



# PROPOSED RULE MAKING

## CR-102 (June 2024) (Implements RCW 34.05.320) Do NOT use for expedited rule making

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STATE OF WASHINGTON  
FILED

DATE: October 01, 2024

TIME: 8:40 AM

WSR 24-20-110

**Agency:** Washington State Noxious Weed Control Board

☒ **Original Notice**

☐ **Supplemental Notice to WSR** \_\_\_\_\_

☐ **Continuance of WSR** \_\_\_\_\_

☒ **Preproposal Statement of Inquiry was filed as WSR** 24-14-059 ; 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 16-750 WAC, State noxious weed list and schedule of monetary penalties. The Washington State Noxious Weed Control Board is proposing to amend pronouns and the state noxious weed list for 2025..

### Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
November 5 <sup>th</sup> , 2024	1:00 p.m.	Confluence Technology Center 285 Technology Center Way Wenatchee WA98801  WebEx Info Phone # (877)312-2253 Meeting # 2538 353 9546	This Hearing will be held both in person and virtually through WebEx. WebEx Meeting Link: <a href="https://agr.webex.com/agr/j.php?MTID=m4bd1e6b457812c16d55463abb11d32b0">https://agr.webex.com/agr/j.php?MTID=m4bd1e6b457812c16d55463abb11d32b0</a>

**Date of intended adoption:** November 6<sup>th</sup>, 2024 (Note: This is **NOT** the **effective** date)

### Submit written comments to:

Name Mary Fee

Address WSNWCB P.O. Box 42560; Olympia, WA 98504-2560

Email [mfee@agr.wa.gov](mailto:mfee@agr.wa.gov) or  
[noxiousweeds@agr.wa.gov](mailto:noxiousweeds@agr.wa.gov)

Fax 360-902-2053

Other

Beginning (date and time) October 1<sup>st</sup>, 2024

By (date and time) Monday November 4<sup>th</sup>, 2024

### Assistance for persons with disabilities:

Contact Mary Fee

Phone 360-561-4428

Fax 360-302-2053

TTY 800-833-6388

Email [mfee@agr.wa.gov](mailto:mfee@agr.wa.gov)

Other

By (date) Wednesday October 30<sup>th</sup>

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The Washington State noxious weed list provides the basis for noxious weed control efforts for county noxious weed control boards and other entities. It also provides guidelines for the state noxious weed control board. This proposal updates the noxious weed list, updates pronouns, and updates language throughout Chapter 16-750 WAC. The anticipated effects include having an effective and efficient noxious weed list and guidelines for the administration of the state noxious weed control board.

Updates to the Noxious Weed List

WAC 16-750-005 Class A Noxious Weed Changes and Additions

The addition of round leaf bittersweet, *Celastrus orbiculatus*

The addition of marsh thistle, *Cirsium palustre*

WAC 16-750-011 Class B Noxious Weed Changes and Additions

Un-designating shiny geranium, *Geranium lucidum*, in Pierce County.

WAC 16-750-015 Class C Noxious Weed Changes and Additions

Adding wild holly, *Ilex species* not including holly found in managed landscapes, or where commercially or agriculturally grown.

Updating Pronouns Throughout

WAC 16-750-120 (8)(11), WAC 16-750-130 (2b), WAC 16-750-135 (11)(15c), WAC 16-750-137 (5).

Other administrative updates to ensure the Chapter 16-750 WAC reflects and matches RCW 17.10, and other grammatical corrections.

**Reasons supporting proposal:** Under RCW 17.10.080, the Washington State Noxious Weed Control Board (WSNWCB) is charged with updating the state noxious weed list on an annual basis to ensure it accurately reflects the noxious weed control priorities and noxious weed distribution. Under RCW 17.10.070, the WSNWCB is charged with adopting, amending, or repealing rules, pursuant to the administrative procedure act, chapter 34.05 RCW, as may be necessary to carry out the duties and authorities assigned to the board by this chapter.

The proposed addition of round leaf bittersweet, *Celastrus orbiculatus*, and marsh thistle, *Cirsium palustre* as Class A noxious weeds is intended to keep them from spreading from their very limited distribution to new locations within Washington State. Noxious weeds are very invasive species that when left uncontrolled outcompete agricultural crops and native species. Noxious weed infestations negatively impact both terrestrial and aquatic habits as well as farming and grazing lands.

