

WSR 22-19-043

PERMANENT RULES

STATE BOARD OF HEALTH

[Filed September 15, 2022, 9:38 a.m., effective October 16, 2022]

Effective Date of Rule: Thirty-one days after filing.

Purpose: WAC 246-203-130, the adopted rule amendments modernize the language, structure, and standards of the keeping of animals rule. The revision changes the rule title to domestic animal waste. The rule serves as the state board of health's (board) cornerstone rule on the safe handling and disposal of animal waste and is one section of the board's rules on general sanitation, chapter 246-203 WAC. The rule establishes minimum standards to help prevent, control, and abate health hazards and nuisances associated with the handling and disposal of domestic animal waste. This includes waste from livestock animals such as horses and cattle, and waste from nonlivestock animals such as dogs and cats. The rule includes standards to: (1) Avoid unsanitary accumulations of waste in containment areas where animals are held or housed for a period of time; (2) prevent contamination of other people's property, drinking water sources, and surface water bodies with potential to affect human health; (3) promote safe handling and disposal of nonlivestock waste; and (4) promote safe stockpiling of livestock waste.

Citation of Rules Affected by this Order: Amending WAC 246-203-130.

Statutory Authority for Adoption: RCW 43.20.050.

Adopted under notice filed as WSR 22-08-003 on March 23, 2022.

Changes Other than Editing from Proposed to Adopted Version: The adopted rule includes the following clarifying, nonsubstantive changes:

WAC 246-203-130(3) pertaining to overlap with more stringent standards in federal, state, or municipal law, is amended to include examples of laws and regulations with more stringent standards that supersede the rule.

WAC 246-203-130(3) pertaining to exempt diffuse sources of animal waste is amended to replace the term "free-range grazing" with "open-range grazing" to more accurately describe this grazing practice.

WAC 246-203-130 (3)(c) pertaining to not stockpiling nonlivestock waste is deleted to avoid internal conflict with the definition of stockpiling.

WAC 246-203-130 (3)(c)(ii) pertaining to nonlivestock waste disposal is amended to avoid conflict with other state rules regarding commercial composting of nonlivestock waste.

WAC 246-203-130 (3)(d)(i) pertaining to odor and pest control of livestock waste stockpiles is amended to clarify the standard as a performance standard to control odors and pests with livestock waste stockpiles to the extent reasonable.

WAC 246-203-130(4) pertaining to enforcement is amended to emphasize voluntary compliance via education.

A final cost-benefit analysis is available by contacting Stuart Glasoe, P.O. Box 47990, Olympia, WA 98504-7990, phone 360-236-4111, TTY 711, email stuart.glasoe@sboh.wa.gov, website <https://sboh.wa.gov/rulemaking/agency-rules-and-activity/keeping-animals>.

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; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: June 8, 2022.

Michelle A. Davis
Executive Director

OTS-2840.5

AMENDATORY SECTION (Amending WSR 91-02-051, filed 12/27/90, effective 1/31/91)

WAC 246-203-130 ((Keeping of animals.)) Domestic animal waste.

~~((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.)~~ (1) A person may not keep or shelter animals in such a manner that the domestic animal waste creates a nuisance or 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 subsection (3) of this section.

(2) The following definitions apply throughout this section unless the context clearly indicates otherwise.

(a) "Containment area" means an area where domestic animals are held, housed, or kept for a period of time and includes, but is not limited to, stables, corrals, confinement areas, kennels, pens, and yards.

(b) "Domestic animal" means an animal domesticated to live and breed in a tame condition under the care of humans. Domestic animal includes livestock and nonlivestock such as dogs and cats.

(c) "Domestic animal waste" means excreta from a domestic animal and includes associated wash water, feed, and bedding soiled with the excreta.

(d) "Health hazard" includes any organism, chemical, condition, or circumstance that poses a direct and immediate risk to human health.

(e) "Livestock" means domestic animals raised for use or for profit, especially on a farm, and includes horses, mules, donkeys, cattle, bison, sheep, goats, swine, rabbits, llamas, alpacas, ratites, poultry, waterfowl, and game birds.

(f) "Local health officer" means the legally qualified physician appointed as a health officer pursuant to chapter 70.05, 70.08, or 70.46 RCW, or an authorized representative.

(g) "Nuisance" includes an act or omission that harms, endangers, or interferes with the health or safety of another person.

(h) "Person" means any individual, corporation, company, association, society, firm, partnership, joint stock company, or any governmental agency, or the authorized agents of these entities.

(i) "Sanitary" means of or relating to conditions that affect hygiene and health, especially relating to cleanliness and other precautions against disease.

(j) "Stockpiling" means the temporary piling of domestic animal waste from livestock prior to use or disposal. Stockpiling does not include active composting or lagoon storage of domestic animal waste from livestock.

(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.

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

(a) Collect domestic animal waste at intervals sufficient to maintain sanitary conditions in containment areas;

(b) Handle domestic animal waste to prevent deposition, leaching, and runoff to:

(i) Another person's property;

(ii) Drinking water sources; and

(iii) Surface water bodies used for swimming, shellfish harvesting, or other activity with potential to affect human health;

(c) Handle domestic animal waste from nonlivestock as follows:

(i) Hold the waste in a watertight container if stored for more than one day prior to proper disposal; and

(ii) Bag and dispose of the waste as solid waste, unless waste is composted by a regulated compost facility per WAC 173-350-220; and

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

(i) Apply control measures as reasonable to minimize and reduce odors and attraction of flies and rodents;

(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 drinking 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.

(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 to explore the facts and, if the local health officer determines that a violation has occurred, seek voluntary compliance by education and allow the person reasonable time to correct the violation.

[Statutory Authority: RCW 43.20.050. WSR 91-02-051 (Order 124B), recodified as § 246-203-130, filed 12/27/90, effective 1/31/91; Regulation .50.130, effective 3/11/60.]