

WSR 22-17-169
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE
[Filed August 24, 2022, 11:47 a.m.]

Subject of Possible Rule Making: Chapter 16-228 WAC, General pesticide rules. The department is considering modifying the rules for assessing penalties for pesticide violations.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 17.21.030(2), 17.21.315, 15.58.040(2), 15.58.335.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:

- Existing rules have not been substantially updated since they were first adopted in 1999.
- Penalties for various levels of violation are too low and do not serve as an effective deterrent.
- Having four levels of violation is meaningless since the department is rarely able to assess the highest level (fourth level) of violation due to the time constraints of the investigation and adjudicative process. This limits the department's ability to assess the maximum civil penalties authorized by statute.
- Current rules for calculating license suspensions is a "one size fits all" approach and is not equitable when considering the differences between certain license types or when no licensed applicator is involved.
- Current rules for calculation of penalties do not accurately reflect the differences in severity of violations and do not specifically explain that each violation of the statutes or rule is a separate and distinct offense for the purpose of calculating total penalties for an incident.
- Rules for adjusting (aggravating or mitigating) a penalty within the penalty assignment schedule are not clear.

Process for Developing New Rule: Department staff will discuss any proposed amendments with affected stakeholder groups. Affected stakeholders will also have an opportunity to submit written comments on the proposed rules during the public comment period and will be able to present oral testimony at the public hearing(s).

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Scott Nielsen, Compliance Case Review Officer, Pesticide Management Division, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, phone 509-990-6518, fax 360-902-2093, email snielsen@agr.wa.gov, website agr.wa.gov.

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