

Rule Project Worksheet

WAC Chapter	Chapter WAC 16		
WAC Sections	WAC 16.06.195		
Program Manager	Nora Mena		
Technical Person	Jeff Canaan		
Division Coordinator	Julie Carlson		
Person Maintaining the Official Rule File	Teresa Norman??		
Rules Coordinator	Teresa Norman??		
Deputy Director Approval	Yes	No	Date of Action

Project Scope:

Key Questions	Yes	No	Comment
What is the purpose of the project?			
• Raise fees		X	
• Amend current sections	X		WAC 16.06.195
• Repeal current sections		X	
• Adopt new sections		X	
• Rewrite and reformat rule so it is easier to use		X	
• Other			
Statutory authority?			Chapter 42.17.31923 RCW Certain Information From Dairies and Feedlots Limited-Rules, Chapter 90.64.190 RCW Livestock Nutrient Management Act
Permanent rule?	X		
Emergency rule?		X	
Expedited adoption?		X	
Expedited repeal?		X	
Controversial?	X		Finding ranges acceptable to both industry and press and environmental groups may be difficult.

Key Questions	Yes	No	Comment
Will an economic impact survey be needed?		X	The department believes that rule making authorized by RCW 42.17.31923 presents no more than minor economic impact upon the regulated community and, therefore a formal SBEIS is not required.
How will the rule proposal be developed?			The Department will begin the process of preparing draft range data for the information required in the statute through a coordinated outreach plan with the applicable state, local agencies and stakeholders.
• Negotiated rule making		X	
• Pilot project		X	
• Agency study		X	
• Other		X	
• WSDA staff with stakeholder review	X		Initial draft will be developed after consultation with key stakeholders
• WSDA staff with advisory committee involvement	X		Will use the existing Livestock Development and Oversight Committee as the primary advisory group. Press interests are not represented so they will be added to the distribution list for review activities.
• WSDA staff and ad hoc work group		X	
• WSDA staff		X	

Project Driver:

	Yes	No	Comment
What is driving the project?			
• Stakeholder petition?		X	
• Industry recommendation?		X	
• Court decision?		X	
• Change in RCW?	X		Need a copy for the rule file
• Change in federal statute or rule?		X	
• Department initiative?		X	
• Critical date?		X	

Executive Order 97-02 Criteria:

Criteria	Key Questions	Program Response
Need	<ul style="list-style-type: none"> Is the proposed rule necessary to comply with the statutes that authorize it? Have laws or other circumstances changed requiring amendments to the current rule? Is the proposed rule necessary to protect or safeguard the health, welfare, or safety of Washington's citizens? 	<p>The proposed amendments to chapter 16.06 WAC are required to implement RCW 42.17.31923. Certain Information From Dairies and Feedlots Limited--Rules, which states: "The following information in plans, records, and reports obtained by state and local agencies from dairies, animal feeding operations, and concentrated animal feeding operations, not required to apply for a national pollutant discharge elimination system permit is disclosable only in ranges that provide meaningful information to the public while ensuring confidentiality of business information regarding: (1) Number of animals; (2) volume of livestock nutrients generated; (3) number of acres covered by the plan or used for land application of livestock nutrients; (4) livestock nutrients transferred to other persons; and (5) crop yields. The department of agriculture shall adopt rules to implement this section in consultation with affected state and local agencies." RCW 90.64.190 repeats the charge but makes reference to information noted in the legislative language.??</p>
Effectiveness and Efficiency	<p>Are there any regulatory alternatives or new technologies that could more effectively or efficiently achieve the same objectives as the proposed rule?</p>	<p>There are no alternatives to rule making.</p>
Clarity	<p>Are the current and proposed rules written and organized in a clear and concise manner so they can be readily understood and used effectively and efficiently?</p>	<p>The proposed amendments will be written to comply with the "clarity" criteria in Executive Order 97-02.</p>
Intent and Statutory Authority	<p>Is the proposed rule:</p> <ul style="list-style-type: none"> Consistent with the legislative intent of the statutes that authorize it? Based upon sufficient statutory authority? 	<p>The department of agriculture shall adopt rules to implement this section in consultation with affected state and local agencies. The following provisions of chapter 42.17.31923 RCW give the department the statutory authority to propose and adopt the proposed amendments to chapter 16.06 WAC: RCW 42.17.31923 Certain Information From Dairies and Feedlots Limited—Rules.</p>
Coordination	<p>Will you consult and coordinate with other state agencies and jurisdictions that have similar regulatory authority and requirements when developing the proposed rule?</p>	<p>In compliance with RCW 42.17.31923, the Department will begin the process of preparing draft range data for the information required in the statute through a coordinated outreach plan with the affected state and local agencies. This includes the Conservation Commission and Districts, Department of Ecology and local governments such as Health and Planning (critical areas ordinance).</p>
Cost	<ul style="list-style-type: none"> Although WSDA is exempt from the cost/benefit requirements of RCW 34.05.328, will the proposed rule imposed new costs on the regulated community? Are those new costs "more than minor" as discussed in chapter 19.85 RCW? Is the proposed rule exempt from either chapter 19.85 RCW or OFM's fiscal growth rate factor? 	<p>The proposed amendments to chapter 16.06 WAC provide meaningful information to the public while ensuring confidentiality of the regulated community's business. Consequently, the department believes that the proposed amendments present no more than minor economic impact upon the regulated community, and a formal SBEIS is not required.</p>
Fairness	<ul style="list-style-type: none"> Does the proposed rule result in equitable treatment of those required to comply with it? Should the proposed rule be modified to eliminate or minimize any disproportionate impacts on the regulated community? 	<p>The proposed amendments will apply equally to the regulated community described in chapter 42.17.31923 RCW: "dairies, animal feeding operations, and concentrated animal feeding operations, not required to apply for a national pollutant discharge elimination system permit".</p>

