

**Small Business
Economic Impact
Statement**

WAC 246-203-130
a Rule Concerning Keeping of Animals

Revising the Section Title to
Domestic Animal Waste

December 1, 2021

SECTION 1: Describe the proposed rule, including a brief history of the issue; an explanation of why the proposed rule is needed; and a brief description of the probable compliance requirements and the kinds of professional services that a small business is likely to need in order to comply with the proposed rule.

The purpose of this rulemaking is to modernize [WAC 246-203-130](#), Keeping of Animals, a long-standing Washington State Board of Health (Board) rule with language dating back to the 1920s and 30s. This rule is one section of Board rules on General Sanitation, [chapter 246-203 WAC](#), covering such issues as nuisance, piggeries, disposal of dead animals, and use of common cup and towel. The chapter was codified as Washington Administrative Code (WAC) in 1960, followed by administrative recodification in 1991. Despite its unique niche and authority, the rule has not undergone review or revision in recent decades while other related laws and regulations have been enacted, leaving a health and sanitation gap in the state regulatory structure for domestic animal waste.

In 2009, the Board received a petition from the Washington Association of Conservation Districts to amend the rule. The Board denied the specific petition and opted to file a CR-101 Preproposal Statement of Inquiry ([WSR 09-17-132](#)) to more broadly update the rule. The rulemaking stalled and ultimately resumed in 2017. In 2018, Board staff completed a background report¹ to help guide the rulemaking and restarted work on the rule with emphasis on stakeholder outreach, research, and rule writing. In fall 2019, the Board filed a new CR-101, [WSR 19-21-018](#), to better align the rulemaking with Board policy direction. In early 2020, the Board distributed a draft rule for public review, processed the feedback, and revised the draft. In November 2020, staff updated the Board on the rulemaking. The Board directed staff to file a CR-102, Proposed Rulemaking.

Domestic animal waste presents many challenges that are often well-managed by people. However, situations arise where waste accumulates or is mishandled in ways that create a nuisance or health hazard and action is needed to address and correct the problem. The proposed rule establishes minimum standards intended to help prevent, control, and abate health hazards and nuisance associated with the handling and disposal of domestic animal waste. This includes waste from livestock such as horses and cattle, and waste from non-livestock such as dogs and cats.

The proposed rule includes standards to:

- Avoid unsanitary accumulations of waste in containment areas;
- Prevent contamination of other people's property, drinking water supplies, and surface water bodies with potential to affect human health;
- Promote safe handling and disposal of non-livestock waste; and
- Promote safe stockpiling of livestock waste.

The proposed rule is not an operational Board rule involving ongoing implementation and frontline regulation of facilities and systems (e.g., Board rules for food establishments, shellfish

¹ Washington State Board of Health. 2018. [Keeping of Animals Background and Policy Recommendations of the Washington State Board of Health for Revising WAC 246-203-130](#).

operations, water recreation facilities, on-site sewage systems, and drinking water systems). Instead, like the companion sanitation rule on disposal of dead animals ([WAC 246-203-121](#)), this proposed rule sets animal waste standards for people to follow that may be locally enforced by a local health officer if needed.

The proposed rule aims to focus squarely on domestic animal waste. It intersects other rules and practices associated with solid waste and manure management but largely stops short of waste and beneficial-use streams regulated by other agencies. Due to the narrow focus on animal waste, the rule includes a proposed title change from Keeping of Animals to Domestic Animal Waste to more accurately reflect and implement Board authority regulating animal excreta.

Costs complying with the proposed rule apply only to businesses not already meeting the standards, and are limited to the incremental cost of complying, not the total cost of animal waste handling and disposal. For such businesses, professional services may include waste collection and disposal, engineering and other technical assistance changing waste handling and manure management practices to prevent contamination of properties and water resources, and technical assistance changing stockpiling practices or possibly converting to alternate waste storage practices.

SECTION 2: Identify which businesses are required to comply with the proposed rule using the North American Industry Classification System (NAICS) codes and what the minor cost thresholds are.

