actions	Required Actions Based Upon Trends	Comments	
Low	24	10				
	Old Mint	3	None	None	Canal break resulted in no water for 1.5 weeks, resulting in loss of yield.	
Fall Soil Test Nitrate Range:						
Less than 15 ppm	-					
Less than 55 lbs/acre						
Medium	01B	17				
meanan	02EC	18	-	None		
Fall Soil Test Nitrate Range:	08-11B	27	Continue with agronomic rate		Canal break resulted in no water for 1.5 weeks, resultin in loss of yield.	
<ul> <li>15-30 ppm</li> </ul>	00 440					
<ul> <li>55-110 lbs/acre</li> </ul>		1				
	Salas and					
High Fall Soil Test Nitrate Range:	02EB	45		None	Canal break resulted in no water for 1.5 weeks, resulting in loss of yield.	
	07	45	<ul> <li>3' samples to be taken</li> </ul>			
	08-11C	46	next fall.			
<ul> <li>31-45 ppm</li> </ul>	21	42				
<ul> <li>111-165 lbs/acre</li> </ul>	22CP	39	<ul> <li>Re-evaluate agronomic</li> </ul>			
	23	36	rate.			
					*	
Very High	01C	117				
	02NWB	65			Canal break resulted in no water for 1.5 weeks, resulting in loss of yield. Some fields have produced residual ppm levels that are well above what would typically be expected given the	
Pali Soil Test Nissate Range	02SWB	52	<ul> <li>3' samples to be taken</li> </ul>			
<ul> <li>More than 45 ppm</li> </ul>	02WC	67	next fall.			
<ul> <li>More than 160</li> </ul>	03B	161				
	03C	140	<ul> <li>Reduce application</li> </ul>			
	04	64	(evaluate agronomic	None at this time		
	05	65	rate).			
	06	54			applied manure rates.	
	2255	63	<ul> <li>Get approval of nutrient</li> </ul>		applied manure rates.	
	25	48	budget from DOE.			

Field Risk Level	Field	Nitrate at 2'	Required Actions	Required Actions based	Comments
Low Fall Soil Test Nitrate Range • Less than 15 ppm • Less than 55 lbs/acre	Old Mint	1.7	None.	upon Trends	
Medium	01 C	30.3	Constinue with some sta	Contraction of the last	
all Soil Test Nitrate Range	08-11 C		Continue with agronomic rate.		
<ul> <li>15-30 ppm</li> </ul>	22 55	18.8			
<ul> <li>55-110 lbs/acre</li> </ul>	22 33	19.3			
- 33 110 103/ del C	25	19.5			
High	02 EC	38.3	Adjust application timing.	None at this time	
all Soil Test Nitrate Range	04	40.5	3' fall soil sampling.	None at this time	
<ul> <li>31-45 ppm</li> </ul>	06	40.1	Adjust application rates		
• 111-165 lbs/acre	07	39.6			
	23	32.3			
	24	38.8			
Testing and the second			Variation and the		
	01 B	62.3	Adjust application timing.	None at this time	Emergency applications in 2019 are the main
	02 EB	67.5	3' fall soil sampling.		reason for the higher residual nitrate levels
<ul> <li>None than 45 ppm.</li> </ul>	02 NWB	94.1	Reduce application rate		
<ul> <li>More than 165 fbs/acre</li> </ul>	02 SWB	48.5			
	02 WC	56.6	Get DOE approval for		
	03 B	132.7	nutrient budgets.		
	03 C	143.5	Contraction of the second s		
	05	47.7			
	08-11 B	53.4			
	21	50.4			
	22 CP	50.2			

Field Risk Level	Field	Nitrate at 2'	Required Actions	Required Actions Based Upon Trends	Comments
Low	23	14.3			
<ul> <li>Fall Soil Test Nitrate Range:</li> <li>Less than 15 ppm</li> </ul>	25	8.0			
Less than 55 lbs/acre	Old Mint	5.5			
Medium	06	28.9			
Fall Soil Test Nitrate Range:	05				
• 15-30 ppm	22 SS	24.2			
<ul> <li>55-110 lbs/acre</li> </ul>	22.55	16.6			
	24	29.0			
High	01 C	43.9			
Fall Soil Test Nitrate Range:	02 EC	41.2	The nutrient budgets will be adjusted downward		
• 31-45 ppm	02 SWB	33.5			
• 111-165 lbs/acre	05	40.8			
	01 B	50.7			
Very High	02 EB	65.1	-		
Fall Soil Test Nitrate Range:	02 NWB	50.0	-		
More than 45 ppm	02 WC	54.7			
More than 165     Ibs/acre	03 B	164.9	The following fields will		
	03 C	193.3	receive limited to no application until the values		
	04	48.2	come down. Values are down		
	08-11 B	95.5	from 2019.		
	08-11 C	126.5			
	21	66.1	1		
	22 CP	62.5	1 1		

3. Adaptive Management		, WA Fa Nitrate	all 2021	Required Actions	1
Field Risk Level	Field	at 2'	Required Actions	Based Upon Trends	Comments
Low	Field 07	11.0	None		
Fall Soil Test Nitrate Range:	Field 22 SS	5.1			
Less than 15 ppm	Field 25	5.3			
Less than 55 lbs/acre	Old Mint	12.6			
	1			1	
Medium	Field 02 EC	15.5	None		
Fall Soil Test Nitrate Range: 15-30 ppm	Field 05	25.3			
<ul> <li>15-50 ppm</li> <li>55-110 lbs/acre</li> </ul>	Field 06	16.9			
• 55-110 lbs/acre	Field 08-11 C	23.0			
	Field 23	25.3			
High	Field 01 B	41.0	No application for 2022		
	Field 01 C	36.6	Reduced application		
Fall Soil Test Nitrate Range: • 31-45 ppm	Field 02 EB	33.0	No application for 2022		
<ul> <li>111-165 lbs/acre</li> </ul>	Field 02 WC	44.8	No application for 2022		
	Field 24	43.5	Reduced application		
		-		1	
Very High	Field 02 NWB	71.7	No application for 2022		Fields in the High to Very High risk levels continue to
Fall Soil Test Nitrate Range:	Field 02 SWB	45.5	No application for 2022		decrease as in 2019 there were 17 total fields in these
<ul> <li>45 ppm</li> </ul>	Field 03 B	106.0	No application for 2022		categories and in 2020 there were 15 and now in 2021
More than 165	Field 03 C	214.7	No application for 2022		there are 13.
lbs/acre	Field 04	56.0	No application for 2022		
	Field 08-11 B	69.8	No application for 2022		
	Field 21	54.6	No application for 2022		
	Field 22 CP	52.9	No application for 2022		

	1	- protection of the local division of the lo			
Field Risk Level	Field	Nitrate at 2'	Required Actions	Required Actions based upon Trends	Comments
Low Fall Soil Test Nitrate Range	70 ac Pivot 02 Karl's	5.3	None.	No trends have been	
	Airport 02	9.1		established.	
<ul> <li>Less than 15 ppm</li> </ul>	Airport 03	4.8			
<ul> <li>Less than 55 lbs/acre</li> </ul>					
	P01	13.7			
	P02	12.6			
	P03	3.1			
	Tom 03 70 ac	5.5			
	A REAL PROPERTY AND A REAL PROPERTY A REAL PRO	1.1.1	A REAL PROPERTY AND A REAL PROPERTY.	Statute and a state	
Medium	70 ac Pivot 01 Karl's	23.6	None.	No trends have been	
Fall Soil Test Nitrate Range	70 ac Pivot 03 Karl's	22.7		established.	
<ul> <li>15-30 ppm</li> </ul>	Airport 01	25.0			
<ul> <li>55-110 lbs/acre</li> </ul>	Case	21.1	с-		
	Field 01	18.9			
	Field 02	17.7			
	Field 03 CP	25.6			
	P05	18.0			
	Tom 01	28.4			
	Tom 02	30.7			
Contraction of the second					
High	Field 04	38,9	Adjust application timing. 3' fall soil sampling. Document reasons for	No trends have been	
Fall Soil Test Nitrate Range	Little Dairy E	35.7		established.	
• 31-45 ppm	Little Dairy N	32.3			
<ul> <li>111-165 lbs/acre</li> </ul>	P04	36.9	higher residual.		
	Wade's 02	33.5			
Statistics of the state of the state	terror and a second second			Prove Prove State	
VERYNAM	60 ac	125.8	Adjust application timing. 3' fall soil sampling.	No trends have been established.	
	100 ac	62.7			
<ul> <li>Attace than 45 perce</li> </ul>	Field 03 Linear	51.3	Document reasons for		
<ul> <li>None that 255 No./Alter</li> </ul>	Field 05	66.4	higher residual.		
	Guerra	80.4	Get DOE approval for		
	Little Dairy W	62.2	nutrient budgets.		
	Orchard	65.3			
	Rick	88.3			
	Wade's 01	48.9			
	Wade's 03	181.6			
					-
TABLE 3: Adaptive Manag	ement Actions Sunnys	ide Del-	2020 Call		
	ement Actions Sunnys	ide Dairy	2020 Fall		
Sunnyside Dairy					
Field Risk Level	Field	Nitrate at 2'	Required Actions	Required Actions based upon Trends	Comments
Low	70 ac Pivot 02 Karl's	4			
Fall Soil Test Nitrate Range	Airport 01	3			
Less than 15 ppm     Less than 55 lbs/acre	Airport 03	4	1		
Contraction of the second second	A CONTRACTOR OF A	2.812	Constant of the second s	and the second second	
Medium	60 ac	24.6			
Fall Soil Test Nitrate Bange	100 ar	20.9	4 C	1	

# Annual NPDES reports from Sunnyside Dairy 2019 to 2021

Field Risk Level	Field	Nitrate at 2'	Required Actions	Required Actions based upon Trends	Comments
Low	70 ac Pivot 02 Karl's	4		upon trends	
Fall Soil Test Nitrate Range	Airport 01	3			
<ul> <li>Less than 15 ppm</li> </ul>	Airport 03	4			
<ul> <li>Less than 55 lbs/acre</li> </ul>	rangeoit au	-			
	A Part of Contractory and	10000	Construction of the local distance	Contraction of the second second	
Medium	60 ac	24.6			
Fall Soil Test Nitrate Range	100 ac	29.8			
<ul> <li>15-30 ppm</li> </ul>	Airport 02	15			
<ul> <li>55-110 lbs/acre</li> </ul>	Field 01	22	1		
	Field 02	24			
	Field 03 CP	16			
	Little Dairy N	17	1		
	Little Dairy W	26.1			
	P05	30			
	Tom 03 70 ac	15	1		
	Wade's 01	22.5	1		
	Wade's 02	22			
	Construction West	1000	10 ABEL 1500 27 CONTINUE		and the second of the second s
High	Case's	31	Nutrient budgets will be		
Fall Soil Test Nitrate Range	Field 04	37	adjusted downward		
<ul> <li>31-45 ppm</li> </ul>	Little Dairy E	34			
<ul> <li>111-165 lbs/acre</li> </ul>	P01	15			
	P02	20	1		
	P03	44			
	Rick's	35.5			
	Tom 01 N	38		A	
		1	State of the second second	Carlo Martin Martin	and all and the state of the state of the
Very High	70 ac Pivot 01 Karl's	60	Nutrient budgets will be		
Fall Soil Test Nitrate Range	70 ac Pivot 03 Karl's	52	adjusted downward.		
<ul> <li>More than 45 ppm</li> </ul>	Field 03 Linear	56	Some fields will not		
<ul> <li>More than165 lbs/acre</li> </ul>	Field 05	48	receive nutrient.		
	Guerra	53.6			
	Orchard	70			
	P04	59			
	Tom 02 W	66			
	Wade's 03	92.9	1		

