



RULE-MAKING ORDER
(RCW 34.05.360)

CR-103 (7/22/01)

Agency: Department of Agriculture

- Permanent Rule
- Emergency Rule
- Expedited Rule Making

(1) Date of adoption: November 19, 2003

(2) Purpose: To adopt chapter 16-256 WAC Commercial Feed Rules—Processed Animal Waste - see Attachment (2)

(3) Citation of existing rules affected by this order:

Repealed: None
 Amended: None
 Suspended: None

(4) Statutory authority for adoption: Chapter 15.53 RCW and Chapter 34.05 RCW
Other Authority:

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR **03-19-127** on September 17, 2003.
Describe any changes other than editing from proposed to adopted version: None

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?:

Yes No If Yes, explain:

(6) Effective date of rule:

Permanent Rules

- 31 days after filing
- Other (specify) 7-1-04*

Emergency Rules

- Immediately
- Later (specify) _____

*(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

Name (Type or Print)
Valoria H. Loveland

Signature
Valoria H. Loveland

Title: Director Date: November 19, 2003

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

NOV 19 2003

TIME: 10:33 AM

WSR: 03-23-131 PM

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.

The number of sections adopted in order to comply with:

Federal statute:	New	0	Amended	0	Repealed	0
Federal rules or standards:	New	0	Amended	0	Repealed	0
Recently enacted state statutes:	New	0	Amended	0	Repealed	0

The number of sections adopted at the request of a nongovernmental entity:

New	0	Amended	0	Repealed	0
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The number of sections adopted in the agency's own initiative:

New	9	Amended	0	Repealed	0
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	0	Amended	0	Repealed	0
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The number of sections adopted using:

Negotiated rule making:	New	0	Amended	0	Repealed	0
Pilot rule making:	New	0	Amended	0	Repealed	0
Other alternative rule making:	New	9	Amended	0	Repealed	0

Washington State Department of Agriculture CR-103 Form-Attachment (2) Purpose:

Adoption of Chapter 16-256 WAC Commercial Feed Rules: Processed Animal Waste

This new chapter 16-256 WAC creates a set of regulations that are easy to understand and use, reflect current national standards as expressed in the Association of American Feed Control Officials (AAFCO) model regulations, safeguard public and animal health, establish a structure for orderly commerce with other states by ensuring that WSDA processed animal waste rules are consistent with AAFCO model regulations, and provide protection for consumers and the regulated industry.

Many of the requirements in the new chapter are either identical or substantially the same as the processed animal waste requirements in the processed animal waste rule sections being repealed from chapter 16-200 WAC Feeds, Fertilizers and Livestock Remedies. The significant difference between the new chapter and the rule sections it is replacing is that the new chapter is written more clearly and organized in a more "user friendly" way than the rule sections being repealed. The new rule also moves processed animal waste regulations from being registration based to being licensed based to comply with Chapter 15.53 RCW Commercial Feed.

Specifically, Chapter 16-256 WAC Commercial Feed Rules—Processed Animal Waste:

- (1) Addresses the specific needs of the Washington state processed animal waste industry.**

Before this adoption, department rules regulating processed animal waste were buried in the last seven sections of chapter 16-200 WAC, Feeds, Fertilizers and Livestock Remedies. The new chapter 16-256 WAC, Commercial Feed Rules-- Processed Animal Waste clearly identifies the industry being regulated and contains only regulations that are pertinent to that industry.

(2) Is written in a clear and readable style that allows users to more easily understand and apply WSDA processed animal waste rules.

Compare the following examples. Both rule sections contain substantially the same requirements but the new rule, because of format changes and the use of plain English is easier to read and understand. Also, notice how the repealed rule requires that records be kept but doesn't specify for how long. A month? A year? Indefinitely? The new rule removes the ambiguity and specifies "two years".

Repealed Rule	New Adopted Rule
<p>WAC 16-200-940 (2) Any person seeking or receiving registration of any processed animal waste product shall test, by representative sampling and assaying of such samples, and keep accurate records thereof, the processed animal waste product for which the registration is sought or received.</p> <p>(3) The sample shall be of sufficient size so as to provide meaningful data, statistically reliable in carrying out the purpose of such sampling and analysis.</p>	<p>WAC 16-256-040 (2) Any person seeking or maintaining a commercial feed license for any processed animal waste product facility must:</p> <ul style="list-style-type: none"> (a) Test those products, by representative sampling; (b) Analyze those samples; and (c) Keep accurate records of the test results for two years. <p>(3) The sample used must be of sufficient size to provide meaningful data that is statistically reliable.</p>

(3) Uses tables to clearly and succinctly present information wherever possible and appropriate.