The following North American Industry Classification System (NAICS) codes identify the types of businesses that are required to comply with the proposed rule along with the calculated minor cost thresholds.^{2,3}

NAICS Code 541940, Description “Veterinary Services”, # of businesses in WA “970”, Minor Cost Threshold (MCT) (1% average annual payroll) “\$5,775.24”, MCT (0.03% annual receipts) “\$4,209.02”

NAICS Code 812910, Description “Pet Care Services”, # of businesses in WA “1,696”, Minor Cost Threshold (MCT) (1% average annual payroll) “\$1,489.05”, MCT (0.03% annual receipts) “\$402.47”

NAICS Code 453910, Description “Pet and Pet Supplies Stores”, # of businesses in WA “301”, MCT (1% average annual payroll) “\$3,453.20”, MCT (0.03% annual receipts) “\$5,022.53”

NAICS Code 562111, Description “Solid Waste Collection”, # of businesses in WA “190”, MCT (1% average annual payroll) “\$11,022.24”, MCT (0.03% annual receipts) “\$26,702.06”

² U.S. Census Bureau, [North American Industry Classification System](#) (NAICS).

³ Governor’s Office for Regulatory Innovation and Assistance, Regulatory Fairness Act Tools & Guidance, [Minor Cost Threshold Calculator](#).

NAICS Code 713990, Description “All Other Amusement and Recreation Industries”⁴, # of businesses in WA “1,130”, MCT (1% average annual payroll) “\$1,817.98”, MCT (0.03% annual receipts) “\$1,142.49”

NAICS Code 611620, Description “Sports and Recreation Instruction”⁵, # of businesses in WA “1,075”, MCT (1% average annual payroll) “\$1,451.98”, MCT (0.03% annual receipts) “\$633.96”

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”

NAICS Code 1122, Description “Hog and Pig Farming”, # of businesses in WA “9”, MCT (1% average annual payroll) “redacted”, MCT (0.03% annual receipts) “\$169.89”

NAICS Code 1123, Description “Poultry and Egg Production”, # of businesses in WA “46”, MCT (1% average annual payroll) “\$5,316.15”, MCT (0.03% annual receipts) “\$10,431.86”

NAICS Code 1124, Description “Sheep and Goat Farming”, # of businesses in WA “36”, Minor Cost Threshold (MCT) (1% average annual payroll), “redacted”, MCT (0.03% annual receipts) “\$586.22”

NAICS Code 112920, Description “Horse and Other Equine Production”, # of businesses in WA “50”, MCT (1% average annual payroll) “\$621.54”, MCT (0.03% annual receipts) “\$359.84”

NAICS Code 112990, Description “All Other Animal Production”⁶, # of businesses in WA “171”, MCT (1% average annual payroll) “\$499.58”, MCT (0.03% annual receipts) “\$468.09”

NAICS Code 112930, Description “Fur-Bearing Animal and Rabbit Production”, # of businesses in WA “6”, MCT (1% average annual payroll) “\$99.20”, MCT (0.03% annual receipts) “\$245.06”

NAICS Code 115210, Description “Support Activities for Animal Production”⁷, # of businesses in WA “628”, MCT (1% average annual payroll) “\$925.53”, MCT (0.03% annual receipts) “\$416.80”

NAICS Code 424520, Description “Livestock Merchant Wholesalers”, # of businesses in WA “15”, MCT (1% average annual payroll) “\$2,415.61”, MCT (0.03% annual receipts) “\$4,366.41”

NAICS Code 424590, Description “Other Farm Product Raw Material Merchant Wholesalers”⁸, # of businesses in WA “26”, MCT (1% average annual payroll) “\$3,684.24”, MCT (0.03% annual receipts) “\$6,733.79”

SECTION 3:

Analyze the probable cost of compliance. Identify the probable costs to comply with the proposed rule, including cost of equipment, supplies, labor, professional services and increased administrative costs; and whether compliance with the proposed rule will cause businesses to lose sales or revenue.

⁴ Includes recreational riding, horse rentals, and outfitters

⁵ Includes horse riding instruction and academies.

⁶ Includes dog, cat, alpaca, llama, bison production and breeding.

⁷ Includes horse boarding and training.

⁸ Includes horses and mules.