TABLE 3: Adaptive Management Actions Sunnyside Dairy 2021 Fall						
Sunnyside Dairy						
Field Risk Level	Field	Nitrate at 2'	Required Actions	Required Actions based upon Trends	Comments	
Low	60 ac	7.9	None			
Fall Soil Test Nitrate Range	70 Pivot 01 Karl's	8.6	1			
<ul> <li>Less than 15 ppm</li> </ul>	100 ac	10.3	1			
<ul> <li>Less than 55 lbs/acre</li> </ul>	70 ac Pivot 01 Karl's	8.6	1			
	70 ac Pivot 02 Karl's	8.0	]			
	Field 01	9.0	]			
	Orchard	13.4	]			
	Tom 01 N	11.8	]			
	Case's	12.3	]			
	Tom 03 70 ac	5.6				
	Airport 01	3.4	]			
	Airport 03	7.5				
Medium	Wade's 02	15.4	None			
Fall Soil Test Nitrate Range	70 ac Pivot 03 Karl's	19.2				
<ul> <li>15-30 ppm</li> </ul>	Field 02	22.5				
<ul> <li>55-110 lbs/acre</li> </ul>	Field 03 CP	23.7				
	Rick's	15.7				
	Tom 02 W	19.3				
	Field 05	28.5				
	Guerra	17.6				
	Little Dairy E	16.0				
	Little Dairy N	20.1				
	Little Dairy W	24.6				
	P 01	23.3				
	P 02	28.2				
	P 03	21.9				
	P 05	21.9				
High	Field 03 Linear	38.4	Reduce application	Watch Field 03 Linear		
Fall Soil Test Nitrate Range	Field 04	31.8		and Field 04 as two		
<ul> <li>31-45 ppm</li> </ul>	Wade's 01	39.4		years in High or Very		
<ul> <li>111-165 lbs/acre</li> </ul>				High		
Manufat			Deduce conficction	Wetch DOA and We date		
Very High Fall Soil Test Nitrate Range	Wade's 03	54.8	Reduce application	Watch P04 and Wade's 03 as two years in High		
More than 45 ppm	Airport 02	49.4		or Very High		
<ul> <li>More than165 lbs/acre</li> </ul>	P 04	58.3				

Attachment 2: Email from Shawn Magee at the Yakima Health District, October 20, 2021:

# Follow-Up Info for Public Records Request Email 1 of 2

Good Afternoon Ms. Mendoza,

Below is a the response to the question you asked in a follow-up email for the records request you submitted. Also, attached are the records we have for your follow-up request.

Please note that many facilities, including exempt composters, are supposed to submit a notice of intent – many have not. Also, many facilities, including exempt composters, are supposed to submit an annual report – many have not. These records are from 2010-present.

. . . . . . .

Shawn Magee, R.S.

**Environmental Health Director** 

Yakima Health District

Office: (509) 249-6533


## Attachment 3: Soil Nitrate Reports from George DeRuyter & Son Dairy

CONSULTANTS	-		Web: egrimp	ji dom					Fert	tilit	y R	epo	rt	
George DeR	uvter	& Sons	(Y281	)							-	-		F13-06
Field: GDS	-		(		cres:	99.1			Sa	nple D	ate:	10/17/2	013	75
										ious C		2013 A		
Crop: Tritic	ale-Suc	lan		h	rigation	: whe	ei line			rent C	-		riticale Su	dan
Soil series:	Seco	n silt loar	~		Leash	Hana	rd: Lov			o. of S		30		
					Leach	naza	ra: co			-		3.0		
Topography:		y undula	~						Sampl	ng De	pin:	3.0		
Restrictive laye					surface,									
Residue Incorp	p? N	Type?	Alfalfa	a cultivat	ed, Tritic	cale-Su	idan pla	anted.						
Commenter o								T-11-1			- 11 17	al unite a	- alfalfa	
					site. At a knolls an	d ridge	<b>S</b> .							
		Whitish s	ioil color	on the		d ridge	<b>S</b> .						r alfalfa, Other	
w		Whitish s	ioil color	on the	knolls an ts (Ibs/	d ridge	<b>S</b> .	/ Solu	ible Ba			100g)		Data
w Sample Area	veeds. \	Whitish s ppm	ioil color <b>fobile f</b>	on the Nutrien	knolls an ts (Ibs/	id ridge (ac)	s. Exch.	/ Solu Mg	ible Ba	ses (I	neq/	100g)	Other VolWt	Data %AW 75%
W Sample Area Field Composite Field Composite	Depth	Whitish s ppm 7 <u>NO</u> 3	ioil color fobile f <u>NO 3</u> 65 81	on the Nutrien	knolls an ts (Ibs/ <u>SO ₄</u>	id ridge (ac) <u>B</u>	8. Exch. Ca	/ Solu Mg	ible Ba	ses (n Na	neq/. T.B.	100g) CEC	Other VolWt 1.25	Data %AW 75% 88%
W Sample Area Field Composite Field Composite	Depth	Whitish s ppm 2 <u>NO</u> 3 19 24 14	noil color <b>10bile 1</b> <u>NO 3</u> 65 81 49	Mutrien	knolls an ts (Ibs/ SO₄ 37	id ridge (ac) <u>B</u> 1.6	8. Exch. Ca	/ Solu Mg	ible Ba	ses (n Na	neq/. T.B.	100g) CEC	Other VolWt	Data %AW 75% 88%
	Depth	Whitish s <i>ppm</i> <u>NO</u> 3 19 24	ioil color fobile f <u>NO 3</u> 65 81	on the Nutrien	knolls an ts (Ibs/ <u>SO ₄</u>	id ridge (ac) <u>B</u>	8. Exch. Ca	/ Solu Mg	ible Ba	ses (n Na	neq/. T.B.	100g) CEC	Other VolWt 1.25	Data %AW 75% 88%
W Sample Area Field Composite Field Composite Field Composite	Depth 1' 2' 3'	Whitish s ppm 7 NO 3 19 24 14 Totals: dual nitra	NO 3         65         81         49         195           tes are 1         1	on the Nutrien	knolls an ts (Ibs/ SO₄ 37	d ridge (ac) <u>B</u> 1.6 1.6	Exch. , <u>Ca</u> 16.20	/ Solu <u>Mg</u> 3.90	<b><i>ible Ba</i></b> <u>K</u> 1.04	ses (n <u>Na</u> 0.30	meq/. <u>T.B.</u> 21.44	100g) <u>CEC</u> 19.2	Other VolWt 1.25 1.25 1.25	Data %AW 75% 88% 81%
W Sample Area Field Composite Field Composite Field Composite	Depth 1' 2' 3' The resid ossibly	Whitish s ppm 7 NO 3 19 24 14 Totals: dual nitra margina	toil color <b>10bile 1</b> <b>10bile 1</b> <b>10bil</b>	Nutrien Nutrien <u>NH 1</u> 7 7 moderat m is favo	ts (Ibs/ <u>SO₄</u> 37 e. Amm prably low	ad ridge (ac) ( <u>B</u> 1.6 1.6 1.6 (onium wer.	Exch. , <u>Ca</u> 16.20	/ Solu <u>Mg</u> 3.90	<b><i>ible Ba</i></b> <u>K</u> 1.04	ses (n <u>Na</u> 0.30	meq/. <u>T.B.</u> 21.44	100g) <u>CEC</u> 19.2	Other VolWt 1.25 1.25 1.25	Data %AW 75% 88% 81%
W Sample Area Field Composite Field Composite Field Composite	Depth 1' 2' 3' The resid ossibly	Whitish s ppm <u>NO</u> 3 19 24 14 Totals: dual nitra margina Immob	toil color <b>10bile 1</b> <b>10bile 1</b> <b>10bil</b>	Nutrien Nutrien <u>NH 4</u> 7 7 moderat m is fav	ts (Ibs/ <u>SO₄</u> 37 e. Amm prably low	d ridge (ac) (B) (1.6) (	ss. Exch. , <u>Ca</u> 16.20 is in ec	/ Solu Mg 3.90 quilibriu Data	<b><i>ible Ba</i></b> <u>K</u> 1.04	ses (n <u>Na</u> 0.30	<b><i>T.B.</i></b> 21.44	100g) <u>CEC</u> 19.2	Other VolWt 1.25 1.25 1.25 ie boron	Data %AW 75% 88% 81%

			AGRIMETRI
	Yakima, WA 98901	Fea: (509) 588-1672	
CONSULTANTS	Web: apr	ingt.com	

AGRIMETRIC SERVICES - MEASURING CROP NEEDS FOR GREATER PROFITS

# Fertility Report

George DeRu	uyter & Sons (Y281)					F13-0560
Field: GDS-	SU-04	Acres:	135.6	Sample Date:	10/14	/2013 7572
Crop: Tritica	ale-Silage Corn	Irrigation:	Center pivot	Previous Crop:	2013	Triticale-Silage com
	-		-	Current Crop:	2014	Triticale-Silage com
Soil series:	Warden silt loam	Leach I	Hazard: Low	No. of Sites:	30	
Topography:	Gently divided sloping			Avg Sampling Depth:	3.0	

Restrictive layer? Y Where? Some rocks, mainly in the NW corner.

Residue Incorp? N Type? Scattered cultivation strips.

Comments: Sampled a three foot field composite. Light weed cover. Corn stalk size was normal. Soil surface was dry.

		ppm	Mobile N	lutrient	ts (Ibs,	/ac)	Exch. /	Solub	le Ba	ses (I	meq/1	(00g)	Other	Data
Sample Area	Depth	NO ;	NO 3	NH 4	SO 4	B	Ca	Mg	K	Na	T.B.	CEC	VolWt	%AW
Field Composite	1'	184	624	7	925	10.8	17.10	4.80	6.79	1.27	29.96	16.0	1.25	90%
Field Composite	2	166	564										1.25	85%
Field Composite	3'	173	587										1.25	100%
		Totals:	1774	7	925	10.8								

Comments: The residual nitrates are excessive. Ammonium is in equilibrium. Sulfur and boron are very high. Sodium is slightly to moderately elevated.