Notice how the repealed WAC 16-200-920 (Quality standards) presents information regarding certain dried animal waste products:

- (2) Dried poultry waste shall contain:
 - (a) Not less than 20.00 percent crude protein
 - (b) Not more than 15.00 percent crude fiber
 - (c) Not more than 35.00 percent ash
 - (d) Not more than 1.00 percent feathers
 - (e) Not more than 12.00 percent moisture
 - (f) Not more than 10.00 percent litter
- (3) Dried poultry waste - NPN extracted shall contain:
 - (a) Not less than 12.00 percent crude protein
 - (b) Not more than 15.00 percent crude fiber
 - (c) Not more than 35.00 percent ash
 - (d) Not more than 1.00 percent feathers
 - (e) Not more than 12.00 percent moisture
 - (f) Not more than 10.00 percent litter
- (4) Dried poultry litter shall contain:
 - (a) Not less than 18.00 percent crude protein
 - (b) Not more than 40.00 percent crude fiber
 - (c) Not more than 30.00 percent ash
 - (d) Not more than 5.00 percent feathers
 - (e) Not more than 12.00 percent moisture
- (5) Dried ruminant waste shall contain:
 - (a) Not less than 12.00 percent crude protein
 - (b) Not more than 30.00 percent crude fiber
 - (c) Not more than 30.00 percent ash
 - (d) Not more than 40.00 percent combined straw, wood, wood shavings, litter, dirt, sand, rocks, and other similar extraneous materials
 - (e) Not more than 12.00 percent moisture

Now, notice how the same information is presented in the new adopted section, WAC 16-256-070 (Quality standards for processed animal waste products):

(1) Dried animal waste products must comply with the requirements in the following table:

DRIED ANIMAL WASTE PRODUCTS					
	Required Minimum/Maximum Content	Dried Poultry Waste	Dried Poultry Waste-NPN Extracted	Dried Poultry Litter	Dried Ruminant Waste
Crude protein	At least	18.00%	11.00%	18.00%	12.00%
Crude fiber	No more than	15.00%	15.00%	25.00%	40.00%
Moisture	No more than	12.00%	12.00%	12.00%	12.00%
Ash	No more than	30.00%	30.00%	20.00%	30.00%
Feathers	No more than	1.00%	1.00%	4.00%	N/A
Combined straw, wood, wood shavings, litter, dirt, sand, rocks, and other similar extraneous materials	No more than	N/A	N/A	N/A	40.00%

(4) Incorporating applicable parts of the Association of American Feed Control Officials (AAFCO) model regulations helps increase the flow of trade and information and promotes regulatory consistency between Washington's processed animal waste industry and the processed animal waste industry in our sister states.

In several sections of the new chapter 16-256 WAC, language has been added to ensure that the WSDA rule is consistent with AAFCO's Processed Animal Waste Model Regulations. For example, the following was added to WAC 16-256-030 to make the department's rule more consistent with AAFCO and the regulations of our sister states:

(3) If the product derives one-third or more of the guaranteed total crude protein from nonprotein nitrogen sources, the label shall provide adequate directions for safe use of the product and the precautionary statement:

"CAUTION: USE ONLY AS DIRECTED."

For similar reasons, the following was added to WAC 16-256-040(6):

(6) Sequential testing is required when the periodic analyses required by WAC 16-256-040(4) or other information available to the manufacturer of the ingredient indicates that:

- (a) The ingredients are not within the limitations established in these regulations;
- (b) Changes are made in the manufacturing process;
- (c) New or expanded sources of the raw ingredients are used; or
- (d) Changes occur in the drugs or pesticides used by the supplier(s) of the raw ingredient(s).

A final example (WAC 16-256-070) illustrates how requirements can be updated to reflect AAFCO percentages and combined in a table format for easy use:

(1) Dried animal waste products must comply with the requirements in the following table:

DRIED ANIMAL WASTE PRODUCTS					
	Required Minimum/Maximum Content	Dried Poultry Waste	Dried Poultry Waste-NPN Extracted	Dried Poultry Litter	Dried Ruminant Waste
Crude protein	At least	18.00%	11.00%	18.00%	12.00%
Crude fiber	No more than	15.00%	15.00%	25.00%	40.00%
Moisture	No more than	12.00%	12.00%	12.00%	12.00%
Ash	No more than	30.00%	30.00%	20.00%	30.00%
Feathers	No more than	1.00%	1.00%	4.00%	N/A
Combined straw, wood, wood shavings, litter, dirt, sand, rocks, and other similar extraneous materials	No more than	N/A	N/A	N/A	40.00%

(5) Safeguards public health and the health of animals and provides increased protection for consumers and the regulated industry.