Cost Survey

The Board developed a cost survey of Washington businesses to determine if they face any new costs as a result of this proposed rule and if so to then identify and describe one-time costs and recurring annual costs to comply with the significant standards of the proposed rule. Potential costs include equipment, supplies, material, labor, professional services, increased administration, and other costs.

Board staff twice distributed the cost survey via e-mail to Washington businesses covering 16 North American Industry Classification System (NAICS) codes. The survey went to 800 Washington businesses in the first distribution followed by 1,000 businesses in the second distribution. The survey covered such businesses as horse stables, livestock producers, dog kennels/groomers, animal hospitals, animal breeders, livestock markets, and equestrian centers. The Board posted the cost survey on its rulemaking webpage for a total of six weeks. The Board asked approximately 30 organizations and one state agency to help distribute the survey to raise awareness of the rulemaking and to get broader reach with the survey.

The Board received a total of 41 responses to the cost survey. Cost survey results included 4 businesses that identified cost impacts, 24 businesses that indicated no costs, and 13 with unspecified responses.⁹ In total, 37 of 41 respondents identified no cost impact or provided no cost information. Table 1 presents a summary of survey responses and the range of cost impacts for the individual proposed standards. Overall, respondents indicated applicable, potential costs for six of the eight proposed standards. Cost impacts of individual proposed standards are discussed after the table.

In the following discussion of cost impacts, a cattle/dairy farming facility identified a one-time cost of \$500 and recurring annual costs of \$2,000 for miscellaneous compliance needs. The Board was unable to determine whether the respondent was indicating an estimate of overall cost impacts of the proposed rule or cost impacts of individual proposed standards. The Board considered the costs in the Significant Analysis and in each section of this Small Business Economic Impact Statement (SBEIS) but notes that this could be duplication of costs and an overestimate of costs to comply with individual standards.

Table 1: Cost Survey Response Summary

Number of businesses contacted	1,000	
Number of surveys responses	41	
Number of surveys indicating costs	4	
Number of surveys indicating no costs	24	
Number of surveys with unspecified responses	13	

⁹ Includes responses that, for example, did not return the cost survey, did not specify dollar amounts, or provided non-specific comments (e.g. "not sure how it would impact me").

Proposed Standard	# Survey Respondents	Low Cost ¹⁰	High Cost ¹⁰	MCT ¹¹	> MCT ¹²
WAC 246-203-130(3)(a) Collect waste in containment areas	4	\$500	\$58,000	\$169.89	Y
WAC 246-203-130(3)(b)(i) and (iii) Do not contaminate properties, surface water bodies	2	\$500	\$48,000	\$169.89	Y
WAC 246-203-130(3)(c)(i) Do not stockpile non-livestock waste	0	no cost	no cost	N/A	N
WAC 246-203-130(3)(c)(ii) Safely store non-livestock waste	0	no cost	no cost	N/A	N
WAC 246-203-130(3)(c)(iii) Bag/dispose non-livestock waste as solid waste	1	\$100	\$100	\$568.22	N
WAC 246-203-130(3)(d)(iii)(D) Stockpile livestock waste > 100 feet of surface water bodies	2	\$500	\$210,000	\$169.89	Y
WAC 246-203-130(3)(d)(iii)(D)(II) Allow mitigated livestock waste stockpile < 100 feet of surface water bodies	2	\$500	\$95,000	\$169.89	Y
WAC 246-203-130(3)(d)(iii)(E) Remove livestock waste stockpile prior to flooding	2	\$500	\$17,000	\$169.89	Y

WAC 246-203-130(3)(a) Domestic animal waste must be collected at intervals sufficient to maintain sanitary conditions in containment areas.

Description: This proposed standard requires people to collect animal waste frequently enough to avoid unsanitary accumulations in containment areas. The rule defines “containment areas” as areas where domestic animals are held, housed, or kept for a period of time, including but not limited to stables, corrals, confinement areas, kennels, pens, and yards. The proposed standard applies to waste from livestock and non-livestock animals.