		Imr	nobile	Nutr	ients	(ppi	m)	Chemica	l Data	1	
Sample Area	Depth	P	<sup>Yaca)</sup> K	Zn	Mn	Fe	Си	О.М.	pН	EC mmhos/cm	Eff/Calc.
Field Composite	1	398	2650	13.5	2.9	31	2.8	3.3%	7.8	2.34	Yes
								high. Mn is le and salts		hile Iron and Coppe ph.	er are adequ

Totalis: GDS-SU-07Acres: 76.6Sample Date: 10/9/2013Field: GDS-SU-07Acres:76.6Sample Date:10/9/2013Crop: AlfalfaIrrigation: Center pivotPrevious Crop:2013 AlfalfaGoil series:Warden silt loamLeach Hazard: LowNo. of Sites:30Fopography:Gently undulating.Avg Sampling Depth:2.6Residue Incorp?NType?Comments:Sampled a three foot field composite. Harvested recently. Alfalfa at 2-3" tall with a 50% canopy overall.Sample AreaDepthNO3NH4SO4BSample AreaDepthNO3NH4SO4BCaMgKNaT.B.CECVolWt%AWSeld Composite2742521.2574%Totals:61352865.119.904.001.94NaT.B.CECVolWt%AWTotals:61352865.119.904.001.94NaT.B.CECVolWt%AWTotals:61352865.119.904.001.94NaT.B.CECVolWt%AWTotals:61352865.119.904.001.94NaT.B.CECVolWt%AWTotals:61352865.119.904.001.94NaT.B.CECVolWt%AWTotals:61352865.1		-		Web: agrimç				- 1	Fert	ilit	y R	epo	ort	
Field: GDS-SU-07Acres:76.6Sample Date: $10/9/2013$ Crop: AlfalfaIrrigation: Center pivotPrevious Crop: $2013$ AlfalfaColl series:Warden silt loamLeach Hazard: LowNo. of Sites: $30$ Fopography:Gently undulating.Acres: $Acres:76.6Sample Date:10/9/2013Composite Incorp?YWhere? Rocks in scattered sites.Acres:avg Sampling Depth:2.6Residue Incorp?NType?Type?Exch. / Soluble Bases (meq/100g)Other DataComments:Sample AreaDepthNO_3NH_4SO_4BCaMgKNaT.B.CECVolWt%AWSelid Composite2742521.2578\%1.2578\%Totals:61352865.119.904.001.940.7228.66CECVolWt%AW$	George DeR	Ruyter &	& Sons	(Y281	)									F13-054
Current Crop: 2014 AlfalfaCurrent Crop: 2014 AlfalfaCurrent Crop: 2014 AlfalfaCurrent Crop: 2014 AlfalfaCourrent Crop: 2014 AlfalfaAvg Sampling Depth: 2.6Restrictive layer? Y Where? Rocks in scattered sites.Comments: Sampled a three foot field composite. Harvested recently. Alfalfa at 2-3" tall with a 50% canopy overall.PopmMobile Nutrients (Ibs/ac)Exch. / Soluble Bases (meq/100g)Other DataNo 3NO 3NH 4SO 4BCaMgKNaT.B.CEC VolWt%AWNeid Composite2'742521.2582%1.2582%Neid Composite3'762571.2574%1.2574%	Field: GDS	S-SU-07			A	cres:	76.6		San	nple D	ate:	10/9/20	013	757
Current Crop: 2014 AlfalfaKoll series:Warden silt loamLeach Hazard: LowNo. of Sites:30Topography:Gently undulating.Avg Sampling Depth:2.6Restrictive layer?YWhere? Rocks in scattered sites.Residue Incorp?NType?Comments:Sampled a three foot field composite.Harvested recently.Alfalfa at 2-3" tall with a 50% canopy overall.Sample AreaDepthNO 3NH 4SO 4BCaMgKNaT.B.CEC VolWt%AWNeid Composite2'742521.2582%1.2578%Neid Composite3'762571.2578%1.2574%	Cron: Alfal	fa			T	rigation	Center pivo	at	Previ	ous C	rop:	2013 /	Vifalfa	
For states of statesFor prography: Gently undulating.Avg Sampling Depth: 2.6Restrictive layer?YWhere? Rocks in scattered sites.Residue Incorp?NType?Comments:Sampled a three foot field composite. Harvested recently. Alfalfa at 2-3" tall with a 50% canopy overall.Sample AreaDepthNO3NH4SO4BNo3NO3NH4SO4BCaMgKNaT.B.CEC VolWt%AWSample AreaDepthNO3NH4SO4BCaMgKNaT.B.CEC VolWt%AWSample AreaDepthNO3NH4SO4BCaMgKNaT.B.CEC VolWt%AWSample AreaDepth10452865.119.904.001.940.7226.5616.11.2582%Sample Composite2'742521.252865.11.2574%Seld Composite3'762571.2574%1.2574%	crop. raid								Cur	rent C	rop:	2014	Vifalfa	
Fopography:Gently undulating.Avg Sampling Depth:2.6Restrictive layer?YWhere? Rocks in scattered sites.Avg Sampling Depth:2.6Residue Incorp?NType?Type?Comments:Sample AreaDepthNO3NH4SO4BNopolite $1^{11}$ $31$ $104$ $5$ $286$ $5.1$ New Composite $2^{12}$ $74$ $252$ $252$ $1.25$ $82\%$ New Composite $2^{12}$ $74$ $252$ $1.25$ $82\%$ New Composite $3^{12}$ $76$ $257$ $1.25$ $74\%$ Totals: $613$ $5$ $286$ $5.1$ $19.90$ $4.00$ $1.94$ $0.72$ $26.56$ $16.1$ $1.25$ $82\%$ New Composite $3^{12}$ $76$ $257$ $1.25$ $74\%$ $1.25$ $74\%$	Soil series:	Ward	en silt lo	am		Leach	Hazard: Lo	w	N	o. of S	ites:	30		
Restrictive layer? Y Where? Rocks in scattered sites. Residue Incorp? N Type? Comments: Sampled a three foot field composite. Harvested recently. Alfalfa at 2-3" tall with a 50% canopy overall. Sample Area NO <sub>3</sub> NO <sub>3</sub> NO <sub>3</sub> NH <sub>4</sub> SO <sub>4</sub> B Second State of the second sites of the second sites. Sample Area Sample Area Sampl		Gently	/ undula	tina.		measure a				-		2.6		
Residue Incorp?NType?Comments:Sampled a three foot field composite.Harvested recently. Alfalfa at 2-3" tall with a 50% canopy overall.Sample Area leid CompositeDepth 1"NO 3 104NH 4 5SO 4 286B 5.1Exch. / Soluble Bases (meq/100g)Other DataSample Area leid CompositeDepth 1"NO 3 104NH 4 5SO 4 286B 5.1Ca 19.90Mg 4.00K 1.94Na 0.72T.B. 26.66CEC 16.1VolWt 1.25%AW 78%Sample Area leid Composite2"74 25225226.6616.11.2582%3"76 Totals:257 6135 2865.15.11.2574%			·	-	in ecot	torod citos			and the		P			
Comments: Sampled a three foot field composite. Harvested recently. Alfaifa at 2-3" tall with a 50% canopy overall.Sample AreaMobile Nutrients (lbs/ac)Exch. / Soluble Bases (meq/100g)Other DataSample AreaDepthNO 3NH 4SO 4BCaMgKNaCECVolWt%AWTotals:1°3110452865.119.904.001.940.7226.5616.11.2582%Totals:61352865.119.904.001.940.7226.5616.11.2582%1.2574%					, in soar									
Sample Area         Depth         NO <sub>3</sub> NO <sub>3</sub> NH <sub>4</sub> SO <sub>4</sub> B         Ca         Mg         K         Na         T.B.         CEC         VolWt         %AW           Noile Composite         1°         31         104         5         286         5.1         19.90         4.00         1.94         0.72         26.56         16.1         1.25         78%           Noile Composite         2°         74         252         125         125         82%         1.25         74%           Noile Composite         3°         76         257         1.25         74%         1.25         74%		-9 N												
Sample Area         Depth         NO <sub>3</sub> NH <sub>4</sub> SO <sub>4</sub> B         Ca         Mg         K         Na         T.B.         CEC         VolWt         %AW           ield Composite         1'         31         104         5         286         5.1         19.90         4.00         1.94         0.72         26.56         16.1         1.25         78%           ield Composite         2'         74         252         1.25         82%         1.25         82%           ield Composite         3'         76         257         1.25         74%         1.25         74%           Totals:         613         5         286         5.1         1.25         74%														
NO3         NO3         NH4         SO4         B         Ca         Mg         K         Na         T.B.         CEC         VolWt         %AW           leid Composite         1°         31         104         5         286         5.1         19.90         4.00         1.94         0.72         26.56         16.1         1.25         78%           leid Composite         2°         74         252         1         19.90         4.00         1.94         0.72         26.56         16.1         1.25         82%           leid Composite         3°         76         257         1.25         74%         1.25         74%					l compo	site. Harv	vested recen	tly. Alfa	lfa at 2	2-3" ta	ll with	a 50%	canopy	overall.
ield Composite 2' 74 252 1.25 82% ield Composite 3' 76 257 1.25 74% Totals: 613 5 286 5.1			a three	foot field				-						
ield Composite 3' 76 257 1.25 74% Totals: 613 5 286 5.1	Comments: §	Sampled	a three	foot field Mobile N	lutrien	ts (lbs/a	c) Exch.	/ Solut	ole Ba	ses (I	neq/	100g)	Other	Data
Totals: 613 5 286 5.1	Comments: S	Sampled	a three	foot field Mobile N NO 3	NH 4	ts (lbs/a SO₄	c) Exch. B Ca	/ Solut	ole Ba	ses (I Na	neq/: T.B.	100g) <u>CEC</u>	Other VolWt	Data %AW
-	Comments: S Sample Area Field Composite Field Composite	Sampled	a three ppm 7 NO 3 31 74	foot field Mobile N NO 3 104 252	NH 4	ts (lbs/a SO₄	c) Exch. B Ca	/ Solut	ole Ba	ses (I Na	neq/: T.B.	100g) <u>CEC</u>	Other VolWt 1.25	Data %AW 78% 82%
Comments: Residual nitrates are high. Ammonium is in equilibrium. Sulfur and boron are also high. Sodium is only	Comments: S Sample Area Field Composite Field Composite	Sampled	a three ppm <u>NO</u> 3 31 74 76	foot field Mobile M NO 3 104 252 257	iutrien <u>NH 4</u> 5	ts (lbs/a <u>SO 4</u> 286	$\frac{B}{5.1} \frac{Ca}{19.90}$	/ Solut	ole Ba	ses (I Na	neq/: T.B.	100g) <u>CEC</u>	Other VolWt 1.25	Data %AW 78% 82%
		Sampled	a three ppm 2 <u>NO</u> 3 31	foot field Mobile M <u>NO 3</u> 104	NH 4	ts (lbs/a SO₄	c) Exch. B Ca	/ Solut	ole Ba	ses (I Na	neq/: T.B.	100g) <u>CEC</u>	Other VolWt	<b>D</b> a %
	Comments: S Sample Area Field Composite Field Composite Field Composite Comments: F	Sampled <u>Depth</u> 1' 2' 3'	a three ppm <u>NO</u> 31 74 76 Totals: nitrates	foot field <b>NO 3</b> 104 252 257 613	NH 4 5	ts (Ibs/a SO 4 286	c) Exch. <u>B</u> Ca 5.1 19.90 5.1	/ Solut Mg 4.00	ole Ba <u>K</u> 1.94	ses (1 <u>Na</u> 0.72	<b>T.B.</b> 26.56	100g) <u>CEC</u> 16.1	Other VolWt 1.25 1.25	Data %AW 78% 82% 74%
	Comments: S Sample Area Field Composite Field Composite Field Composite Comments: F	Sampled <u>Depth</u> 1' 2' 3' Residual	a three ppm <u>NO</u> 31 74 76 Totals: nitrates	foot field <b>NO 3</b> 104 252 257 613	NH 4 5	ts (Ibs/a SO 4 286	c) Exch. <u>B</u> Ca 5.1 19.90 5.1	/ Solut Mg 4.00	ole Ba <u>K</u> 1.94	ses (1 <u>Na</u> 0.72	<b>T.B.</b> 26.56	100g) <u>CEC</u> 16.1	Other VolWt 1.25 1.25	Data %AW 78% 82% 74%
Immobile Nutrients (ppm) Chemical Data	Comments: S Sample Area Field Composite Field Composite Field Composite	Sampled <u>Depth</u> 1' 2' 3' Residual lightly el	a three ppm NO 3 31 74 76 Totals: nitrates evated.	foot field Mobile M 104 252 257 613 are high	NH 4 5	ts (Ibs/a <u>SO 4</u> 286 286 286 conium is ir	c) Exch. <u>B</u> <u>Ca</u> 5.1 19.90 5.1 n equilibrium	/ Solut <u>Mg</u> 4.00	ole Ba <u>K</u> 1.94	ses (1 <u>Na</u> 0.72	<b>T.B.</b> 26.56	100g) <u>CEC</u> 16.1	Other VolWt 1.25 1.25	Data %AW 78% 82% 74%
	Comments: S Sample Area Field Composite Field Composite Field Composite Comments: F	Sampled <u>Depth</u> 1' 2' 3' Residual lightly el	a three ppm NO 3 31 74 76 Totals: nitrates evated. Tmmob	foot field Mobile I 104 252 257 613 are high <i>ile Nutr</i>	1 Amme	ts (Ibs/a <u>SO 4</u> 286 286 286 ppm)	Exch.           B         Ca           5.1         19.90           5.1         Chemical	/ Solut <u>Mg</u> 4.00 . Sulfur Data	<i>K</i> 1.94	ses (/ <u>Na</u> 0.72	neq/2 T.B. 26.56	200g) <u>CEC</u> 16.1	Other 1.25 1.25 Sodium	Data %AW 78% 82% 74%