Stakeholder Participation:

Who are the major stakeholders affected by rule proposal?	Who will be the stakeholder contact?	How will stakeholders be contacted?	Will the major stakeholders support the rule proposal?		How and when will the major stakeholders be involved in the rule development process?
			Yes	No	
Licensed Dairies	Jay Gordon, WA Dairy Federation	Email, website postings, Washington State Register (WSR) publication, Advisory Committee minutes and announcements, public hearing announcements.	X		Will be involved throughout the life of the project. Their role is to comment on and offer suggestions regarding the proposed rules. They will be involved indirectly through the advisory committee process. They can participate directly by participating in the public hearing process.
Other Animal Feeding Operations not required to have a permit	Jack Field, WA Cattlemen Ed Field, WA Cattle Feeders Chris Cheney, WA Fryer Commission	Same	X		Same
Environmental Community	Bruce Wishart, People for Puget Sound	Same	X		Their role is to comment on and offer suggestions regarding the proposed rules. They will be involved indirectly through the advisory committee process. They can participate directly by participating in the public hearing process.
Press	Rolland Thompson, press?	Same	X		Same

Are there stakeholder issues that could affect the outcome of this project? How should they be addressed? Yes, the concept of providing information in ranges was agreed upon by the stakeholders in 2005. However, there will be tension between the need to provide meaningful information while adequately protecting confidentiality of the producers. This tension can be addressed by working with all the stakeholders to find the common ground, and bringing the stakeholders together during the process to better understand each others interests.

Stakeholder Notification:

Method used to notify stakeholders			Who is responsible for content?	Will a public information officer be involved?		What is the purpose of the document?	When will the document be distributed?	To whom will the document be distributed?
	Yes	No		Yes	No			

Fact sheet	??		Jeff Canaan, Nora Mena, Jason Kelly	X		Summarize proposal and provide background	Approximately two weeks before the public hearing	Major stakeholders
News release	X		Jeff Canaan, Nora Mena, Teresa Norman, Jason Kelly	X		Summarize proposal and announce public hearing date, time and location	Approximately two weeks before the public hearing	Statewide public
Electronic distribution	X		Jeff Canaan, Nora Mena, Teresa Norman		X	Public information as a result of posting to the division web page and the WSDA Laws and Rules page.	On-going throughout the project.	Major stakeholders
Stakeholder meetings	X		Jeff Canaan, Nora Mena, Teresa Norman		?	Consolidated discussion and input	After initial comments on first general draft	Major stakeholders

Method used to notify stakeholders			Who is responsible for content?	Will a public information officer be involved?		What is the purpose of the document?	When will the document be distributed?	To whom will the document be distributed?
	Yes	No		Yes	No			
Other	X		Code Reviser	X		Public notice in the register constituting official notice	Following each Code Reviser filing	Statewide public

Impact of the rule project and proposed rule on WSDA resources:

WSDA resources	Yes	No	Nature of the impact?	When impacted?
Program staff	X		Program staff will develop rule language and handle interaction with stakeholders.	Ongoing through the process
Division staff	X		Division coordinator will file necessary documents with the Code Reviser, maintain the official rule file during the course of the project and mail out documents as necessary. The program and division webmaster will maintain postings to the WSDA Laws and Rules page.	Periodically through the process
Agency staff				
• Administrative Regulations	X		Rules Coordinator will review filing documents before they are filed. Administrative Regulations will provide a hearing officer for the public hearing.	Periodically through the process
• Information Services		X		