The designation change of shiny geranium from a class B noxious weed designated by the state for control to undesignated in Pierce County better meets the current distribution and control requirements in Pierce County. Class B noxious weeds are generally designated where they are absent, limited, or pose a serious threat to health, agriculture, or natural areas so the economic impact is not unreasonable.

The proposed addition of nonnative holly, *Ilex species* as a C noxious weed species is intended to help control nonnative holly in wilderness, ecosystems, and habitats and to limit its distribution to un-infested areas as well allow for funding and permitting of control work.

Amending he/she pronouns to they/their pronouns helps to clarify current rule language using more grammatically correct pronouns and to clarify current rule language using inclusive pronouns.

**Statutory authority for adoption:** RCW 17.10.070, 17.10.080

**Statute being implemented:** RCW 17.10

**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:**

**Name of proponent:** (person or organization) Washington State Noxious Weed Control Board

**Type of proponent:** ☐ Private. ☐ Public. ☒ Governmental.

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting	Mary Fee	1111 Washington St SE, Olympia, WA 98504	(360) 561-4428
Implementation	Mary Fee	1111 Washington St SE, Olympia, WA 98504	(360) 561-4428
Enforcement	Mary Fee	1111 Washington St SE, Olympia, WA 98504	(360) 561-4428

**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:

Name

Address

Phone

Fax

TTY  
Email  
Other

**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  
TTY  
Email  
Other

- ☒ No: Please explain: The Washington State Noxious Control Board is not one of the agencies listed in this section

**Regulatory Fairness Act and Small Business Economic Impact Statement**

Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

**(1) Identification of exemptions:**

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). 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:

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(b)<br>(Internal government operations) | <input checked="" type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(e)<br>(Dictated by statute)  |
| <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(c)<br>(Incorporation by reference)                | <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(f)<br>(Set or adjust fees)  |
| <input checked="" type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(d)<br>(Correct or clarify language)    | <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(g)<br>((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 19.85.025](#)(4). (Does not affect small businesses).

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

Explanation of how the above exemption(s) applies to the proposed rule:

**(2) Scope of exemptions: Check one.**

- ☒ The rule proposal: Is fully exempt. (*Skip section 3.*) Exemptions identified above apply to all portions of the rule proposal.
- ☐ The rule proposal: Is partially exempt. (*Complete section 3.*) The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):
- ☐ The rule proposal: Is not exempt. (*Complete section 3.*) No exemptions were identified above.

**(3) Small business economic impact statement: Complete this section if any portion is not exempt.**

If any portion of 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 minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. \_\_\_\_\_
- ☒ Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

**Small Business Economic Impact Statement**  
**Chapter 16-750 WAC**  
**State Noxious Weed List and Schedule of Monetary Penalties**  
**A rule concerning 2025 Noxious Weed List and Updates**  
**Date 9/30/2024**

**SECTION 1:**

***Describe the proposed rule:***

■ Chapter 17.24 RCW mandates “a strong system” to protect the forest, agricultural, horticultural, floricultural, and apiary industries of the state from the impact of insect pests, plant pathogens, noxious weeds, and bee pests and infestations. The Washington State Noxious Weed Control Board (WSNWCB) is charged with updating the state noxious weed list annually per RCW 17.10.080. Noxious weeds and invasive species adversely affect Washington’s agriculture, natural and human resources, and wildlife habitats both terrestrial and aquatic. Eradication and control of noxious and invasive weed species limits economic loss and minimizes negative impacts to both businesses and the landscape protecting the forest, agricultural, horticultural, floricultural, and apiary industries of the state from noxious and invasive weed invasions.

The Washington State noxious weed list provides the basis for noxious weed control efforts for county noxious weed control boards and other entities. It also provides guidelines for the state noxious weed control board. This proposal makes a few amendments to WAC 16-750-005, WAC 16-750-011, and WAC 16-750-015. Specifically, the Board is proposing:

1. WAC 16-750-005 Class A Noxious Weed Additions

The addition of round leaf bittersweet, *Celastrus orbiculatus*

The addition of marsh thistle, *Cirsium palustre*

2. WAC 16-750-011 Class B Noxious Weed Changes

Un-designating shiny geranium, *Geranium lucidum*, in Pierce County.