comments: Soil P, K, and Zn are high. Mn is low while Fe and Cu are sufficient. Organic matter is above average. Soil pH is moderately alkaline, while salts are okay.

	1		Wab: agringt	loom				ŀ	ert	ilit	y R	еро	rt	
George DeF	Ruvter &	Sons	(Y281)											F13-058
Field: GDS	-		(,		cres:	84.5			San	nple D	ate:	10/16/2	013	757
Crop: Tritic	cale-Silaç	je Corn		Ir	rigation:	Cente	er pivot		Previ	ous C rent C	rop:		riticale-Sil riticale-Sil	-
Soil series: Topography: Restrictive lay	Gently er? Y		ting ? Scatte		-	ompac	ted zor	Avg S	ampli	•	pth:	32 2.7		
Residue Incor Comments:	Sampled		foot field	compos	ate stalk ite. Post ible on th	harve	st. Soi							
	scattered	_									maali	100-11	Other	
	Scattered	_	Mobile N	utrient	s (lbs/a	c) E	xch. /	Solub	le Ba	ses (/	neq/ 1	1009/	ouner	Data
ŝ	Depth			utrient NH ₄	s (lbs/a SO 4	B B	ixch. / Ca	Solub Mg	K K	ses (1 Na	T.B.		VolWt	
Sample Area		ppm M	Nobile N		• •	L				-				%AW
Sample Area	Depth	ррт М <u>NO</u> 3	Mobile N	NH₄	SO 4	B	Ca	Mg	K	Na	<i>T.B</i> .	CEC	VolWt	%AW 65%
Sample Area Field Composite	Depth 1'	ррт М <u>NO</u> 3 47	Mobile N <u>NO 3</u> 161	NH₄	SO 4	B	Ca	Mg	K	Na	<i>T.B</i> .	CEC	VolWt 1.25	%AW 65% 75%

# Comments: Residual nitrates are high. Ammonium is in equilibrium. Sulfur and boron are high. Sodium is slightly elevated.

		Imn	nobile	Nutr	ients	(ppr	n)	Chemica	l Data	,	
Sample Area	Depth	P	<sup>(ace)</sup> K	Zn	Mn	Fe	Cu	О.М.	pН	EC mmhos/cm	Eff/Calc.
Field Composite	17	162	1320	10.1	1.6	17	2.0	2.5%	7.9	0.74	Yes

Comments: Soil P, K, and Zn are high. Mn is low, while Fe is marginal, and Cu is sufficient. Organic matter is above average. Soil pH is quite alkaline, while salts are only slightly elevated.

	_		Web: agringt	.com				F	ert	ilit	y R	epo	rt	
George DeR	avter 8	Sons	(Y281)											F13-060
Field: GDS			(		cres:	165.5			San	ıple D	ate	10/17/20	013	767
									Previ	-				
Crop: Tritic	ale-Sila	ge Corn		Ir	rigation	Cente	r pivot			ent C			ticale-Sila ticale-Sila	
Soil series:	Ward	en silt loa	m		Leach	Hazara	Low		No	. of S	ites:	30		
Topography:	Gentle	e undulat	tion, sou	th slope				Avg S	ampli	ng De	pth:	2.6		
Restrictive law	er? N	Where	? Hard p	an start	ing at ab	out 24".			-					
Residue Incor		Type?	-		ill standir									
		a three f				-	were s	a fair to	overa	ne in	size w	eak and	i strong	stalks
		ed throug												
		ppm M	Iobile N	utrient	s (lbs/a	ic) E	cch. /	Solub	le Bas	ses (I	neq/1	(00g)	Other	Data
Sample Area	Depth	NO,	NO,	NH 4	SO 4	B	Ca	Mg	K	Na	T.B.	CEC	VolWt	%AW
Field Composite		161	549	4	755	9.2	17.10	5.00	7.63	1.27	31.00	17.6	1.25	77%
Field Composite	2	161	546										1.25	79%
Field Composite	3'	139	472										1.25	74%
		Totals:	1567	4	755	9.2								
Tommontos - T		lual nitrat		iign. An	nmonium	i is in ec	uilibriu	m. su	nur an	a Bon	on are	nign. S	ioaium i	5
••••••	noderate	In the second		lents (j	opm)	Chen	ical D	ata						
	noderate		le Nutri		opm) Fe Cu	Chen O.			C mm	hos/ci	m E	ff/Calc	 •	
, n Sample Area	Depth	, Immobi	le Nutri X Zn	Mn 1		0.	М. р		C mm 1.6			ff/Calc	•	
Sample Area Field Composite Comments: T	Depth 1'	Immobi	Ve Nutri K Zn 5 13.7 Zn are v	Mn 1 2.2 1	<sup>7</sup> e <u>Cu</u> 25 <u>4.0</u> h. Mn is	0.1 3. low, wh	<u>M. p</u>	<u>H</u> <u>E</u>	1.6	3	- 7	es	_	nigh. S
Sample Area Field Composite Comments: T	Depth 1' The soil F H is alka	<b>Immobil</b> <b>P<sup>P(ext)</sup></b> 243 2976 P, K, and	Zn are salts an	Mn 1 2.2 1	<sup>7</sup> e <u>Cu</u> 25 <u>4.0</u> h. Mn is	0.1 3. low, wh	<u>M. p</u>	<u>H</u> <u>E</u>	1.6	3	- 7	es	_	high. S
Sample Area Field Composite Comments: T	Depth 1' The soil F H is alka	<b>Emmobil</b> 243 2970 P, K, and aline and	<i>Le Nutri</i> <u>Zn</u> Zn are salts are ata	Mn 1 2.2 1	Re     Cu       25     4.0       h. Mn is       rately ele	O 3. low, wh vated.	<u>M.</u> <u>p</u> 4% 7 ile Fe a	<u>H</u> <u>E</u>	1.6 are su	3 ufficier	- 7	es	_	high. S

AGRICULTURAL CONSULTANTB	To: (509) 453-4851 Fax: (509) 583-1672 gt.com		SERVICES - MEASURING CRC Fertility	P	
George DeRuyter & Sons (Y281	)			F1	3-0539
Field: GDS-SU-05	Acres:	100.6	Sample Date:	10/9/2013	7573
Crop: Triticale-Silage Corn	Irrigation:	Center pivot	Previous Crop: Current Crop:	2013 Triticale-Silage 2014 Triticale-Silage	
Soil series: Warden silt loam	Leach 1	Hazard: Low	No. of Sites:	30	
Topography: Gently to moderately	-		Avg Sampling Depth:	2.4	
	s throughout at sca stalks, partly diske i composite. Ther	d in early fall.	derate to heavy weeds	s in this field.	
ppm Mobile I	Nutrients (Ibs/a	c) Exch. / 5	Soluble Bases (meq,	(100g) Other Da	ta
Sample Area Depth NO 3 NO 3	NH, SO,	B Ca	Mg K Na T.B	. CEC VolWt %.	4W
Field Composite 1' 263 894	4 972 1	2.3 17.10	5.10 7.62 1.45 31.2	7 17.4 1.25	74%
Field Composite 2' 254 864				1.25	72%

Comments: Residual nitrates are excessive. Ammonium is in equilibrium. Sulfur and boron are very high. Sodium is moderately elevated.

