

WSR 24-08-030

PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE

[Filed March 26, 2024, 2:10 p.m.]

Subject of Possible Rule Making: Chapter 16-250 WAC, Commercial feed rules. The department of agriculture (department) is considering adopting the latest version of the Association of American Control Officials (AAFCO) Official Publication (OP), clarifying areas of the rule regarding livestock feed and including additional categories of product types that were previously absent.

Chapter 16-252 WAC, Commercial feed rules—Pet food and specialty pet food rules. The department is considering adopting the latest version of the AAFCO OP, which includes language regarding pet food label modernization (PFLM) such as, but not limited to, the requirements and formatting of pet and specialty pet food labels to be more familiar to consumers by mirroring human food labels to increase quick and consistent consumer understanding and transparency of the label.

Statutes Authorizing the Agency to Adopt Rules on this Subject:
RCW 15.53.9012.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department and all states that have animal feed regulatory authority adopt some level of the AAFCO OP which contains model bill and regulations and approved ingredients. All updates to the model bill and regulations go through a thorough, multidisciplinary deliberation process and ultimately get approved or denied by AAFCO, members of which include animal feed regulatory and laboratory officials; industry, consumer, and academic advisors are involved in the process by providing their perspective, suggestions, and voting at the workgroup level. Once approved, it is important for states, including Washington, to stay up-to-date in the adoption of the model bill and regulations to increase consistency of regulations nationwide and better facilitate interstate commerce.

The changes in chapter 16-250 WAC will clarify some guarantees for various types of livestock feeds. Industry has initiated some of these minor changes already. Predominately, it is a low burden to update a livestock feed label, as most print separate tags in house that they sew onto bags, and a slightly higher burden for smaller packages since they sometimes have to outsource label printing.

The changes in chapter 16-252 WAC were prompted by the Food and Drug Administration (FDA) and state regulators, industry, and consumers for a need to modernize pet and specialty pet food labels. The nutrition information on the label will be more closely aligned with human food labels. To provide more transparency and consumer understanding of pet and specialty pet food, these regulations will require consistent locations for needed product information on the label.

This project was initiated by AAFCO in 2015. It involved several years of multidisciplinary workgroups, consumer focus groups, periods of public comment and inclusion, and press releases. There will be a healthy enforcement discretion period to allow for companies to come into compliance with the new label changes. AAFCO will also be continuing evaluation periods of the enforcement discretion period to ensure practicality and resolve issues such as high demand of label printing companies, etc. Industry will need to invest more time in educating themselves on the changes and planning for and implementing them. Since some companies have hundreds of pet food products, it can

be a lengthy and burdensome process. Again, as a result, the enforcement discretion will be in place and reevaluated regularly.

If the rules are not amended, Washington regulations fall behind nationwide adoption of updated regulations and labels would remain inconsistent and easily misunderstood.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No other Washington state agency regulates this completely. There are some minor cross walks with weights and measures and potentially if other entities regulate fair labeling and broad consumer protection clauses. FDA has some authority over labeling but is limited to mostly defrauding consumers and drug claims. Other states would be adopting these updated model regulations as well. FDA and other states, along with other stakeholders, are involved in the development and approval. Coordination with other regulatory authorities in state will be provided during the sharing of the rule-making agenda and public announcements.

Process for Developing New Rule: Department staff have and will continue to discuss any proposed amendments with affected stakeholders.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ashlee-Rose Ferguson, P.O. Box 42560, Olympia, WA 98504, phone 360-902-1844, email animalfeed@agr.wa.gov, website <https://agr.wa.gov/departments/animals-livestock-and-pets/animal-feed>, <https://agr.wa.gov/services/rulemaking>.

March 25, 2024
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