3. WAC 16-750-015 Class C Noxious Weed Additions

Wild holly, *Ilex species* not including holly found in managed landscapes, or where commercially or agriculturally grown.

***Proposed additions of Class A noxious weeds:***

The proposed addition of round leaf bittersweet, *Celastrus orbiculatus*, and marsh thistle, *Cirsium palustre* as Class A noxious weeds is intended to keep them from spreading from their very limited distribution to new locations within Washington State. Noxious weeds are very invasive species that when left uncontrolled outcompete agricultural crops and native species. Noxious weed infestations negatively impact both terrestrial and aquatic habits as well as farming and grazing lands.

Round leaf bittersweet is proposed for listing as a Class A Noxious Weed because it climbs and dominates canopies, it chokes and shades out lower plants. Additionally, birds readily spread seeds. The intent is to prevent round leaf bittersweet from establishing in Washington.

Marsh thistle, *Cirsium palustre*, is recommended for listing as a Class A Noxious Weed because it invades riparian areas, wetlands, woodlands, and pastures. It forms monocultures and hybridizes with creeping thistle, *Cirsium arvense*. There are no or very limited infestations in WA. The intent is to prevent marsh thistle from establishing in Washington.

***Proposed designation changes:***

Shiny geranium: The designation change of shiny geranium to be un-designated in Pierce County, is intended to better match the distribution. Shiny geranium is a small annual plant that produces a large amount of seed in a single season. Shiny geranium can out compete native vegetation and is found in many different areas.

***Proposed additions of Class C noxious weeds:***

Wild holly, *Ilex species*, is a slow-growing evergreen shrub or tree. Birds spread the berries, which has allowed holly to become established in natural areas, such as native lowland forest. New scientific data indicates that in forests, holly can form dense thickets that can suppress native shrubs and young trees. Holly also reproduces by producing suckers, and

branches can root where they touch the ground. Holly is tolerant of a wide range of soil, moisture, and light conditions, allowing it to invade a variety of sites. All parts of the plant can be toxic to humans, if ingested in large quantities. Berries are the most likely part to be eaten and can cause gastrointestinal problems in children who have eaten as few as 3 berries.

- *a brief description of the probable compliance requirements and the kinds of professional services that a small business is likely to need to comply with the proposed rule.*

If a business owns land that contains newly listed class A noxious weeds, it will be required to control that infestation. Both the proposed class A additions, round leaf bittersweet and march thistle, are in very limited distribution if at all in Washington State. The proposed addition of these two species is intended to protect Washington’s agricultural lands, wilderness, and ecosystems from future infestations. This listing allows for early detection and rapid response if plants are found. Many county noxious weed control boards have programs to assist landowners with class A infestation eradication and control.

The designation changes of shiny geranium is less restrictive and will have less compliance requirements. Counties may still select this for control at the local level.

This rule-making may affect any businesses that own land infested with wild holly. The listing of wild holly means that county noxious weed boards have the option to subsequently select wild holly for mandatory control. The noxious weed list is separate from the WSDA quarantine lists (Chapter WAC 16-752), which prohibit the sale and transport of particular species, so the proposed listing of wild holly would not prohibit the production or sale of English holly grown for foliage or for horticultural use. A Class C listing of wild holly does not itself require control by landowners. County noxious weed control boards would have the option of selecting it for mandatory control, although holly that is grown commercially or agriculturally would be excluded from this requirement. The vast majority of county noxious weed control boards polled indicated either an interest in educating the public or taking no regulatory action at all about wild holly. Therefore, there are no compliance requirements for this proposed listing.

## SECTION 2:

*Identify which businesses must comply with the proposed rule using the North American Industry Classification System (NAICS) codes and the minor cost thresholds.*

The businesses listed in this table may have the potential to grow and/or sell the proposed species to be added to the noxious weed list. However, commercially, or agriculturally grown holly is excluded.

