**Agency:** Dept. of Agriculture

- **Original Notice**
- **Supplemental Notice to WSR _____**
- **Continuance of WSR _____**

- **Preproposal Statement of Inquiry was filed as WSR 21-16-129 ; or**
- **Expedited Rule Making--Proposed notice was filed as WSR _____; or**
- **Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or**
- **Proposal is exempt under RCW _____.**

**Title of rule and other identifying information:** (describe subject) Chapter 16-228 WAC, General Pesticide Rules. The Department is proposing to modify WAC 16-228-1540 to offer an additional testing option of computerized or virtual based pesticide licensing testing through a third-party entity. The current option of paper-based testing would continue to be offered. Computer based testing fees, not to exceed $65, will be established by contract with a third-party entity and the fee will be posted on the agency website.

**Hearing location(s):**

<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
<th>Location</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 26, 2022</td>
<td>9:00 AM</td>
<td>Microsoft Teams meeting Join on your computer or mobile app by the following link: [<a href="https://teams.microsoft.com/l/meetup-join/19%3ameeting_MGI4ZNmD02N2N2S0QOWY3LWfZ">https://teams.microsoft.com/l/meetup-join/19%3ameeting_MGI4ZNmD02N2N2S0QOWY3LWfZ</a> WELMS46MDUzNDE0OTVI%40thread.v2/0?context=%7b%22Tid%22%3a%2211d0e217-264e-400a-8ba0-57dcc127d72d%22%2c%22Oid%22%3a%22838c55c7-c187-44ae-8de0-2be684ce5d4a%22%7d](<a href="https://teams.microsoft.com/l/meetup-join/19%3ameeting_MGI4ZNmD02N2N2S0QOWY3LWfZ">https://teams.microsoft.com/l/meetup-join/19%3ameeting_MGI4ZNmD02N2N2S0QOWY3LWfZ</a> WELMS46MDUzNDE0OTVI%40thread.v2/0?context=%7b%22Tid%22%3a%2211d0e217-264e-400a-8ba0-57dcc127d72d%22%2c%22Oid%22%3a%22838c55c7-c187-44ae-8de0-2be684ce5d4a%22%7d)</td>
<td>This public hearing will be held solely over video and teleconference.</td>
</tr>
<tr>
<td>July 26, 2022</td>
<td>2:00 PM</td>
<td>Microsoft Teams meeting Join on your computer or mobile app by the following link: [<a href="https://teams.microsoft.com/l/meetup-join/19%3ameeting_MGI4ZNmD02N2N2S0QOWY3LWfZ">https://teams.microsoft.com/l/meetup-join/19%3ameeting_MGI4ZNmD02N2N2S0QOWY3LWfZ</a> WELMS46MDUzNDE0OTVI%40thread.v2/0?context=%7b%22Tid%22%3a%2211d0e217-264e-400a-8ba0-57dcc127d72d%22%2c%22Oid%22%3a%22838c55c7-c187-44ae-8de0-2be684ce5d4a%22%7d](<a href="https://teams.microsoft.com/l/meetup-join/19%3ameeting_MGI4ZNmD02N2N2S0QOWY3LWfZ">https://teams.microsoft.com/l/meetup-join/19%3ameeting_MGI4ZNmD02N2N2S0QOWY3LWfZ</a> WELMS46MDUzNDE0OTVI%40thread.v2/0?context=%7b%22Tid%22%3a%2211d0e217-264e-400a-8ba0-57dcc127d72d%22%2c%22Oid%22%3a%22838c55c7-c187-44ae-8de0-2be684ce5d4a%22%7d)</td>
<td>This public hearing will be held solely over video and teleconference.</td>
</tr>
</tbody>
</table>
Date of intended adoption: August 2, 2022. (Note: This is NOT the effective date)

Submit written comments to:
Name: Gloriann Robinson, Agency Rules Coordinator
Address: PO Box 42560, Olympia, WA 98504-2560
Email: wsdarulescomments@agr.wa.gov
Fax: (360) 902-2092
Other:
By (date) 5:00 PM, July 26, 2022

Assistance for persons with disabilities:
Contact Maryann Connell
Phone: (360) 902-2012
Fax: (360) 902-2093
TTY: (800) 833-6388
Email: mconnell@agr.wa.gov
Other:
By (date) July 19, 2022.

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The Department oversees the initial and continued certification and licensing of pesticide applicators, dealer managers, consultants, and structural pest inspectors. As part of the licensing process, the Department administers pesticide exams to ensure that individuals and businesses that apply, sell, or consult on pesticide products are sufficiently competent to do so and in a safe and effective manner.

Currently, exams are offered primarily in paper format at a few locations on limited dates and are required to be graded and distributed manually.

The Department is proposing to add an option for computer or virtual-based testing environments in which applicants can take exams at professional testing facilities or on other platforms throughout the state. Offering these exams at more locations and at more convenient times will make the exam step in the licensing process more efficient, convenient, and accessible for applicants.

To offer this service, the Department must utilize a third-party entity to facilitate access and administration of the certification exams. Exam administration through these third-party entities, however, typically costs more than the Department’s current paper-based exam fee.