A good example of the department’s concern for public health, animal health, consumer protection and protection of the industry is the new requirement that a “lot identifier” be included on a product label [WAC 16-256-030(5)(a)]. A lot identifier becomes important when a product must be recalled. In addition to protecting consumers, animals and the industry, this requirement brings the department into compliance with FDA requirements under the Bioterrorism Act.

To ensure that everyone using the rule understands what a “lot identifier” is, a definition is included in WAC 16-256-010

(6) Updates the department’s processed animal waste regulations to reflect current statutory requirements.

When the department first adopted processed animal waste rules in 1976, industry members were registered with the department. When chapter 15.53 RCW, Commercial Feed, was enacted by the Legislature in 1995, industry members were required to be licensed by the department rather than registering with it. Consequently, “registrants” became “licensees” but the rules were never amended to reflect this change. The new chapter 16-256 WAC, in compliance with chapter 15.53 RCW, replaces registration requirements with license requirements and uses the term “licensee” rather than “registrant.”

Chapter 16-256 WAC

COMMERCIAL FEED RULES--PROCESSED ANIMAL WASTE

NEW SECTION

WAC 16-256-001 Effective date. Chapter 16-256 WAC, Commercial feed rules--Processed animal waste, becomes effective on July 1, 2004.

NEW SECTION

WAC 16-256-010 "Animal waste" and "processed" defined. "Animal wastes" means a material composed of excreta, with or without bedding materials and/or animal drugs, collected from poultry, ruminants or other animals except humans.

"Lot identifier" means a unique identifier for each lot, batch or production run that enables the manufacturer to accurately trace the complete manufacturing and distribution history of the product. A lot identifier is an individual lot, batch or production run number, code, date, or other suitable identification applied to the label, container, or package. In the case of bulk feed the lot identifier is on a label, invoice, or shipping document accompanying the feed.

"Processed," as applied to animal waste, means thermally dehydrated, dry-stacked, ensiled, oxidized, chemically treated, microbiologically digested, chemically or physically fractionated, or treated by other processes that enable an animal waste product to comply with the standards established in this chapter.

Note: Commercial feed containing raw or unprocessed animal waste is considered adulterated under WAC 16-250-120(3).

WAC 16-256-020 Processed animal waste products identified.

A product is considered a processed animal waste product only if it meets one of the definitions in the following table.

Processed Animal Waste Products		
Product Type	Description	Thermal Dehydration Limit
Dried poultry waste (DPW)	A processed animal waste product composed of the feces from commercial poultry	Thermally dehydrated to a moisture content not in excess of 12.00 percent
Dried poultry waste-NPN extracted	A processed animal waste product composed of the feces from commercial poultry which has been processed to remove part or all of the crude protein derived from nonprotein nitrogen (NPN) as urea and/or uric acid	Thermally dehydrated to a moisture content not in excess of 12.00 percent
Dried poultry litter-(DPL)	A processed animal waste product composed of a combination of feces from commercial poultry together with litter that was present in the floor production of poultry	Thermally dehydrated to a moisture content not in excess of 12.00 percent
Dried ruminant waste-(DRW)	A processed animal waste product composed of ruminant excreta	Thermally dehydrated to a moisture content not in excess of 12.00 percent

Processed Animal Waste Products		
Product Type	Description	Thermal Dehydration Limit
Undried processed animal waste product	A processed animal waste product composed of excreta, with or without litter, from poultry, ruminants or any other animal except humans	Contains in excess of 12.00 percent moisture

NEW SECTION

WAC 16-256-030 Labeling requirements for processed animal waste products. The label, tag, or label invoice accompanying shipments of animal waste products must contain the information required in RCW 15.53.9016, this chapter and the following information:

(1) If the product contains drugs or drug residues, then the label must contain the following statement in boldface type at least one-half as large as the largest type appearing on the label:

"WARNING: THIS PRODUCT CONTAINS DRUG RESIDUES. DO NOT USE WITHIN THIRTY DAYS OF SLAUGHTER AND DO NOT USE THIRTY DAYS PRIOR TO OR DURING THE FOOD PRODUCTION PERIOD OF DAIRY ANIMALS AND/OR HENS."

(2) If the product contains high levels (15 ppm or greater) of copper, then the label must contain the following statement in boldface type at least one-half as large as the largest type appearing on the label:

"WARNING: CONTAINS HIGH LEVELS OF COPPER: DO NOT FEED TO SHEEP."