NAICS Code (4, 5, or 6 digits)	NAICS Business Industry Description	Number of impacted businesses that operate in Washington State  (if known)	Minor Cost Threshold = .3% of Average Annual Receipts	\$100  (This can be the default minor-cost used if data is unavailable)	Minor Cost Threshold = This column calculates automatically. (0.01*Avg Pay)	Cost of business that is less than \$50 of annual cost per client or other appropriate units of service.  DSHS rules only
111000	Other Crop Production	Unknown	Unknown	\$100	Unknown	Unknown
113000	Other forestry and logging	Unknown	Unknown	\$100	Unknown	Unknown
110000	Other Agriculture,	Unknown	Unknown	\$100	Unknown	Unknown

	forestry, fishing, and hunting					
444220	Nursery, Garden Center, and Farm Supply Stores	Unknown	\$3612.25 Dataset pulled from ESD	\$100	\$4675.20 2021 Dataset pulled from ESD	Unknown
111421	Nursery and Tree Production	Unknown	\$2588.86 Dataset pulled from ESD	\$100	\$5322.57 2021 Dataset pulled from ESD	Unknown
115310	Support Activities for Forestry	Unknown	\$3238.51 2021 Dataset pulled from ESD	\$100	\$3893.89 2021 Dataset pulled from ESD	Unknown
444240	Nursery and Garden Centers	Unknown	Unknown	\$100	Unknown	Unknown
424930	Nursery Stock merchant Wholesalers	Unknown	\$8109.70 2021 Dataset pulled from ESD	\$100	\$4086.45 2021 Dataset pulled from ESD	Unknown

Additionally, any business that owns lands with an infestation of any of the proposed species to be added to the 2025 noxious weed list must comply with the proposed rule.

### SECTION 3:

#### Analyze the probable cost of compliance.

There will be no increase in licensing, inspections, or other fees for the proposed listings. If a business owns land that contains newly listed class A noxious weeds, it may control the plant itself. Such a business would incur minor costs associated with control efforts, i.e. a shovel, possible herbicide, and/or herbicide sprayer which would total less than \$100. Over the counter herbicides are readily available, relatively inexpensive, and will control most noxious weed species. Most land-owning businesses have established vegetation management or landscaping plans and practices. The additional costs for staff hours for weed control related to the proposed changes to the noxious weed list are expected to be minor. There are over the counter herbicides available for noxious weed control. However, if a business chooses to use an optional regulated herbicide, then they will be required to retain an application record consistent with laws governing use of such regulated herbicides. The application record is the responsibility of the person applying the herbicide. While some land-owning businesses may choose to engage in professional services to control newly added/designated noxious weeds, it is expectation that businesses will choose the more cost-effective option of controlling the weeds themselves. Additionally, many county noxious weed control boards have programs to assist landowners with class A infestation eradication and control.

Because so many noxious weeds are former or present ornamental species, the horticultural industry has the potential to be impacted by additions of new noxious weed species, as their noxious weed status could reduce demand by consumers. However, it is unlikely that these changes will directly cause these businesses to lose sales, revenue, or jobs. Neither of the proposed class A species are sold ornamentally and wild holly includes an exclusion for holly found in managed landscapes, or where commercially or agriculturally grown. The noxious weed list is separate from the WSDA quarantine list (WAC 16-752), which prohibits the sale and transport of particular species, thus these potential noxious weed changes would not directly prohibit the sales of these plants. To help assess whether there could be an indirect economic impact to nurseries and businesses, the State Weed Board developed a survey through SurveyMonkey (<https://www.surveymonkey.com/r/JBX9N3H>.) A summary of the proposed changes to the 2025 noxious weed list, along with a link to the online survey, was emailed on August 26<sup>th</sup>, 2024 to approximately 4800 nurseries that had provided emails when applying for their WSDA nursery licenses. Additionally, the survey was forwarded to Washington State Nursery &

Landscape Associations channels, the Northwest Holly Growers Association, Friends of Farms and Forest, the Cattlemen's Association, and several other email lists. We received a total of 39 electronic responses from nurseries and businesses.