The Department will continue to offer paper-based testing. Applicants may utilize the paper-based testing option currently available or may elect to take exams via computer-based or virtual-based platforms at a fee not to exceed $65 per exam. This fee will be established in contract with a third-party entity and will be posted to the WSDA website.
**Reasons supporting proposal:** Over the past several years, prospective licensees and employers have been requesting improved access to testing services, including more frequent testing sessions, more convenient testing locations, and enhanced exam review. Licensing staff and resources are limited, with testing only available at six established locations statewide on variable schedules. Computer or virtual-based testing through specialized software is a way to efficiently meet the needs of agency customers.

During the 2020 legislative session, the Washington State Legislature passed HB 2624. This bill provided the department authority to contract with a third-party entity to administer the exams and/or the collection of fees. This rulemaking provides license applicants with more testing options than currently provided by the Department.

**Statutory authority for adoption:** RCW 15.58.040; 15.58.240; 17.21.030; 17.21.134.

**Statute being implemented:** RCW 15.58.040

**Is rule necessary because of a:**
- Federal Law? ☐ Yes ☒ No
- Federal Court Decision? ☐ Yes ☒ No
- State Court Decision? ☐ Yes ☒ No

If yes, CITATION:

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

**Name of proponent:** (person or organization) Washington State Dept. of Agriculture ☐ Private ☐ Public ☒ Governmental

**Name of agency personnel responsible for:**

<table>
<thead>
<tr>
<th>Name</th>
<th>Office Location</th>
<th>Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drafting: Kelle Davis</td>
<td>1111 Washington St. SE PO Box 42560 Olympia, WA 98504-2560</td>
<td>(360) 902-1851</td>
</tr>
<tr>
<td>Implementation: Christina Zimmerman</td>
<td>1111 Washington St. SE PO Box 42560 Olympia, WA 98504-2560</td>
<td>(360) 902-2150</td>
</tr>
<tr>
<td>Enforcement: Tim Schultz</td>
<td>222 N. Havana, Ste 203 Spokane, WA 99202</td>
<td>(509) 994-0936</td>
</tr>
</tbody>
</table>

**Is a school district fiscal impact statement required under RCW 28A.305.135?** ☐ Yes ☒ No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Phone</th>
<th>Fax</th>
<th>TTY</th>
<th>Email</th>
<th>Other</th>
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**Is a cost-benefit analysis required under RCW 34.05.328?**

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

<table>
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<tr>
<th>Name</th>
<th>Address</th>
<th>Phone</th>
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</thead>
</table>
Fax:  
TTY:  
Email:  
Other:  
☑ No: Please explain: The Washington State Dept. of Agriculture is not a listed agency under RCW 34.05.328(5)(a)(i).

### Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):  

☐ This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

☐ This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

☐ This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

☐ This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

| ☐ RCW 34.05.310 (4)(b) (Internal government operations) | ☐ RCW 34.05.310 (4)(e) (Dictated by statute) |
| ☐ RCW 34.05.310 (4)(c) (Incorporation by reference) | ☐ RCW 34.05.310 (4)(f) (Set or adjust fees) |
| ☐ RCW 34.05.310 (4)(d) (Correct or clarify language) | ☐ RCW 34.05.310 (4)(g) ((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |

☐ This rule proposal, or portions of the proposal, is exempt under RCW .

Explanations of exemptions, if necessary:

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**COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES**

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

☒ No  Briefly summarize the agency's analysis showing how costs were calculated. The Department has determined that no SBEIS is necessary for this rulemaking. The Department issues pesticide licenses to individuals, not businesses. Business are not required to pay pesticide exam fees for employees, and the final responsibility to pay the exam fee falls on the individual. Therefore, this change has no impact on small businesses.

☐ Yes  Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name: Gloriann Robinson, Agency Rules Coordinator  
Address: PO Box 42560, Olympia, WA 98504-2560  
Phone: (360) 902-1802  
Fax: (360) 902-2092  
TTY: (800) 833-6388  
Email: wsdarulescomments@agr.wa.gov  
Other:

**Date:** June 22, 2022

**Name:** Robin Schoen-Nessa  
**Title:** Assistant Director, Pesticide Management Division

**Signature:**
WAC 16-228-1540 What are the requirements for pesticide examinations?

(1) An examination fee of ((twenty-five dollars)) $25 shall be paid prior to administration of any paper-based pesticide or structural pest inspector license examinations. (The department reserves the right to restrict the number of applicants examining at any given time.)

(2) An examination fee of not more than $65 shall be paid prior to the administration of each computer-based pesticide or structural pest inspector license examination. If a third-party entity administers a computer-based licensing exam, an applicant shall pay the exam cost established in the vendor’s contract with the department, not to exceed the amount set in this section. The department will post this exam fee to its website.

(3) The director may administer the pesticide exams, may contract with an examination or testing vendor to administer the exams, or both.

(4) The department reserves the right to restrict the number of applicants taking examinations at any given time.

(5) Any individual who fails any pesticide licensing examination twice shall be required to wait at least ((fourteen)) 14 days before retaking that examination a third time. Subsequent testing shall be at the director’s discretion.

(6) An applicant shall complete the application form for a pesticide or structural pest inspector license and pay the required license application fee and testing fee at the time pesticide or structural pest inspector examinations are given, unless prior arrangements have been made.

(7) Pesticide and structural pest inspector examination scores shall not be released by the department until the license application fee and testing fee have been paid.