(3) If the product derives one-third or more of the guaranteed total crude protein from nonprotein nitrogen sources, the label shall provide adequate directions for safe use of the product and the precautionary statement:

"CAUTION: USE ONLY AS DIRECTED."

(4) Animal waste product labels, tags, or labeling must contain the following guarantees in percentages by weight in the following order and form:

- (a) Minimum crude protein;
- (b) Maximum crude protein from nonprotein nitrogen (NPN);
- (c) Minimum crude fat;
- (d) Maximum crude fiber;
- (e) Maximum moisture;
- (f) Maximum ash;
- (g) Minimum and maximum calcium (Ca);

(h) Minimum phosphorus (P);

(i) Maximum sodium (Na);

(j) Maximum lignin (if the processed animal waste product is dried poultry litter and if the product contains wood-based bedding materials);

(k) Maximum copper (Cu) (if the processed animal waste product is dried poultry waste or dried poultry litter and **does not** contain the warning "DO NOT FEED TO SHEEP").

(5)(a) Lot identifier that is sufficient to allow the manufacturer to accurately trace the complete manufacturing and distribution history of the product.

(b) Records relating the lot identifier to the manufacture, processing, packing, distribution, receipt, or holding of the product must be kept for one year after the last date of distribution.

(6) Mixed feeds containing processed animal waste products must:

(a) State on the label the maximum percentage and type of processed animal waste product used in the mixed feed; and

(b) Comply with additional labeling requirements under chapters 16-250 or 16-252 WAC for the species for which the product is mixed.

(7) Processed animal waste product labeling must contain, as part of the product name, the animal source and product type.

NEW SECTION

WAC 16-256-040 Testing requirements for processed animal waste products. (1) The purpose of the sampling and testing requirements in this section is to determine the presence of harmful materials or biological contaminants specified in WAC 16-256-070 and to assure compliance with the quality standards in that section.

(2) Any person seeking or maintaining a commercial feed license for any processed animal waste product facility must:

(a) Test those products, by representative sampling;

(b) Analyze those samples; and

(c) Keep accurate records of the test results for two years.

(3) The sample used must be of sufficient size to provide meaningful data that is statistically reliable.

(4) Before a processed animal waste product is distributed, the licensee must comply with the following sample and analyses requirements:

(a) Sufficient testing and analyses must be conducted to ensure that the last three consecutive production runs are consistent with the required quality standards in WAC 16-256-070.

(b) After the initial testing is completed, periodic analyses (at least one analysis each calendar quarter) must be conducted on

subsequent production runs. Less frequent testing may be allowed when the analytical results show continued uniformity and a consistent margin of compliance. More frequent tests must be conducted when the analytical results show either a wide range of levels or levels close to established quality standard limits.

(5) Analysis of the samples used to determine if the processed animal waste meets the quality standards in WAC 16-256-070 must also include the following:

(a) Drugs used (or suspected of use) in feed or as a therapeutic treatment of the animals;

(b) Pesticides used on the animal, facilities, and wastes for pest control;

(c) Pathogenic organisms, at least to include Salmonella and E. coli;

(d) Heavy metals, including, but not limited to, arsenic, cadmium, copper, lead, mercury and selenium;

(e) Parasitic larva or ova; and

(f) Mycotoxins, such as aflatoxins.

(6) Sequential testing is required when the periodic analyses required by WAC 16-256-040(4) or other information available to the manufacturer of the ingredient indicates that:

(a) The ingredients are not within the limitations established in these regulations;

(b) Changes are made in the manufacturing process;

(c) New or expanded sources of the raw ingredients are used;

or
(d) Changes occur in the drugs or pesticides used by the supplier(s) of the raw ingredient(s).

NEW SECTION

WAC 16-256-050 Processed animal waste products--Commercial feed license required. (1) A commercial feed license is required for each facility that manufactures or distributes processed animal waste product intended, promoted, represented, advertised or distributed for use as a commercial feed or feed ingredient.

(2) The commercial feed license application form, to be completed by applicants and licensees, must include the:

(a) Name and business address of the applicant;

(b) Type of business the firm is engaged in (feed manufacturer, dealer, broker, etc.);

(c) Type of commercial feed distributed (processed animal waste product, medicated feed, complete feed, feed supplement, animal products, etc.);

(d) The statutory registration fee of fifty dollars;

(e) A copy of the processed animal waste label that the applicant proposes to use;

(f) A detailed description of sampling procedures used to

sample the processed animal waste product for analysis;

(g) A sampling schedule;

(h) A full description of all tests made; and

(i) Test results showing that the processed animal waste product meets the standards in WAC 16-256-070.