12.3

		Imn	nobile	Nutr	ients	(ppr	n)	Chemic	al Data	1		
Sample Area	Depth	P	(ano) <u>K</u>	Zn	Mn	Fe	Cu	О.М.	pН	EC mmhos/cm	Eff/Calc.	
Field Composite	1'	529	2970	12.8	2.1	17.1	2.6	1.6%	7.7	3.56	Yes	
	Soil P, K Ilkaline,						ngane	ese is low,	while Ir	on and Copper are	adequate.	Soil pH

Field Composite

263

Totals:

3'

894

4

972

2652

Fertility and chemical data used here to formulate a recommendation was processed and reported by Soil Test, Inc., and Agrimanagement, Inc. soil lab for deep profile nitrates.

1.25

81%

AGRICULTURAL CONSULTANTS	ADB N. 1st St. Yakima, WA 88601 Web: egringer	Tel: (500) 453-4851 Fax: (500) 588-1672	- I against an	Fertility F		
Field: GDS	uyter & Sons (Y281) -SU-09 ale-Silage Corn	Acres: Irrigation:	34.6 Center Pivot	Sample Date: Previous Crop: Current Crop:	10/14/2013 2013 Alfalfa 2014 Triticale-Sila	F13-0561 7577 age Com
Soil series: Topography:	Warden silt loam Split by swale, gently ur	ndulating	Hazard: Low	No. of Sites: Avg Sampling Depth:	30 2.9	

Restrictive layer? Y Where? Some rocks and hard pan.

Residue Incorp? N Type? Light to moderate crowns.

Comments: Sampled a three foot field composite. The average sampling depth was at 34". At the time of sampling the alfalfa was at 1-3" tall. The soil surface was dry. Weeds were minimal, some dandelion. The soil was very compacted. Water in the swale with grassy vegetation.

		ppm	Mobile N	lutrient	ts (Ibs/	/ac)	Exch. /	Solub	le Ba	ses (I	meq/1	00g)	Other	Data
Sample Area	Depth	NO;	NO 3	NH 4	<i>S0</i> ₄	B	Ca	Mg	K	Na	T.B.	CEC	VolWt	%AW
Field Composite	1'	25	84	3	160	4.3	19.40	4.00	2.05	0.61	26.06	14.5	1.25	70%
Field Composite	2'	28	96										1.25	40%
Field Composite	3'	27	92										1.25	50%
		Totals:	272	3	160	4.3								

Comments: Residual nitrates are moderate to high. Ammonium is at equilibrium. Sulfur and boron are plenty high. Sodium is only slightly elevated.

		Imm	obile	Nutr	ients	(ppr	n)	Chemica	l Data	1	
Sample Area Field Composite	Depth 1	P //	<sup>wej</sup> <u>K</u> 800	Zn 8.5	<u>Mn</u> 2.5	<u>Fe</u> 26	Cu 2.0	0.M. 2.4%	<u>pH</u> 7.5	EC mmhos/cm	Eff/Calc. Yes
										nd Cu are adequate. slightly elevated.	Organic matte

AGRICULTURAL CONSULTANTS		ENT® NC (89) 453-4851 (89) 588-1672	AGRIMETRIC	SERVICES - MEASURING CRO	E.	
George DeRu Field: GDS-S Crop: Alfalfa		1101001	38.5 Center pivot	Sample Date: Previous Crop:	10/15/2013 2013 Triticale-S	F13-0568 7578 Silage com
		-		Current Crop:	2014 Alfalfa	
Soil series:	Warden silt loam	Leach E	Tazard: Low	No. of Sites:	25	
Topography:	Gently undulating			Avg Sampling Depth:	3.0	
Restrictive layer Residue Incorp?		compacted zo derate residu		caliche in areas.		

Comments: Sampled a three foot field composite. Post harvest. Very light scattered salts on the surface. Light to moderate weeds. Generally good stalk diameter.

		ppm	Mobile N	lutrien	ts (lbs/	(ac)	Exch. /	Solut	ole Ba	ses (I	meq/1	(00g)	Other	Data
Sample Area	Depth	NO,	NO <sub>3</sub>	NH 4	SO 4	B	Ca	Mg	K	Na	T.B.	CEC	VolWt	%AW
Field Composite	1'	49	167	2	153	2.2	19.80	3.00	1.85	0.69	25.34		1.25	75%
Field Composite	2	38	128										1.25	74%
Field Composite	3'	22	74										1.25	72%
		Totals:	369	2	153	2.2								

Comments: The residual nitrates are high. Ammonium is in equilibrium. Sulfur is plenty high, and boron is sufficient. Sodium is slightly elevated.

		Imm	obile	Nutr	ients	(ppi	m)	Chemica	l Data	2	
Sample Area	Depth	P <sup>P</sup>	723	<u>Zn</u>	<u>Mn</u>	<u>Fe</u>	<u>Си</u>	0.M.	<u>pH</u>	EC mmhos/cm	Eff/Calc.
Field Composite	1	53		4.0	1.2	11	1.1	2.2%	7.8	0.56	Yes

Comments: The soil P, K, and Zn are plenty high. Mn and Fe are low, while Cu is sufficient. Organic matter is above average. Soil pH is moderately alkaline, while salts are favorably lower.

CONSULTANTS		Web: agrim					ŀ	Fert	ilit	y R	ep	ort	
George DeRuyte	er & Sor	s (Y281	)										F13-05
Field: GDS-SU-	11			cres:	8.1			San	ple D	ate:	10/16	/2013	75
Crop: Alfalfa			1	rrigation	: Wheel	l line		Previ	ous Ci ent Ci	rop:		Triticale-S Alfalfa	udan gra
Soil series: Wa	arden silt	loam		Leach	h Hazard	: Low		No	. of Si	ites:	18		
Topography:							Ave S	ampli	-		2.7		
Restrictive laver?	Y Whe	re? Scatt	ered are	as of mo	deratelv		-	-			in the 3	20-36" ra	nge.
test tente tuyert		ier ooan			- and a start of y			,	1.00100				
Peridue Incore 9	N Tune	2 Light	Sudan r	esidue									
	N Type		Sudan r										
	led a thre	? Light e foot field			st harves	t. Alfa	lfa pla	nted. S	Scatter	red ar	eas of	f light sai	ts on th
Comments: Samp	led a thre		d compo	site. Po		t. Alfa							
Comments: Samp surfac	led a thre e. <i>ppm</i>	e foot field	i compo Nutrien	site. Pos ts (Ibs/							100g)		Data
Comments: Sample Sample Area Dep	led a thre e. <i>ppm</i>	e foot field Mobile I	d compo	site. Pos ts (Ibs/	ac) Ex	cch. /	Solub	le Ba	ses (n	neq/	100g)	) Other	Data %AW
Comments: Sampl surfac	ed a thre e. ppm th <u>NO</u>	e foot field Mobile I	i compo Nutrien	site. Pos ts (Ibs/ <u>SO 4</u>	ac) Ex	cch. /	Solub Mg	le Ba:	ses (n <u>Na</u>	neq/	100g)	) Other C VolWt	Data %AW 70%
Comments: Sampl surfac	ed a three e. <i>ppm</i> <i>ppm</i> <i>ppm</i> <i>ppm</i> <i>ppm</i> <i>ppm</i> <i>ppm</i> <i>ppm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i>spm</i> <i></i>	Mobile I NO 3 132 129 104	Utrien	site. Por ts (Ibs/ SO 4 116	(ac) E) <u>B</u> 3.6	cch. /	Solub Mg	le Ba:	ses (n <u>Na</u>	neq/	100g)	) Other C VolWt	Data %AW 5 70% 5 75%
Comments: Sampl surfac	ed a thre e. <i>ppm</i> <u>th</u> <u>NO</u> 1' 39 2' 38	Mobile I NO 3 132 129 104	i compo Nutrien	site. Pos ts (Ibs/ <u>SO 4</u>	ac) Ex	cch. /	Solub Mg	le Ba:	ses (n <u>Na</u>	neq/	100g)	) Other C VolWt 1.20	Data %AW 5 70% 5 75%
Sample Area Field Composite Field Composite Field Composite Comments: Residu	led a three. <i>ppm</i> <i>dh</i> 1' 39 2' 38 3' <u>31</u> Totals	foot field     Mobile 1     132     129     104     365     s are high	Vutrien	site. Por <i>ts (Ibs/</i> <u> <i>SO</i></u> 116 116	<b>B</b> 3.6	cch. / Ca 17.80	Solub <u>Mg</u> 4.00	ole Ba: <u>K</u> 2.32	ses (n <u>Na</u> 0.54	<b>T.B.</b> 24.66	100g) CE(	) Other C VolWt 1.20 1.20 1.20	Data %AW 5 70% 5 80%
Comments: Sample surface Sample Area Field Composite Field Composite Field Composite Comments: Residu	ed a three. ppm <u>ppm</u> <u>ppm</u> <u>ppm</u> <u>ppm</u> <u>ppm</u> <u>ppm</u> <u>ppm</u> <u>39</u> 2' 38 3' <u>31</u> Totals ual nitrate y elevated	foot field     Mobile 1     132     129     104     365     s are high	d compo Nutrien <u>NH 4</u> 9 8 a. Amm	site. Por <i>ts (Ibs/</i> <i>SO 4</i> 116 116 onium is	(ac) (E) (B) (3.6) (a) (b) (c) (c) (c) (c) (c) (c) (c) (c	cch. / Ca 17.80	Solub <u>Mg</u> 4.00 Sulfur	ole Ba: <u>K</u> 2.32	ses (n <u>Na</u> 0.54	<b>T.B.</b> 24.66	100g) CE(	) Other C VolWt 1.20 1.20 1.20	Data %AW 5 70% 5 80%
Comments: Sample surface Sample Area Field Composite Field Composite Field Composite Comments: Residu	led a thre e. <i>ppm</i> <i>th</i> <u>NO</u> 1' 39 2' 38 3' <u>31</u> Totals ual nitrated y elevated	Mobile I Mobile I 132 129 104 365 s are high	Vutrien <u>NH 4</u> 9 8 9. Amm	site. Por <i>ts (Ibs/</i> <i>SO 4</i> 116 116 onium is	(ac) (E) (B) (3.6) (a) (b) (c) (c) (c) (c) (c) (c) (c) (c	cch. / <u>Ca</u> 17.80 prium.	Solub <u>Mg</u> 4.00 Sulfur	ole Ba: <u>K</u> 2.32	ses (n <u>Na</u> 0.54	neq/ <u>T.B.</u> 24.66	100g) CE(	) Other C VolWt 1.20	Data %AW 5 70% 5 80%