• Public Information	X		Help with the news release	Periodically through the process
• Homeland Security		X		
• Financial Services		X		
AAG	X		Review proposed language	Periodically through the process
Staff training	X		Staff participation in Effective Rule Writing and Writing Documents in Plain Talk in courses	Completed
Computer systems		X		
Forms and manuals		X		
Reporting system		X		
Penalty/citation process		X		
Stakeholder outreach	X		Part of rule development process	Periodically through the process
Other	X		Public information request processing	

Expedited Adoption [RCW 34.05.353(1)]:

(1) An agency may file notice for the expedited adoption of rules in accordance with the procedures set forth in this section for rules meeting any one of the following criteria: **THIS SECTION OF THE WORKSHEET DOES NOT APPLY TO THE CURRENT PROJECT.**

Criteria for Expedited Adoption	Yes	No	Comment
(a) Does the proposed rule relate only to internal governmental operations that are not subject to violation by a person?			
(b) Does the proposed rule adopt or incorporate by reference without material change: <ul style="list-style-type: none"> • Federal statutes or regulations; • Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance; or • As referenced by Washington state law, national consensus codes that generally establish industry standards. <p>NOTE: The material you adopt or incorporate by reference must regulate the same subject matter and/or conduct regulated by your WSDA rule.</p>			
(c) Does the proposed rule only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect?			

(d) Is the content of the proposed rule explicitly and specifically dictated by statute?			
(e) Has the proposed rule been the subject of negotiated rule making, pilot rule making, or some other process that involved substantial participation by interested parties before the development of the proposed rule?			
(f) Is proposed rule being amended after a review under RCW 34.05.328 (JARRC review)?			

Expedited Repeal [RCW 34.05.353(2)]:

(2) An agency may file notice for the expedited repeal of rules under the procedures set forth in this section for rules meeting any one of the following criteria: **THIS SECTION OF THE WORKSHEET DOES NOT APPLY TO THE CURRENT PROJECT.**

Criteria for Expedited Repeal	Yes	No	Comment
(a) The statute on which the current rule is based has been repealed and has not been replaced by another statute providing statutory authority for the current rule;			
(b) The statute on which the current rule is based has been declared unconstitutional by a court with jurisdiction, there is a final judgment, and no statute has been enacted to replace the unconstitutional statute;			
(c) The current rule is no longer necessary because of changed circumstances; or			
(d) Other rules of the agency or of another agency govern the same activity as the current rule, making the rule redundant.			

Emergency Rule Making (RCW 34.05.350): **THIS SECTION OF THE WORKSHEET DOES NOT APPLY TO THE CURRENT PROJECT.**

Criteria for Emergency Rules	Yes	No	Comment
Is the immediate adoption, amendment, or repeal of a rule necessary for the preservation of the public health, safety, or general welfare, and is observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule contrary to the public interest?			
Does a state or federal law or federal rule or a federal deadline for state receipt of federal funds require the immediate adoption of a rule?			

Tentative project timeline:

Task	Projected Date	Actual Date	Status	Who is responsible for completing the task?	Comments
Schedule and conduct the initial meeting between Program Manager, Technical Specialist, Division Coordinator and Rules Coordinator to discuss project.	3-15-06		DONE	Program Manager	
Deputy Director's approval of the project so it can move forward		Feb. 2006	DONE	Danni McQueen	
Drafting CR-101		Feb. 2006	DONE	Danni McQueen	
Forwarding CR-101 to WSDA Rules Coordinators for review.		Feb. 2006	DONE	Program Manager	
Review of draft CR-101		Feb. 22		Rules Coordinator	
Final draft of CR-101 to AD for signature.		Feb. 22, 2006	DONE	Rules Coordinator	
CR-101 filed with Code Reviser		Feb. 23,2006	DONE	Rules Coordinator	
CR-101 distributed to stakeholders	March 27, 2006			Program Manager and Division Coordinator	
CR-101 published in WSR	?			Code Reviser	
CR-101 form posted to WSDA "Laws and Rules" web page	?			WSDA webmaster	

Task	Projected Date	Actual Date	Status	Who is responsible for completing the task?	Comments
Initial draft of proposed rule language	3-31-06			Program Staff	
Review of draft language begins	4-3-06			Program Manager	Time for review by stakeholders
Review of draft language is completed	4-17-06			Program Manager Program Staff	Time to revise in response to comments
Final draft of proposed language sent to OTS	5-3-06			Division Coordinator	
"Buff" copy received from OTS	5-8-06			Division Coordinator	
"Buff" copy reviewed by the Program Manager	5-10-05			Program Manager	
Initial draft of economic survey and cover letter	N/A			Rules Coordinator	
Final draft of economic survey and cover letter.	N/A			Rules Coordinator	