(3) The department may take an official sample of the processed animal waste product for examination and analysis before issuing a commercial feed license for a facility that manufactures or distributes processed animal waste products.

NEW SECTION

WAC 16-256-060 Procedures for denying or revoking a commercial feed license for a processed animal waste product facility. (1) A commercial feed license for a processed animal waste product facility will be denied or revoked if the:

(a) Applicant or the processed animal waste product is determined to be in violation of any Washington state statute or Washington state agency rule or regulation affecting or relating to the distribution of commercial feeds in this state.

(b) Processed animal waste product does not meet the quality standards in WAC 16-256-070.

(c) Processed animal waste product label does not comply with the requirements of chapter 15.53 RCW and WAC 16-256-030.

(d) Processed waste product is not labeled in compliance with law and agency rules and regulations, including WAC 16-256-030 of these rules.

(e) Applicant or licensee fails to perform the testing as specified in WAC 16-256-256 or to accurately maintain and make available to the director or his designee for inspection and copying, upon demand, the records required in WAC 16-256-080.

(2)(a) When an animal waste product or labeling, or other material required to be submitted with an application fails to comply with the requirements of these rules, the director must notify the applicant why the application does not comply so the applicant can make the necessary corrections.

(b) If, upon receipt of such a notice, the applicant does not make the necessary corrections, the director must deny the license application for the processed animal waste product facility. The applicant may then request a hearing under chapter 34.05 RCW.

(3) After determining that an animal waste product or its labeling does not comply with the provisions of chapter 15.53 RCW or WAC 16-256-030, the department may revoke the facility's license. If aggrieved by the decision, the licensee may request a hearing as authorized under chapter 34.05 RCW.

NEW SECTION

WAC 16-256-070 Quality standards for processed animal waste products. (1) Dried animal waste products must comply with the requirements in the following table:

Dried Animal Waste Products					
	Required Minimum/Maximum Content	Dried Poultry Waste	Dried Poultry Waste-NPN Extracted	Dried Poultry Litter	Dried Ruminant Waste
Crude protein	At least	18.00%	11.00%	18.00%	12.00%
Crude fiber	No more than	15.00%	15.00%	25.00%	40.00%
Moisture	No more than	12.00%	12.00%	12.00%	12.00%
Ash	No more than	30.00%	30.00%	20.00%	30.00%
Feathers	No more than	1.00%	1.00%	4.00%	N/A
Combined straw, wood, wood shavings, litter, dirt, sand, rocks, and other similar extraneous materials	No more than	N/A	N/A	N/A	40.00%

(2) Processed animal waste products must not contain:

(a) Any extraneous materials such as, but not limited to, metal, glass, wire or nails (except for undried processed animal waste products in subsection (4) of this section and dried ruminant waste products in subsection (6) of this section); or

(b) Any harmful pathogenic organisms, pesticide residues, harmful parasites, or drug residues except as allowed in WAC 16-256-030(1); or

(c) Other toxic or deleterious substances above levels permitted by department statute or regulation or which could be harmful to the animals or could result in residue in tissues of food products; or

(d) By-products of animals at levels in excess of those allowed by statute or regulation.

(3) Processed animal waste products must not contain:

(a) Aflatoxin in excess of 20 parts per billion (ppb); and

(b) More than a total of 500 parts per million (ppm) of heavy metals such as mercury, lead, bismuth, copper, cadmium, arsenic, antimony, and tin.

(4) Undried processed animal waste products must contain no more than forty percent combined straw, wood, wood shavings, litter, dirt, sand, rocks and other extraneous materials.

(5) To aid in maintaining a stable microbiological quality, any product labeled as, or containing dried animal waste products, must be maintained at no more than twelve percent moisture.

(6) Any processed animal waste product that does not meet the applicable quality standards must be:

- (a) Further processed until the quality standards are met; or
- (b) Diverted to nonfeed or nonfood uses; or
- (c) Destroyed.

NEW SECTION

WAC 16-256-080 Records required for processed animal waste products. Any licensed processed animal waste product facility must keep accurate records for two years containing the following information:

(1) All sources of the raw materials used in the production of processed animal waste products and the date those raw materials were acquired including information on drug and pesticide use.

(2) All production batches of processed animal waste products including the code or other method used to identify the batch or date of production.

(3) All distribution of processed animal waste products including the:

(a) Name and address of the purchaser or to whom the product was distributed;

(b) Date the product was distributed;

(c) Quantity of the product distributed; and

(d) Production code for the product distributed.

(4) Test sampling and analysis records required by WAC 16-256-

040.