CONSULTANTS	1		Web: agrim	gt.com				F	ert	ilit	y R	еро	rt	
George DeR	luyter 8	Sons	(Y281	)										F13-052
Field: GDS	-SU-12			A	cres:	40.5			San	nple D	ate:	10/7/20	13	758
Crop: Tritic		ge Corn		1	rrigation	ı: Rill				ous C rent C			riticale-Sil riticale-Sil	-
oil series:	Warde	en silt lo	am		Leach	Hazar	d: Low		Ne	o. of S	ites:	25		
Copography:	Very o	entle to	gentie \$	S-SW sl	ope			Avg S		-		2.8		
Restrictive lav			-		oil and ro	ocks in :	scattere							
connente my		<i><i><i>п</i> п с г</i></i>												
Comments: S		a three	foot field	stalks. 1 compo						y. So	me sm	all wee	d patche	<b>85</b> .
Comments: S	ampled Nosely p	a three lanted in ppm	foot field the We Hobile I	stalks. i compo st Half. Nutrien	site. Sta ts (Ibs/a	ilk diam (ac)	eter is ( Exch. /	general Solub	ily oka Die Ba	ses (I	meq/	100g)	Other	Data
Comments: 5	Sampled Closely p	a three lanted ir ppm <u>NO</u> 3	foot field the We fobile I NO 3	stalks. d compo est Half. Nutrien	site. Sta ts (Ibs/a <u>SO 4</u>	ilk diam (ac) B	eter is g Exch. /	solub	liy oka ole Ba	ses (I Na	meq/2 <u>T.B.</u>	100g) CEC	Other VolWt	Data %AW
Comments: S	Sampled Closely p	a three lanted in ppm <u>NO</u> 3 168	foot field the We Mobile I <u>NO 3</u> 570	stalks. i compo st Half. Nutrien	site. Sta ts (Ibs/a	ilk diam (ac)	eter is ( Exch. /	general Solub	ily oka Die Ba	ses (I	meq/	100g)	Other VolWt	Data %AW 80%
Comments: S Comments: S Comple Area Field Composite Field Composite	Sampled Closely p	a three lanted ir ppm <u>NO</u> 3 168 125	foot field the We fobile f NO 3 570 426	stalks. d compo est Half. Nutrien	site. Sta ts (Ibs/a <u>SO 4</u>	ilk diam (ac) B	eter is g Exch. /	solub	liy oka ole Ba	ses (I Na	meq/2 <u>T.B.</u>	100g) CEC	Other VolWt 1.25	Data %AW 80% 88%
Comments: S Comments: S Comple Area Field Composite Field Composite	Sampled Closely p	a three lanted in ppm <u>NO</u> 3 168	foot field the We Mobile I <u>NO 3</u> 570	stalks. d compo est Half. Nutrien	site. Sta ts (Ibs/a <u>SO 4</u>	ilk diam (ac) B	eter is g Exch. /	solub	liy oka ole Ba	ses (I Na	meq/2 <u>T.B.</u>	100g) CEC	Other VolWt	Data %AW 80% 88%
Sample Area Field Composite Field Composite Field Composite Comments: T	Closely p <u>Depth</u> 1' 2' 3' The resid Sodium is	a three lanted in ppm <u>NO</u> 168 125 95 Totals: ual nitra s only sl	foot field the We <b>Mobile I</b> <u>NO 3</u> 570 425 322 1318 ttes are ightly ele	stalks. d composit Half. Nutrien <u>NH 4</u> 9 8 high. Alevated.	site. Sta ts (Ibs/ SO 4 670 670 mmonium	ac) ( <u>B</u> <u>3.0</u> 3.0 n is in e	eter is ( Exch. / <u>Ca</u> 21.30	solub <u>Mg</u> 4.20	lly oka ole Ba <u>K</u> 1.73	ses (1 <u>Na</u> 0.59	meq/2 <u>T.B.</u> 27.82	100g) <u>CEC</u> 16.1	Other VolWt 1.25 1.25 1.25	Data %AW 80% 88% 95%
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Comments: Given the scattered soil compaction, it is recommended that you could do some ripping. Ripping is best done when the soil profile is slightly moist (as post harvest in the fall).

#### Attachment 4:

#### WSDA Public Records Request January 2022

Completed

WA Department of Agriculture Public Records Request about a month ago R002625-110621 I write to request access to, and copies of all best management practices for dairies that have been officially approved by the WA State Dept. of Ecology and the WA State Dept. of Agriculture, from Jan. 1, 1990, to the present. I request copies of any best management practices that approve composting animal waste in the pens and corrals where dairy cows live. Best management practices are defined in WAC 173-201A-020 as "physical, structural, and/or managerial practices approved by the department that, when used singularly or in combination, prevent or reduce pollutant discharges." Status : No Records Exist

1 Mrs. Jean Mendoza

Dear Mrs. Jean Mendoza.

The Washington State Department of Agriculture received a public records request from you on November 06, 2021. Your request mentioned:

#### "Dear Public Records Officer:

Pursuant to the WA State Public Records Act RCW §§ 42.56.001 to 42.56.904. I write to request access to, and copies of all best management practices for dairies that have been officially approved by the WA State Dept. of Ecology and the WA State Dept. of Agriculture, from Jan. 1, 1990, to the present. I request copies of any best management practices that approve composting animal waste in the pens and corrals where dairy cows live. Best management practices are defined in WAC 173-201A-020 as "physical, structural, and/or managerial practices approved by the department that, when used singularly or in combination, prevent or reduce pollutant discharges."

If your agency does not maintain these public records, please let me know who does and include the proper custodian's name and address. If WSDA contends that any responsive material is exempt from disclosure, please provide a redaction log containing a description of each redaction or document withheld, the statutory basis for each redaction or withholding, and an explanation sufficient for us to ascertain the applicability of each claimed exemption (e.g. a summary of the document's contents, the date of its creation, the parties who participated in drafting it, the parties to whom it was disseminated, etc.). RCW § 42.56.210(3): WAC 44-14-04004(4)(b)(ii): PAWS v. Univ. of Wash., 125 Wn.2d 243, 270-71 (1994).

If the cost would be greater than \$50.00, please notify me. Please provide a receipt indicating the charges for each document.

As provided by the open records law, I will expect your response within five (5) business days of the date of this request. RCW § 42.56.520.

Thank you for your assistance."

We have searched the department's records and found no records which respond to your request.

This completes my response. I have closed this request.

If you have any questions, please feel free to contact me at 360-902-1935.

Sincerely,

Pamela Potwin Public Records Officer 360-902-1935

#### WA Ecology Public Records Request January 2022

#### P008198-110621

Dear Public Records Officer: Pursuant to the WA State Public Records Act RCW §§ 42.56.001 to 42.56.904, I write to request access to, and copies of all best management practices for dairies that have been officially approved by the WA State Dept. of Ecology and the WA State Dept. of Agriculture, from Jan. 1, 1990, to the present. I request copies of any best management practices that approve composting animal waste in the pens and corrals where dairy cows live. Best management practices are defined in WAC 173-201A-020 as "physical, structural, and/or managerial practices approved by the department that, when used

singularly or in combination, prevent or reduce pollutant discharges." If your agency does not maintain these public records, please let me know who does and include the proper custodian's name and address. If Ecology contends that any responsive material is exempt from disclosure, please provide a redaction log containing a description of each redaction or document withheld, the statutory basis for each redaction or withholding, and an explanation sufficient for us to ascertain the applicability of each claimed exemption (e.g. a summary of the document's contents, the date of its creation, the parties who participated in drafting it, the parties to whom it was disseminated, etc.). RCW § 42.56.210(3); WAC 44-14-04004(4)(b)(ii); PAWS v. Univ. of Wash., 125 Wn.2d 243, 270-71 (1994). If the cost would be greater than \$50.00, please notify me. Please provide a receipt indicating the charges for each document. As provided by the open records law, I will expect your response within five (5) business days of the date of this request. RCW § 42.56.520. Thank you for your assistance.

Status : No Responsive Records

#### May 2, 2022

Subject: Comments on Proposed Animal Waste Rule, WAC 246-203-130

Dear Washington Board of Health,

The proposed domestic animal waste rule is unnecessary and redundant. Additionally, as written, it has the potential to impact operations that are not creating a nuisance or public health hazard and expose them to complaints and enforcement by people unfamiliar with agriculture operations and best management practices.

Washington State already has the authority to investigate and remediate water pollution through WAC 90.48. Under this WAC Department of Ecology has "...the jurisdiction to control and prevent the pollution of streams, lakes, rivers, ponds, inland waters, salt waters, water courses, and other surface and underground waters of the state of Washington." Under WAC 173-201A, Department of Ecology has the authority to set water quality standards and take actions to prevent degradation.

RCW 90.72 Shellfish Protection Districts gives counties the authority to create shellfish protection districts and programs to address water pollution where water pollution threatens the water quality of shellfish growing areas. RCW 90.72 states, "This program shall include any elements deemed appropriate to deal with the nonpoint pollution threatening water quality over shellfish tidelands, including, but not limited to, requiring the elimination or decrease of contaminants in stormwater runoff, establishing monitoring, inspection, and repair elements to ensure that on-site sewage systems are adequately maintained and working properly, assuring that animal grazing and manure management practices are consistent with best management practices (*emphasis added*), and establishing educational and public involvement programs to inform citizens on the causes of the threatening nonpoint pollution and what they can do to decrease the amount of such pollution."

Under RCW 70.05 individual counties already have the authority to adopt rules to address public health issues within their jurisdictions. The health officer has the power to, among others, take action to maintain health and sanitation supervision over the territory within his or her jurisdiction and prevent, control or abate nuisances which are detrimental to the public health which is the stated purpose of the proposed rule.

Finally, USDA Natural Resources Conservation Service has established best management practices (BMPs) for all aspects of agriculture, including livestock keeping and manure management. They and the local Conservation Districts across the state have education and financial programs to help land owners and livestock owners implement best management practices. The proposed rule as written does not mention or consider BMP's and has the potential to impact operations that are not creating a nuisance or public health hazard and those that are already using BMP's advocated by the expert agricultural agencies.

I urge you to postpone the draft proposal from the June hearing, and form a work group/task force of stakeholders and agriculture experts to consider the issue and concerns.

Thank you.