Cost: Most survey respondents (37/41) indicated no cost impacts for this proposed standard. Four survey respondents identified cost impacts. A sheep/goat farming facility identified a recurring annual cost of \$500 for labor, fuel, and equipment. A pig farming/wholesale facility identified a one-time cost of \$58,000 and recurring annual costs of \$58,000 for unidentified needs and concerns related to compliance/enforcement. A horse boarding/riding/instruction facility identified a past one-time cost of \$9,000 to remove a manure pile and ongoing manure disposal costs of \$5,000/month to comply with county regulation (no indication of new costs). And a cattle/dairy farming facility identified a one-time cost of \$500 and recurring annual costs of

¹⁰ Costs are not intended to be summed across rows but analyzed individually and represent costs to different businesses.

¹¹ Derived from the lowest “minor cost threshold” (MCT) for the affected industry(s). Respondents self-identified their NAICS industry code(s). The value listed in this column is the lowest MCT for those affected industries.

¹² Derived by comparing the lowest cost impact with the lowest MCT.

\$2,000 for record keeping, legal counsel, rule analysis, meeting with interested parties, and other miscellaneous compliance needs.

Staff research for the cost-benefit analysis of the Significant Analysis identified potential incremental costs for equipment, supplies, and labor depending on the situation, waste volumes, and other factors. Equipment needs, for example, range from small-scale tools and equipment such as shovels, buckets and spreaders that run less than \$100 to \$1,000s, to large scale industrial equipment such as tractors and related attachments that can exceed \$100,000.¹³

WAC 246-203-130(3)(b) Domestic animal waste must be handled to prevent deposition, leaching, and runoff to (i) another person's property, and (iii) surface water bodies used for swimming, shellfish harvesting, or other activity with potential to affect human health.

Description: The proposed standards require people to handle animal waste to prevent deposition, leaching, and runoff to another person's property and to surface water bodies where there are activities/uses with potential to affect public health. The proposed standards are addressed jointly because the many associated practices, pollution pathways, and possible impacts are nearly identical. The standards would typically apply to neighboring properties and surface water bodies, but conceivably could apply more widely depending on transport mechanisms such as wind and water. The proposed standards apply broadly to animal waste handling and are not limited to practices listed in the rule.

Cost: Most survey respondents (39/41) indicated no cost impacts for the proposed standards. Two survey respondents identified cost impacts. A pig farming/wholesale facility identified a one-time cost of \$48,000 and recurring annual costs of \$27,000 for unidentified needs and concerns related to legal counsel and agency consultations. And a cattle/dairy farming facility identified a one-time cost of \$500 and recurring annual costs of \$2,000 for record keeping, legal counsel, rule analysis, meeting with interested parties, and other miscellaneous compliance needs.

Staff research for the cost-benefit analysis of the Significant Analysis determined that potential incremental costs for the proposed standards are indeterminate, case-by case given that they potentially involve numerous waste handling practices and pollution pathways.¹³

WAC 246-203-130(3)(c)(i) Domestic animal waste from non-livestock must not be stockpiled.

Description: This proposed standard prohibits stockpiling waste from non-livestock animals such as dogs and cats.

¹³ Washington State Board of Health. 2021. Significant Legislative Rule Analysis, WAC 246-203-130, a Rule Concerning Keeping of Animals, Revising the Section Title to Domestic Animal Waste.

Cost: In the cost survey, no respondents indicated cost impacts associated with this proposed standard. Staff research for the cost-benefit analysis of the Significant Analysis determined that the practice of stockpiling non-livestock waste is not viable and potential incremental costs are covered under the proposed standards for safe storage and disposal (see below).¹³

WAC 246-203-130(3)(c)(ii) Domestic animal waste from non-livestock must be held in a watertight container if stored for more than one day prior to proper disposal.

Description: This proposed standard requires people to hold waste from non-livestock animals in a watertight container, such as plastic bags and enclosed trash bins, if stored for more than a day prior to disposal.

Cost: In the cost survey, no respondents indicated costs associated with this proposed standard. However, one dog boarding facility noted potential costs if required to purchase special waste bins or dumpsters to replace existing waste bins provided by its private waste disposal company. Staff research for the cost-benefit analysis of the Significant Analysis determined that potential costs are equipment, supplies, and labor. Trash bins and bags are generally less than \$100 in one-time costs and require periodic replacement of bins. Total costs depend on waste volumes and holding needs.¹³

WAC 246-203-130(3)(c)(iii) Domestic animal waste from non-livestock must be bagged and disposed of as solid waste.

