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**From:** Mena, Nora (AGR)  
**Sent:** Sunday, April 01, 2007 10:13 AM  
**To:** Buendel, Jerry (AGR); Mitchell, Kristen (ATG)  
**Subject:** CR102 LNMP range rule 4 07  
**Attachments:** CR102 LNMP range rule 4 07.doc

fyi, here is a draft CR102. Teresa looked at it Friday and made some corrections. I left in one comment at the end as I'm not sure if I should go ahead and put in the usual response or keep some of the text. Obviously, when we are clearly on the same page for moving ahead and we talk with Bob Gore, then we can settle the dates. Let me know what you think. Nora

**ATTACHMENT**

**to email dated April 1, 2007**

**from Nora Mena (WSDA) to**

**WSDA Assistant Attorney General Kristen Mitchell and**

**WSDA staffer Jerry Buendel**



# PROPOSED RULE MAKING

## CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Washington Department of Agriculture

<input checked="" type="checkbox"/> Preproposal Statement of Inquiry was filed as WSR 06-06-033 ; or	<input checked="" type="checkbox"/> Original Notice
<input type="checkbox"/> Expedited Rule Making--Proposed notice was filed as WSR _____; or	<input type="checkbox"/> Supplemental Notice to WSR _____
<input type="checkbox"/> Proposal is exempt under RCW 34.05.310(4).	<input type="checkbox"/> Continuance of WSR _____

**Title of rule and other identifying information:** (Describe Subject) Public Disclosure of livestock information in ranges.  
 RCW 42.17.31923 directs the Department of Agriculture to write this rule to provide ranges for certain numeric information related to livestock operations. The ranges are to be used when a public disclosure request includes the affected information. The statute provides that the affected information is to be disclosed only in ranges, and that the ranges will provide meaningful information to the public while ensuring confidentiality of business information. The proposed rule sets out the ranges to be used by state and local agencies when the numeric information is contained in documents requested through the public disclosure process.

<b>Hearing location(s):</b>  Date: _____ Time: _____	<b>Submit written comments to:</b> Name: Nora Mena Address: PO Box 42560 Olympia, WA, 98504-2560 e-mail <a href="mailto:nmena@agr.wa.gov">nmena@agr.wa.gov</a> fax (360 725 5490) _____ by (date) _____ XXXX
	<b>Assistance for persons with disabilities:</b> Contact _____ by _____ TTY ( ) _____ or ( ) _____

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**  
 The proposed rule sets out the ranges to be used by the Department of Agriculture and other state and local agencies when documents related to livestock operations, and requested through the public disclosure process, include numeric information for: (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.  
 Legislation from 2005 and codified in RCW 42.17.31923 directs the Department of Agriculture to write this rule to provide the ranges for information related to certain livestock operations. The statute provides that the affected information is to be disclosed only in ranges, and that the ranges will provide meaningful information to the public while ensuring confidentiality of business information.  
 The information covered by this rule is found in nutrient management plans, inspection reports, dairy livestock nutrient management program registration forms and other documents. Local Conservation Districts, several programs with the department of Agriculture, the department of Ecology and some County agencies will have the type of information affected. Legislation in 2006 established an exemption from public disclosure of farm plans developed by the Conservation Districts where certain conditions were met. The exemption includes documents used to develop the plan. These newly exempted documents will not be covered by this proposed range rule.  
 When numeric information for any of the five categories is present in a requested document, the specific number will be redacted and replaced with the appropriate range that the number fell within.  
 Work with stakeholders indicates that the proposed ranges provide adequate confidentiality to the operators and will still give information that will be meaningful to the requestor.

<b>Statutory authority for adoption:</b> RCW 42.17.31923 and chapter 34.05 RCW	<b>Statute being implemented:</b> 42.17.31923
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<b>Is rule necessary because of a:</b> Federal Law? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Federal Court Decision? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No State Court Decision? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, CITATION:	<b>CODE REVISER USE ONLY</b>
<b>DATE</b>	
<b>NAME</b> (type or print) Jerry Buendel	
<b>SIGNATURE</b>	

TITLE

(COMPLETE REVERSE SIDE)

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: This is okay, but we usually simply respond with "None."**

Successful implementation of this rule will require clear understanding by staff involved in reviewing requests for livestock related information for applicability of the range rule. Documents will need to be reviewed carefully to identify all areas where the ranges should be substituted for specific numeric values. Nutrient management plans, in particular, have many different places where the numeric information related to the facility might be included.

There will be some additional staff time required to properly respond to requests where the ranges must be used.

Finally, the statute establishes that disclosure in ranges will be done by local and state agencies where they hold the affected records and documents and directs the department of Agriculture to develop and adopt the ranges. It appears that by adopting these ranges for use of Agriculture, that other local and state agencies may also make use of them. It is not so clear whether other agencies need to adopt the ranges themselves or rely on the ranges as adopted by Agriculture.

**Name of proponent:** (person or organization) Department of Agriculture

- Private
- Public
- Governmental

**Name of agency personnel responsible for:**

Name	Office Location	Phone
Drafting..... Nora Mena, (Jeff Canaan)	Olympia	(360) 902-2894
Implementation.... Laurie Crose, Julie CARLson	Olympia	(360) 902-1982
Enforcement..... Dannie McQueen??	Olympia	( )

**Has a small business economic impact statement been prepared under chapter 19.85 RCW?**

Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone ( ) \_\_\_\_\_

fax ( ) \_\_\_\_\_

e-mail \_\_\_\_\_

No. Explain why no statement was prepared.

Rule effects how local and state agencies will handle public disclosure requests for certain numeric information held regarding some livestock operations. The rule does not expand what is disclosed currently but creates ranges to substitute for the affected information. Statutory direction for developing the rule language was to achieve a balance between providing meaningful information to the public and maintaining confidentiality of the operations business. If the rule meets that balance there should be no economic impact to small business operators.

**Is a cost-benefit analysis required under RCW 34.05.328?**

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone ( ) \_\_\_\_\_

fax ( ) \_\_\_\_\_

e-mail \_\_\_\_\_

No: Please explain: ~~Procedural action taken by WSDA is not subject to the cost/benefit analysis.??~~ The Washington State Department of Agriculture is not a listed agency in RCW 34.05.328(5)(a)(i).