Susan Davis Thurston County Resident and Livestock Owner



Mr. Stuart Glasoe Washington State Board of Health 111 Israel Rd. SE Tumwater, WA 98501 Via email to: <u>stuart.glasoe@sboh.wa.gov</u> Also submitted to: <u>WSBOHProposedAnimalWasteRule@sboh.wa.gov</u>

May 2, 2022

### Re: 2022 Draft Rule Revisions, WAC 246-203-130 Keeping of Animals

Dear Mr. Glasoe:

Puget Soundkeeper Alliance (Soundkeeper) is a 501(c)(3) non-profit environmental organization, with a mission to protect and enhance the waters of Puget Sound for the health and restoration of our aquatic ecosystems and the communities that depend on them. Founded in 1984, Soundkeeper was a founding member of the international Waterkeeper Alliance and today has more than 8,000 members, supporters and volunteers who use and enjoy Puget Sound's marine waters and freshwater tributaries, for commercial, general recreational and aesthetic purposes. At least 176 of our supporters are known to live in communities with permitted Concentrated Animal Feeding Operation (CAFO) facilities; hundreds more live in communities with unpermitted agricultural operations.

Our constituents, and thousands of residents throughout the State of Washington, are at risk due to the failure of our State's regulatory agencies to protect against the public health and environmental harms caused by the keeping of animals. The Board of Health has a unique authority and responsibility to "assure safe and reliable public drinking water and to protect the public health" (RCW 43.20.050 (2)(a)), as well as to "adopt rules and standards for prevention, control, and abatement of health hazards and nuisance related to the disposal of human and animal excreta and animal remains" (RCW 43.20.050 (2)(c)), and to "adopt rules for the prevention and control of infectious and noninfectious diseases, including food and vector borne illness, and rules governing the receipt and conveyance of remains of deceased persons, and such other sanitary matters as may best be controlled by universal rule." (RCW 43.20.050 (2)(f).

We oppose the Washington State Board of Board of Health's (hereinafter "the Board's") draft rule revisions to WAC 246-203-130 (the "Rule"). We oppose the narrowing of the title and scope of the Rule from "Keeping of Animals" to "Domestic Animal Waste" as we disagree with the premise that the Board's unique authority is best suited to local regulation of smaller-scale activities and practices around animal waste alone. We are also concerned that the proposed revisions dramatically weaken existing public health and nuisance protections; fail to set adequate minimum standards to protect the public health from various risks associated with the

keeping of animals; and completely disregard the real and existential public health threat of climate change – a threat that can be exacerbated by the keeping of animals and, in particular, by industrial farm operations – or the environmental justice implications of the Rule.

# 1) The Board's regulatory authority and responsibility extends beyond managing animal waste.

The original Rule, entitled "Keeping of Animals", was broader than the newly proposed title of "Domestic Animal Waste." In its Background and Policy Recommendations document,<sup>1</sup> ("Backgrounder") without sufficient explanation or supportive rationale, the Board recommends that "the rule should focus on practices involving the handling, storage, and disposal of livestock manure and other domestic animal waste generated on site (not off-site manure transport and use) that present a clear health, sanitation, or nuisance problem." (at 25). We disagree.

Keeping animals can produce dust, odors, haze, and noise; contribute to the spread of disease from both direct and indirect contact with animals and their waste; contaminate soils; contaminate drinking water, groundwater, and surface water; and contribute to climate change through the emissions of greenhouse gasses. These constitute public health hazards and nuisances. Air pollution, water pollution, drinking water contamination, disease, sickness, and disturbances caused by the keeping of animals results in diminished quality of health and life for those affected. The Board documents these risks and more over seven pages in its Backgrounder with more than 100 unique research articles on topics, but then fails to address most of these hazards in the draft revisions.

We object to the narrowing of the title to "Domestic Animal Waste", as an abdication of the Board's responsibility to protect the public health from the aforementioned health hazards and nuisances that may be unrelated to the management of animal waste alone. We also see no justification for excluding off-site manure transport and use from regulation, as the hazards and public health implications of animal waste do not simply disappear as it crosses a property line. We encourage the Board to leave the Rule title as-is, and to assess and regulate the health hazards and nuisance impacts of activities including but not limited to feeding, watering, housing, and transporting animals as well as their waste, to protect communities and public health.

# 2) The draft Rule revisions dramatically weaken or entirely removes existing public health and nuisance protections.

The Washington State legislature has directed the Board to regulate the storage of animal waste to protect human health. RCW 43.20.050 (2)(c)). The current Keeping of Animals rule reads as follows:

WAC 246-203-130 Keeping of animals.

<sup>&</sup>lt;sup>1</sup> Keeping of Animals Background and Policy Recommendations of the Washington State Board of Health

- (1) Any person, firm or corporation is prohibited from keeping or sheltering animals in such a manner that a condition resulting from same shall constitute a nuisance.
- (2) In populous districts, stable manure must be kept in a covered watertight pit or chamber and shall be removed at least once a week during the period from April 1st to October 1st and, during the other months, at intervals sufficiently frequent to maintain a sanitary condition satisfactory to the health officer. Manure on farms or isolated premises other than dairy farms need not be so protected and removed unless ordered by the health officer.
- (3) Manure shall not be allowed to accumulate in any place where it can prejudicially affect any source of drinking water.

The draft revisions strike all of this language. In so doing, the Board proposes to dramatically scale back current requirements by:

- eliminating broad public protections against nuisances caused by the keeping or sheltering of animals (current section 1) and replacing them with protections limited to animal waste (draft section 1)
- eliminating strong stable waste collection, storage, and removal requirements (current section 2) and replacing them with vague and poorly defined requirements to collect animal waste containment areas (draft section 3a)
- striking strong and broad public health protections for drinking water (current section 3),

We object to the elimination of language in current sections 1-3 of the Rule. Rather than backsliding, the Board should build on these foundational protections, implementing clear minimum standards to ensure the intent of these protections is assured in light of modern-day animal-keeping practices and the extensive data on the nature and scope of the problems it causes - as documented in the Board's Backgrounder.

### 3) The draft revisions lack strong minimum standards to protect the public health.

The Board should build on the existing regulations to create stronger minimum standards to protect the public health and prevent nuisances. For example, the Board could keep existing sections 1 and 3 intact and expand section 2 to:

- articulate a more frequent waste removal requirement during the rainy season between October to April
- include all manure (not just "stable" manure, but any manure on any part of the premises)
- expand beyond "populous districts" to all districts, including "isolated premises"

Rural communities can be equally if not more susceptible to the public health risks posed by the keeping of animals.

The draft revisions lay out several requirements for livestock waste stockpiling in a new section (3(d)) excluding waste that is being composted and waste being stored in a lagoon. First, should the Board modify the existing Rule to authorize livestock waste stockpiling when the number of animals or quantity of waste renders it infeasible to cover and store the waste in an airtight container prior to removal (factory farms were likely not envisioned when the original Rule was promulgated in 1936), the Board should articulate which types of livestock operations are authorized to stockpile waste (how many animals, what size footprint, or how much waste?) and which types should continue the practice of keeping the waste in covered, airtight containers with requirements to periodically dispose of the waste.

Second, the Board should outline clear, science-based and appropriately tailored standards for the management of livestock waste by different operations that stockpile waste, adjusted to account for the size and type of operation (cattle, chicken, horse, etc.), the type of waste (liquid vs. solid), and site conditions (slope, soil-type, vegetation type and density, underground geology, hydrological features, etc.). A mature milk cow produces over 120 pounds of liquid feces and urine every day, whereas a horse produces 50 pounds of solid manure a day. The differences in consistency, chemical content, and quantity compounds with each additional animal, which surely necessitates different levels of protections for the public health.

Third, we are aware of no scientific basis why waste being composted or stored in a lagoon shouldn't also be managed as stringently – if not more stringently – than other stockpiles of waste. In fact, liquid manure being stored in a lagoon likely requires far more protections for the public health (greater setbacks from water sources, requirements to be stored in areas with a higher groundwater table, etc.). It is well known that lagoons leak.



image of manure lagoon



image of manure gun © USGS

The practices of storing excess livestock manure in large manure lagoons; transferring or selling livestock manure to third parties for use as fertilizer; and applying manure to fields as fertilizer (by both animal keepers and third parties – and often with a large "gun" or cannon that shoots the liquid waste over fields in a vast spray) are three modern practices that harm the public health and have harmed drinking water in Washington. The Board has failed to address these practices whatsoever, despite its clear regulatory mandate and authority to protect public drinking water. The Board should issue a new draft Rule outlining requirements to protect the public health from these three practices, which pose real and dangerous consequence to our public drinking water supplies – as well as air quality.

Finally, airborne disease, dust and odors from the keeping of animals also pose public health hazards and nuisance risks that are not sufficiently covered in the draft revisions. Other than setbacks from certain water sources and a requirement to store stockpiled waste so as to control odors and attraction of flies, rodents, and other vectors," (presumably, disease vectors?) the draft revision lacks any clear standards or requirements to protect the public from dust, disease, or odors, which may emanate from livestock themselves or from feeding or other areas. The Board should include requirements to control dust and odors from other areas of farm operations that pose a risk to public health.

# 4) The Board should consider climate impacts to public health from the keeping of animals, and the environmental justice impacts of the draft revisions.

Board mentions climate change in its Backgrounder just once, and not again. A deeper assessment of the climate impacts caused by the keeping of animals in Washington is both necessary and appropriate. The U.S. Environmental Protection Agency (EPA) estimated that agriculture contributed 11% of the United States' greenhouse gas (GhG) emissions in 2020<sup>2</sup>; the Washington State Department of Ecology attributed 15% of Washington's GhG emissions in 2017 to agriculture, industry, landfills, and fossil fuel production.<sup>3</sup> Climate change has already resulted in more frequent and intense droughts, wildfires, dust storms, erosion, and floods in Washington; reduced glacial snowpack feeding our rivers and streams; acidification of the ocean and Puget Sound, and sea level rise threatens our coasts, wetlands and aquifers.

The Board is in a unique position to address the impacts of climate change on public health for the first time since the Rule was last substantively revised in 1936. With rule revisions coming so infrequently, now is the time to consider how the keeping of animals could – and must - be better managed to prevent or reduce climate impacts to communities throughout the State of Washington, consistent with Washington State's commitment to reducing GhG emissions to 45% below 1990 levels by 2030, 70% below 1990 levels by 2040, and 95% below 1990 levels and net zero emissions by 2050.

It is well known that the impacts of climate change hit communities of color and low-income communities first and hardest. While the Board of Health is not listed as one of the seven agencies required to comply with the <u>HEAL Act</u>; the Departments of Health, Agriculture and Ecology are. We encourage the Board of Health to coordinate with these sister organizations and opt in under the HEAL Act. Because of the strong environmental justice considerations implicated for rural and frontline communities by this Rule and any revisions to it, we also strongly urge the Board to conduct deeper community outreach and engagement around proposed Rule revisions with those whose health, lives, and families are most at risk from the Board's decision-making.