#### **Survey Results**

##### *Proposed addition of round leaf bittersweet, *Celastrus orbiculatus*, as a class A species*

A total of 38 (100%) nurseries or businesses that answered this question indicated that they do not stock *Celastrus orbiculatus* as part of their inventory or have it on their land, 0 (0%) indicated that they did have round leaf bittersweet as part of their inventory or on their land, and 0 were not sure. Of the nurseries or businesses that answered this question, 6 total nurseries or businesses answered the follow-up question pertaining to any resulting economic loss, either due to a reduction in revenue or lost jobs. A total of 6 (100%) nurseries or businesses indicated that this Class A addition would not cost their businesses in lost revenue or lost jobs, 0 (0%) was not sure, and 0 (0%) indicated that it would. Businesses were also asked if they sell one or more comparable species. A total of 7 nurseries or businesses responded with 7 stating no, 0 stating yes, and 0 that were unsure.

##### *Proposed addition of marsh thistle, *Cirsium palustre*, as a class A species*

A total of 35 (94.59%) nurseries or businesses that answered this question indicated that they do not stock *Cirsium palustre* as part of their inventory or have it on their land, 1 (2.7%) indicated that they did have marsh thistle as part of their inventory or on their land, and 1 (2.7%) was not sure. Of the nurseries or businesses that answered this question, 6 total nurseries or businesses answered the follow-up question pertaining to any resulting economic loss, either due to a reduction in revenue or lost jobs. A total of 6 (100%) nurseries or businesses indicated that this Class A addition would not cost their businesses in lost revenue or lost jobs, 0 (0%) was not sure, and 0 (0%) indicated that it would. Businesses were also asked if they sell one or more comparable species. A total of 7 nurseries or businesses responded with 7 stating no, 0 stating yes, and 0 that were unsure.

##### *Proposed addition of wild holly, *Illex species*, as a class C species*

A total of 25 (65.79%) nurseries or businesses that answered this question indicated that they do not stock *Illex species* as part of their inventory or have it on their land, 13 (34.21%) indicated that they did have holly as part of their inventory or on their land, and 0 were not sure. Of the nurseries or businesses that answered this question, 18 total nurseries or businesses answered the follow-up question pertaining to any resulting economic loss, either due to a reduction in revenue or lost jobs. A total of 13 (72.22%) nurseries or businesses indicated that this Class C addition would not cost their businesses in lost revenue or lost jobs, 1 (5.56%) was not sure, and 4 (22.2%) indicated that it would. Of the four, Holly Growers indicated an indirect negative impact to their businesses and loss of jobs due to the negative perception of holly species as a noxious weed. This ruling would not restrict the sales or exportation of holly. One Holly Grower indicated an indirect cost for marketing to respond to and counteract the perception of holly as a noxious weed, undesirable and harmful. The estimated cost of loss of sales due to this perception from this holly grower is 20%, plus \$66,000 annually for marketing. Another response indicated a different loss per year for the concerns regarding the perception of holly if listed, estimated at around 30% loss in sales or \$2100 with the anticipation that each year sales will decline. One out of state holly grower responded from Oregon indicating an indirect loss of \$100,000 and 10 jobs. Additionally, one respondent noted a loss \$3,000 but did not indicate the reason. Businesses were also asked if they sell one or more comparable species. A total of 17 nurseries or businesses responded with 10 stating no, 6 stating yes, and 1 that were unsure. One respondent noted the negative economic impact of controlling holly infestations if not listed.

##### *Shiny geranium, *Geranium lucidum*: un-designate in King County*

A total of 31 (91.18%) nurseries or businesses that indicated that the un-designation of common shiny geranium in Pierce County, would not cost their businesses in lost revenue or lost jobs, 2 (5.88%) were not sure, and 1(2.97%) answered yes.

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## **SECTION 4:**

### ***Analyze whether the proposed rule may impose more than minor costs on businesses in the industry.***

The class A proposed addition round leaf bittersweet is not being sold. One business indicated selling the class A proposed addition march thistle but did not indicate that the proposal would result in or impose more than minor costs. Both the proposed class A additions, round leaf bittersweet and march thistle, are in very limited distribution if at all in Washington State. The proposed addition of these two species is intended to protect Washington's agricultural lands, wilderness, and ecosystems from future infestations. This listing allows for early detection and rapid response if plants are found. Many county noxious weed control boards have programs to assist landowners with class A infestation eradication and control. Therefore, there would be little to no minor costs associated with any infestations of these two species.