Mail survey and cover letter	N/A			Division Coordinator	
Last date for return of survey.	N/A			Stakeholders	
Meet to review final survey results	N/A			Rules Coordinator and Program Manager	
Prepare memo summarizing survey results for the official rule file	N/A			Rules Coordinator	
Drafting CR-102	5-12-06			Program Manager	
Drafting "letter to interested parties" summarizing proposal and announcing the hearing date, time and location	5-15-06			Program Manager Program staff	
CR-102 filing "package" completed	5-19-06			Program Manager and Division Coordinator	Includes: <ul style="list-style-type: none"> • CR-102 form; • Any attachments to the form; • OTS "buff" copy of the rule language (and "repealer" if applicable); • Copy of SBEIS if required; and • Copy of program manager's "letter to interested parties".
Forwarding CR-102 package to Rules Coordinator for review	5-22-06			Division Coordinator	
Review of CR-102 package	5-22-06			Rules Coordinator	
CR-102 to AD for signature.	5-24-06			Division Coordinator	

Task	Projected Date	Actual Date	Status	Who is responsible for completing the task?	Comments
CR-102 filed with the Code Reviser	5-24-06			Division Coordinator	
CR-102 and proposed rule distributed to stakeholders (Also, copy of SBEIS if one is prepared.)	5-26-06			Program Manager and Division Coordinator	
CR-102 published in the WSR	5-31-06			Code Reviser	
CR-102 form, proposed language and public hearing information posted to WSDA "Laws and Rules" web page. (Also, copy of SBEIS if one is prepared.)	5-31-06			WSDA webmaster	

Issuance of news release (if used) announcing the public hearing	6-7-06			Public Information Office	
Public Hearing preparation completed	6-14-06			Hearing Officer Program Manager Division Coordinator	<ul style="list-style-type: none"> • Hearing Officer script completed • Technical report completed • Hearing facility arrangements completed • Travel arrangements completed • Sign-in sheets and any handouts required for the public hearing are printed
Public Hearing held in Olympia	6-21-06			Hearing Officer and Program Manager or Technical Staff Person	
Public comment period ends	6-21-06			Program Manager	
Hearing officer report completed for the official rule file	6-28-06			Hearing Officer	
Initial draft of Concise Explanatory Statement (CES)	7-3-06			Program Manager	
Final draft of CES for the official rule file	7-14-06			Program Manager	
Final rule language for CR-103 filing	7-25-06			Program Manager	
Final rule language buff from OTS with repealer if needed	7-26-06			Division Coordinator	

Task	Projected Date	Actual Date	Status	Who is responsible for completing the task?	Comments
"Buff" copy reviewed by the Program Manager	7-26-06			Program Manager	
Drafting CR-103	7-28-06			Program Manager	
Drafting "letter to interested parties" announcing final rule	7-28-06			Program Manager	
CR-103 filing "package" completed	7-31-06			Program Manager and Division Coordinator	Includes: <ul style="list-style-type: none"> • CR-103 form; • Any attachments to the form; • OTS "buff" copy of the rule language (and "repealer" if applicable); • Copy of CES, which is not filed with the Code Reviser; and • Copy of program manager's "letter to interested parties".
Forwarding CR-103 package to	7-31-06			Division Coordinator	

Rules Coordinator for review					
Review of CR-103 package	7-31-06			Rules Coordinator	
CR-103 to Director for signature	7-31-06			Assistant Director	Is a Director briefing required?
CR-103 filed with the Code Reviser	8-2-06			Division Coordinator	
CR-103 and copy of the adopted rule distributed to stakeholders	8-7-06			Division Coordinator	
Copies of the CES distributed to those stakeholders who attended the public hearing and who submitted written comments	8-7-06			Division Coordinator	
CR-103 published in the WSR	8-16-06			Code Reviser	
CR-103 form, adopted language and CES posted to WSDA "Laws and Rules" web page	8-16-06			WSDA webmaster	
Deliver the completed official rule file for the project to the Rules Coordinator	8-18-06			Division Coordinator	
RCW 34.05.335(3) "drop dead" date	3-5-06			Program Manager and Rules Coordinator	If we don't adopt a proposed rule within 180 days of its WSR publication date, the Code Reviser withdraws the proposal and we have to start all over!