### 5) Additional concerns:

The Board should not limit "nuisance" to acts or omissions that harm, endanger, or interfere with the health or safety of another person. Such a definition is restrictively narrow and not reflective of current nuisance law. RCW 7.48 defines an actionable nuisance to include: "an obstruction to the free use of property, so as to essentially interfere with the comfortable enjoyment of the life and property, is a nuisance and the subject of an action for damages and other and further relief." We support the adoption of this definition within the Keeping of Animals rule.

We support the inclusion of a section regarding enforcement. The Rule is and should be enforceable, and language should be added to articulate when enforcement will occur. The public

<sup>&</sup>lt;sup>2</sup> Sources of Greenhouse Gas Emissions | US EPA

<sup>&</sup>lt;sup>3</sup> Improving air quality & public health - Washington State Department of Ecology

deserves concrete assurance that documented nuisances and public health hazards will be abated within a certain amount of time.

While we do not agree with all recommendations outlined in the Backgrounder, we do agree with the recommendation to develop a practical, purposeful rule, by "defining the type and scale of regulated activities; steps and standards defining and documenting health hazards and nuisance; technical standards and practices to prevent and remedy problems; technical assistance and referral procedures; methods for property access, compliance, and enforcement." We feel the current draft revisions fall short.

Thank you for accepting and considering these comments. We hope that the Board adopts our suggestions to improve upon the draft revision and better protect public health in Washington. We look forward to working with you.

Sincerely,

Alyssa Barton Policy Manager Puget Soundkeeper Alliance



#### Washington State Legislature

April 27, 2022

Washington State Board of Health PO Box 47900 Olympia, WA 98504-7990 (360) 236-4110

RE: Keeping of Animals Rule

Dear Members of the Board of Health,

We have been working with staff to review the amendments to WAC 246-203-130 related to animal waste. We would like to offer some criticisms and suggestions.

First, we do not believe this rule change is necessary. We understand that the original rule was written long ago and in a very different world. However, these changes to this rule are overly burdensome and overly complex. The Department of Agriculture already does rulemaking regarding manure or nutrient management for large operations such as CAFOs or dairies in WAC 16-25 and 16-611. Additionally, RCW 7.48.305 exempts agricultural activities from regulations regarding noise and odor. This Rule change is out of time and out of place. It does not appear to take into consideration existing rules and regulations from other agencies.

Many counties, especially in Eastern Washington, have Right to Farm 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. 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 different manure than livestock animals like cattle and horses. The rule should address these differences.

The rule is unclear if it applies to all operations, whether commercial or private, urban or rural, and regardless of size. This places agricultural businesses at risk, especially as more urban people move into rural areas without having an effective understanding of best agricultural management practices. There is a higher risk to public health in urban areas from pet excreta such as cats and dogs. This is a very different issue than rural areas where there may be a few livestock animals on a couple acres or an actual livestock operation that is managed by the



#### Washington State Legislature

Department of Agriculture. This rule is overly broad and vague and open for abuse in a world where agriculture is continuously under attack by urbanites who do not appreciate or understand the rural way of life.

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.

Finally, if there is to be an update of this rule, we ask that there be a broader stakeholder discussion. The Board has shown its willingness to be responsive to sticky problems such as this and incorporate a broader constituency into the conversation. This discussion should include nutrient management experts, agricultural interests as well as municipal interests, commercial pet operations, small scale farmers, local boards of health, as well as recreational groups like the Backcountry Horsemen and Women. This rule was rewritten from a narrow perspective without considering the wide-ranging consequences. Please reconsider your changes or, at a minimum, allow for a broad discussion about the formulation of a new rule.

Senator John Braun Senate Republican Leader 20th Legislative District

Jury Warnet

Senator Judy Warnick Senate Republican Caucus Chair 13th Legislative District

Jim Honey ford

Senator Jim Honeyford 15th Legislative District

Deelly Doorf

Senator Shelly Short Senate Republican Floor Leader 7th Legislative District

Mark I. Khoesles

Senator Mark Schoesler 9th Legislative District



Washington State Legislature

Senator Curtis King

14th Legislative District

Senator Phil Fortunato 31st Legislative district

CC: Keith Grellner, RS, Chair

Bob Lutz, MD, MPH

Stephen Kutz

Elisabeth L. Crawford

Umair A. Shah, MD, MPH

Temple Lentz

Patty Hayes

Melinda Flores

Socia Love

Kelly Oshiro



May 2, 2022

Washington State Board of Health PO Box 47990 Olympia, WA 98504-7990

Dear WA State BOH,

We are the Friends of Toppenish Creek from Yakima County.

Friends of Toppenish Creek is dedicated to protecting the rights of rural communities and improving oversight of industrial agriculture. FOTC operates under the simple principle that all people deserve clean air, clean water and protection from abuse that results when profit is favored over people. FOTC works through public education, citizen investigations, research, legislation, special events, and direct action.

Regarding the draft rule WAC 246-203-130, please consider this strong objection. As written WAC 246-203-130 allows a CAFO dairy in Washington state to build a million gallon manure lagoon right next to a neighbor's home or well without consequences. Here is an explanation of how the draft rule condones such an assault on human health:

Draft WAC 246-203-130, section 3 says:

(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, livestock trails, trail riding, and other diffuse sources of domestic animal waste, a person must:

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

(i) Store the waste to control odors and attraction of flies, rodents, and other vectors;

(ii) Store the waste no longer than one year; and

(iii) Site the stockpile:

(A) One hundred feet or more from a drinking water well;

(B) Two hundred feet or more from a public drinking water spring;

(C) Outside the sanitary control area of a public Irinking water source if different from the areas set forth in (d)(iii)(A) and (B) of this subsection;

(D) One hundred feet or more from a surface water body unless:

(I) The surface water body is upgradient or is protected by a levee or other physical barrier; or

(II) The surface water body is protected by one or more control or treatment practices that capture and prevent leachate. Practices include, but are not limited to, storage pads, covers, storage structures, and filter strips; and

(E) Outside seasonally or frequently flooded areas unless used or disposed of prior to flooding.

This appears to create strong protections for public health.

But look closer - there is a huge loophole in the proposed rule.

WAC 246-203-130, section 2 (j) says: "Stockpiling" means the temporary piling of domestic animal waste from livestock prior to use or disposal. <u>Stockpiling does not include active</u> composting or lagoon storage of domestic animal waste from livestock.

This more than wrong. This is a gift to the powerful interests that inflict morbidity and mortality on WA citizens by managing manure in ways that place profit above human health.

Unless the BOH can prove that a million gallon manure lagoon next to a family home does not damage the family's health, unless the BOH can prove that tossing manure into the ambient air to compost it does not damage the health of entire neighborhoods, then this loophole must, in all good conscience, be closed.

Sincerely, han Mendeza

Jean Mendoza

Executive Director, Friends of Toppenish Creek 3142 Signal Peak Road White Swan, WA 98952 From: Jodi Dotson Sent: 6/8/2022 7:37:27 AM To: DOH WSBOH Cc: Subject: BOH is not in agriculture

External Email

Dear Board,

This idea that the BOH needs to but it's head into agricultural is ludicrous. I am not sure who of you brought this idea to the table, but it is not your place. The BOH is for humans . How about working on the homeless pooping and peeing all over the city streets. All cities of Washington state have some degree from low to severe problems. Why not use your energy in an area that you are responsible for?

It is not your place to tell people anything about there animals. This seems like another grasp of control over the public. If you haven't noticed we are still a FREE country not a socialist or communist country. If you would like to live in that kind of environment then by all means please move to one. Stop this nonsense of prying into peoples personal space.

Agriculture is the only place this should be addressed if necessary.

Thank you, Jodi Dotson

Sent from my iPhone

From: bll@sipnsearch.com Sent: 6/8/2022 3:00:36 PM To: DOH WSBOH Cc: Subject: Keeping of Animals Rule - Communicating With Board Members

External Email

Good afternoon,

My name is Julie Balmelli-Powe. I signed up to testify at today's BOH Keeping of Animals Rule public hearing back on May 25, 2022. I was in the zoom meeting for the entire hearing, but was not called on to speak. I would like to submit this testimony in written form even though that closed on May 2 since I was not called on to speak.

I oppose this rule. I have been farming my whole life, my parents are in their 80s, and they have been farming their whole lives, and my legal immigrant Grandparents farmed all their lives. We have never had any health issues arise due to our farming practices.

I have also served as a Lewis County Farm Bureau representative on the Chehalis Basin Partnership. This organization, which formed as part of the Watershed Management Act, has been tracking water quality in the Chehalis River basin for 24 years. I have seen many studies which have shown that water quality is continuing to improve – so there is no reason to add this extra layer of regulations.

Plus, I do believe this rule does indeed violate the Right to Farm Act in regards to odor and pest control.

I also do not agree with expanding the authority of unelected health officials, many of which are not knowledgeable with farming practices.

It appears to me that the legislature, WFDW, Ecology, L&I, BOH and other departments with all of their fees, taxes, and regulations regarding buffers, pesticides, overtime, water use, and on & on are purposely trying to make it impossible to be an independent farmer. I may be wrong, but it is like the State and Feds are trying to force us out of business so we have no choice but to sell our land to some environmental group, Bill Gates, or some large corporate entity.

It is getting to the point that all of these unnecessary rules and regulations are no longer about safety, but more about control – and by the boards approval of this rule, with a large majority of input being against it, just proves this point.

Sincerely,

Julie Balmelli-Powe

From: Mary Schactler Sent: 6/8/2022 2:40:04 PM To: DOH WSBOH Cc: Subject: Re: June 8 State Board of Health Public Meeting Confirmation

External Email

Washington state is a fence in state, not a free range state.

On Wed, May 25, 2022, 8:31 PM Zoom <no-reply@zoom.us <mailto:no-reply@zoom.us> wrote:

<a href="https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fzoom.us%2F&data=05%7C01%7">https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fzoom.us%2F&data=05%7C01%7</a>

<http://us02web.zoom.us/w\_p/89125084493/e9e77579-e240-4989-b2c3-ec78977d482e.png>

Hello Mary,

Thank you for registering for June 8 State Board of Health Public Meeting. You can find information about this webinar below.

June 8 State Board of Health Public Meeting

Date & Time

Jun 8, 2022 09:30 AM Pacific Time (US and Canada)

Webinar ID

847 8253 4990

Passcode

887573

Please submit any questions to: wsboh@sboh.wa.gov.

You can cancel <https://us02web.zoom.us/webinar/register/tZAqfutrT8jE9SGBHmprDFQWtnhky\_ucSht/success?act=cancel&user\_id=IFv5N6M5RxaRiEehg3UQdg> your registration at any time.

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Thank you!

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