



# EXPEDITED RULE MAKING

## CR-105 (December 2017) (Implements RCW 34.05.353)

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STATE OF WASHINGTON  
FILED

DATE: April 03, 2019

TIME: 7:14 AM

WSR 19-08-081

**Agency:** Dept. of Agriculture

**Title of rule and other identifying information:** (describe subject) Chapter 16-125 WAC, Farm Milk Storage Tanks and Bulk Milk Tanker – Requirements. The Department is proposing rule making to repeal WAC 16-125-035, Farm tank pickup and washing requirements.

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** WAC 16-125-035 requires that (1) All milk must be picked up at least every forty-eight hours from farm tanks, and (2) All farm tanks must be emptied, washed and sanitized at least once every forty-eight hours. Northwest Dairy Association and Darigold petitioned the Department, requesting that these time requirements be changed to align with the 2017 Pasteurized Milk Ordinance (PMO), a national consensus code that is currently being adopted under separate rule making.

**Reasons supporting proposal:** The PMO specifies a 72-hour requirement for farm tank pickup and washing. By repealing this section, the rule will not conflict with the pickup and washing requirements specified in the PMO. The 48-hour requirement is not necessary to protect public health. Its repeal improves consistency with national standards.

**Statutory authority for adoption:** RCW 15.36.021

**Statute being implemented:** Chapter 15.36 RCW

**Is rule necessary because of a:**

- |                         |                              |  |
|-------------------------|------------------------------|--|
| 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:

**Name of proponent:** (person or organization) Northwest Dairy Association and Darigold

Private  
 Public  
 Governmental

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting:	Lucy Severs	1111 Washington St. SE Olympia, WA 98504	360-725-5761
Implementation:	Lucy Severs	1111 Washington St. SE Olympia, WA 98504	360-725-5761
Enforcement:	Lucy Severs	1111 Washington St. SE Olympia, WA 98504	360-725-5761

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:** None

**Expedited Adoption - Which of the following criteria was used by the agency to file this notice:**

- Relates only to internal governmental operations that are not subject to violation by a person;
- Adopts or incorporates by reference without material change 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, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;
- Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect;
- Content is explicitly and specifically dictated by statute;
- Have 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; or
- Is being amended after a review under RCW 34.05.328.

**Expedited Repeal - Which of the following criteria was used by the agency to file notice:**

- The statute on which the rule is based has been repealed and has not been replaced by another statute providing statutory authority for the rule;
- The statute on which the 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;
- The rule is no longer necessary because of changed circumstances; or
- Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

**Explanation of the reason the agency believes the expedited rule-making process is appropriate pursuant to RCW 34.05.353(4):** Farm tank pickup and washing requirements are already specified by the PMO which is a national consensus code as referenced in RCW 15.36.021(3) and adopted under chapter 16-101 WAC. By repealing this section, we are deferring to the requirements of the PMO and removing redundancy and conflicting requirements.

**NOTICE**

**THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO**

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Agency: Washington State Dept. of Agriculture

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Other:

**AND RECEIVED BY** (date) June 3, 2019

**Date:** April 3, 2019

**Name:** Steve Fuller

**Title:** Assistant Director

**Signature:**

