



# PROPOSED RULE MAKING

## CR-102 (June 2012)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Department of Agriculture

<input checked="" type="checkbox"/> Preproposal Statement of Inquiry was filed as WSR 12-17-140 ; 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) or 34.05.330(1).	<input type="checkbox"/> Continuance of WSR _____

**Title of rule and other identifying information:** (Describe Subject) The department is proposing to revise WAC 16-228-1545 and WAC 16-228-1546 to establish the Soil Fumigation Category for Private Applicators seeking a certification option to label-mandated training on soil fumigants.

**Hearing location(s):**  
Washington State Department of Agriculture  
Natural Resources Building (NRB)  
1111 Washington Street SE-- Second Floor, Room 259  
Olympia, WA 98504

**Submit written comments to:**  
Name: Margaret Tucker, Program Manager  
Address: PO Box 42560, Olympia, WA 98504-2560  
  
e-mail [mtucker@agr.wa.gov](mailto:mtucker@agr.wa.gov)  
fax (360) 902-2093 by (date) December 12, 2012

Date: Wednesday, December 12, 2012 Time: 2:00 PM

**Assistance for persons with disabilities:**  
Contact Agency Receptionist at (360) 902-1976  
by December 5, 2012  
TTY (800) 833-6388 or 711

**Date of intended adoption:** December 20, 2012  
(Note: This is NOT the effective date)

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** This proposal would revise WAC 16-228-1546 to provide a certification option for Private Applicators to label-mandated training prior to soil fumigant use. This training is a risk mitigation measure required by the Environmental Protection Agency (EPA) following a re-registration review. However, in lieu of training, EPA is allowing states to provide a certification option. Private Applicators that add a new Soil Fumigation license category after passing an exam that addresses the new mitigation measures will be exempt from the label-mandated training. This certification option will remain valid as long as the licensee is in an active recertification cycle. WSDA is interested in providing this option to applicators that are unable to attend registrant-provided training or that prefer a certification option.

**Reasons supporting proposal:** Exam requirements, including categories necessary for Washington State pesticide licenses, are defined in the General Pesticide Rules (WAC 16-228-1545(3)). Except for the Aquatic category, which is required when a farmer or their employee applies to water moving off the PA's property, Private Applicators are not required to add categories to their license. While the Soil Fumigation category for Private Applicators will be voluntary in lieu of the label-mandated training, it would be useful to amend the rule addressing Private Applicator licensing (WAC 16-228-1546) to provide this certification option. This would provide EPA with confirmation of the licensing option and provide a regulatory basis for Private Applicators wishing to use a certification option to meet the new label requirements.

**Statutory authority for adoption:** RCW 17.21.030, RCW 15.58.040, and chapter 34.05 RCW. Also 3ESBH 2127.

**Statute being implemented:** RCW 17.21.030, RCW 15.58.040

**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:

**DATE**  
October 31, 2012

**NAME** (type or print)  
Ted Maxwell

**SIGNATURE**

**TITLE**  
Acting Assistant Director, Pesticide Management Division

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: November 07, 2012**  
**TIME: 10:56 AM**  
**WSR 12-22-079**

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:**

None.

**Name of proponent:** (person or organization) WSDA

- Private
- Public
- Governmental

**Name of agency personnel responsible for:**

Name	Office Location	Phone
Drafting.....Margaret Tucker	1111 Washington Street SE, 2 <sup>nd</sup> Floor	(360) 902-2015
Implementation.....Margaret Tucker	1111 Washington Street SE, 2 <sup>nd</sup> Floor	(360) 902-2015
Enforcement.....Margaret Tucker	1111 Washington Street SE, 2 <sup>nd</sup> Floor	(360) 902-2015

**Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?**

Yes. Attach copy of small business economic impact statement or school district fiscal 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. This provides a certification option for Private Applicators to label-mandated training that will be required on soil fumigation labels beginning in December 2012. Private Applicators are not required to add the Soil Fumigation category to their pesticide license but may do so if they choose in order to avoid the label-mandated training.

**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: The Washington State Department of Agriculture is not a listed agency under RCW 34.05.328(5)(a)(i).