Description: This proposed standard requires people to bag and dispose of waste from non-livestock animals as solid waste.

Cost: Most survey respondents (40/41) indicated no cost impacts for this proposed standard. One survey respondent identified cost impacts. A goat/sheep farming facility identified a recurring annual cost of \$100 for bags and collection labor. The proposed standard does not apply to goat, sheep, and other livestock waste, so the Board assumes this cost estimate is for waste from non-livestock associated with the business or business owner.

The Board assumes nominal costs as most businesses already meet the proposed standard. Staff research for the cost-benefit analysis of the Significant Analysis determined that potential incremental costs are disposal services, equipment, supplies, and labor. Solid waste disposal options include curbside collection and self-haul landfill service. Rates vary and are generally less than \$100 for monthly residential service, more for commercial service. Total costs depend mainly on disposal rates and waste volumes.¹³

WAC 246-203-130(3)(d)(iii)(D) Domestic animal waste that is collected and stockpiled for later use or disposal must be sited one hundred feet or more from a surface water body. (see exception that follows)

Description: If waste from livestock is stockpiled for later use or disposal, this standard requires people to site the stockpile one hundred feet or more from a surface water body. The standard assumes unmitigated stockpiling on bare ground on a short-term basis between collection and use.

Cost: Most survey respondents (39/41) indicated no cost impacts for this proposed standard. Two respondents identified cost impacts. A pig farming/wholesale facility identified a one-time cost of \$210,000 and recurring annual costs of \$50,000 for needs and concerns related to constructing a manure lagoon or selling land to comply with the standard. While a landowner may choose to comply in this manner, the proposed standard applies to stackable waste (not lagoon storage) and allows reductions to the setback if control/treatment practices are applied. Therefore, cost impacts will likely be lower than estimated. And a cattle/dairy farming facility identified a one-time cost of \$500 and recurring annual costs of \$2,000 for record keeping, legal counsel, rule analysis, meeting with interested parties, and other miscellaneous compliance needs.

Staff research for the cost-benefit analysis of the Significant Analysis determined that potential incremental costs for this proposed standard are indeterminate, case-by-case, affecting people who stockpile livestock waste near surface water bodies or plan to do so in the future.¹³

WAC 246-203-130(3)(d)(iii)(D)(II) Allows reduction of the 100-foot setback if the surface water body is protected by one or more control or treatment practices (e.g., storage pad, cover, storage structure, or filter strip) that capture and prevent leachate and runoff.

Description: If waste from livestock is stockpiled for later use or disposal, this exception to the previous proposed standard allows reduction of the 100-foot setback from surface water bodies when treatment or control practices are applied to mitigate runoff and leachate. The proposed standard allows people to determine the appropriate practice(s), and existing, functioning controls satisfy this proposed standard.

Cost: Most survey respondents (39/41) indicated no cost impacts for this proposed standard. Two respondents identified cost impacts. A pig farming/wholesale facility identified a one-time cost of \$95,000 and recurring annual costs of \$19,000 for needs and concerns related to engineering services, local permitting, and legal counsel. And a cattle/dairy farming facility identified a one-time cost of \$500 and recurring annual costs of \$2,000 for record keeping, legal counsel, rule analysis, meeting with interested parties, and other miscellaneous compliance needs.

Staff research for the cost-benefit analysis of the Significant Analysis determined that potential incremental costs are equipment, materials, and labor to install and maintain alternate practices to mitigate runoff and leachate from stockpiles. Optional practices range from storage pads and covers to stacking and composting structures. Costs range broadly (\$100s to \$1,000s and up) depending on the practice(s), waste volumes, and other factors.¹³

WAC 246-203-130(3)(d)(iii)(E) Domestic animal waste that is collected and stockpiled must

be sited outside seasonally or frequently flooded areas unless it is used or disposed of prior to flooding.

Description: If waste from livestock is stockpiled for later use or disposal, this proposed standard prohibits siting stockpiles in seasonally or frequently flooded areas unless the stockpile is used or disposed of prior to flooding to prevent saturation and inundation of stockpiles.

Cost: Most survey respondents (39/41) indicated no cost impacts for this proposed standard. Two respondents identified cost impacts. A pig farming/wholesale facility identified a one-time cost of \$17,000 and recurring annual costs of \$10,500 for needs and concerns related to inefficient and unscheduled movement of stockpiles. And a cattle/dairy farming facility identified a one-time cost of \$500 and recurring annual costs of \$2,000 for record keeping, legal counsel, rule analysis, meeting with interested parties, and other miscellaneous compliance needs.

The Board assumes nominal costs for businesses already using or disposing such piles. Staff research for the cost-benefit analysis of the Significant Analysis determined that costs to remove/reuse stockpiles are indeterminate, case-by-case. Where possible, stockpiles are generally managed/recycled on site. Costs for off-site movement generally involve higher costs for loading, transport, and disposal. Sample disposal costs range between \$38 and \$168 per ton.

Summary of Compliance Costs

The proposed standards involve practices that the Board believes most businesses already do when handling and disposing domestic animal waste. Results of the cost survey support this with 37 of 41 responses across a number of industries specifically identifying no cost impact or not indicating any cost impact. Of the 4 responses that identified cost impacts, 1 response identified past and existing costs that would be unaffected by the proposed rule, and 3 identified new costs to comply with the proposed rule.

In instances where additional work is needed to comply with the proposed standards, there may be costs for equipment, supplies, material, and labor to regularly collect and safely store and dispose of animal waste to prevent or abate health hazards and nuisance. For large-scale operations, the volume of waste and the related management challenges and cost impacts are potentially much higher. The overall incremental cost impact of the proposed rule is indeterminate for properties and operations statewide and would be unique in each situation.

Loss of Sales or Revenue

There is no evidence or indication that the proposed rule will result in loss of sales or revenue.

SECTION 4: Analyze whether the proposed rule may impose more than minor costs on businesses in the industry.

The minor cost thresholds for the businesses identified in Section 2 range from a high of \$26,702.06 (.003 of annual receipts of solid waste collection) to a low of \$169.89 (.003 of annual receipts of hog and pig farming). Based on the analysis in Section 3, the rule will impose more than minor costs on businesses potentially impacted by this proposed rule.

SECTION 5: Determine whether the proposed rule may have a disproportionate impact on small businesses as compared to the 10 percent of businesses that are the largest businesses required to comply with the proposed rule.

Cost information from the cost survey is limited and is supported by additional cost information from the cost-benefit analysis of the Significant Analysis. Costs outlined in Section 3 of this SBEIS and in the Significant Analysis apply to businesses of all sizes across a range of industries that involve animal waste handling and disposal. Based on the available information, the Board believes the proposed rule will likely have a disproportionate impact on small businesses.

SECTION 6: If the proposed rule has a disproportionate impact on small businesses, identify the steps taken to reduce the costs of the rule on small businesses. If the costs can not be reduced provide a clear explanation of why.

Most businesses already meet the basic standards and practices outlined in the proposed rule as evidenced by 37 of 41 survey responses indicating no cost impact. For those that do not already meet the proposed standards there may be new costs to comply with the proposed rule. The Board will provide information to address a significant misconception and explain the fact that the proposed rule does not include any operational functions or requirements that could generate or increase costs for businesses, such as record keeping, routine inspections, permitting, and reporting.

SECTION 7: Describe how small businesses were involved in the development of the proposed rule.

The Board worked with numerous, agencies, individuals and organizations during the stakeholdering and rule-drafting stages—many representing affected businesses and small businesses. The rule writing involved two in-person stakeholder meetings and review of informal versions followed by distribution of a public review draft aimed at soliciting broader stakeholder feedback. As described in Section 3 of this SBEIS, the cost survey was distributed broadly to

1,000 businesses and numerous associations to help raise awareness of the rulemaking and to invite feedback on cost impacts of the proposed rule.

SECTION 8: Identify the estimated number of jobs that will be created or lost as the result of compliance with the proposed rule.

There is no evidence that any jobs will be created or lost as a result of compliance with the proposed rule.

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