Wild holly is being proposed as an addition to the class C noxious weed species list. Class C noxious weed species are not designated for control at the state level. The intent in adding wild holly to the class C noxious weed list is to educate and

provide outreach on the concern of the threat to both native habitats, forests, and agriculture. This may also give individuals and agencies the ability to get and provide funding for on the ground control work. The listing’s exclusion for commercially or agriculturally grown holly and differentiation between wild holly and English (Christmas) holly is intended to protect holly growers from negative impacts of this listing. There is no regulatory compliance associated with the listing of wild holly. However, potentially commercial holly sales may be indirectly impacted. The Northwest Holly Growers Association has concerns that listing wild holly as a class C noxious weed will give the perception that holly is a “bad plant” which in turn may reduce their sales of English holly used in Christmas wreaths and ornaments. The Northwest Holly Growers Association and members have self-reported costs associated with the proposed wild holly listing. These costs include loss of sales and \$66,000 for marketing to counteract the perception of holly as a noxious weed, undesirable and harmful. Based on the potential for indirect reputational effects that decrease demand for commercial holly, this SBEIS assumes that the proposed rule may impose more than minor costs on commercial growers of holly.

The designation change of shiny geranium should have no effect as this change is less restrictive. Class B noxious weeds are generally designated where they are absent, limited, or pose a serious threat to health, agriculture, or natural areas so the economic impact is not unreasonable. Limited distribution is typically defined as less than 100 infested acres within a county. These infested acres are typically divided amongst many landowners including private, public, and business. Noxious weed infestations are commonly found in disturbed soils, open areas, and along vectors of spread such as trails and rivers. The changes in designation will not cause businesses to incur more than minor costs to control.

## SECTION 5:

**Determine whether the proposed rule may have a disproportionate impact on small businesses as compared to the 10 percent of businesses that are the largest businesses required to comply with the proposed rule.**

***Also, consider, based on input received, whether compliance with the rule will cause businesses to lose sales or revenue.***

Overall, there is insufficient data to calculate the disproportionate impacts to small businesses. Thus, for purposes of this SBEIS, we assume there will be disproportionate impacts. However, excluding the possibility that landowners may incur compliance costs related to the two class A listings, the proposed rule changes will not result in any costs to comply.

## SECTION 6:

***If the proposed rule is likely to impose a disproportionate impact on small businesses, identify the steps taken to reduce the costs of the rule on small businesses.***

***If the impacts cannot be reduced, provide a clear explanation of why.***

***Under RCW 19.85.030(2), each agency must consider, without limitation, each of the following methods of reducing the impact of the proposed rule on small businesses:***

To mitigate the perceived cost to holly growers from the proposed wild holly listing, this rule proposal would only add “wild holly” which would be listed as “*Ilex* species, not including holly found in managed landscapes, or where commercially or agriculturally grown.”

Additionally, the WSNWCB’s Education Committee has discussed including statements in specific brochures and educational materials that will provide information regarding the exclusion for English and/or Christmas holly and focus on holly that is found in un-managed forests, wildlands, and landscapes.

Subsection	Method	Agency response
a)	Reducing, modifying, or eliminating substantive regulatory requirements	<b>Excluded holly found in managed landscapes, or where commercially or agriculturally grown. Any additional reduction, modification, or elimination of the regulatory requirements of the proposed rules could increase the risks of spread of noxious weeds.</b>
b)	Simplifying, reducing, or eliminating recordkeeping and reporting requirements	<b>The class A listings may have implications for recordkeeping, however the proposed rule itself does not have any recordkeeping or reporting requirements.</b>



c)	Reducing the frequency of inspections	<b>The rule does not contain mandate any regulatory inspections.</b>
d)	Delaying compliance timetables	<b>Delaying compliance timetables is not a viable mitigation measure. A delay in listings will result in a higher risk of spread for the noxious weeds considered.</b>
e)	Reducing or modifying fine schedules for noncompliance; or	<b>The rule does not contain any fines for noncompliance.</b>
f)	Any other mitigation techniques, including those suggested by small businesses or small business advocates.	<b>Education and outreach about the difference between wild holly and Christmas or English holly sold commercially.</b>

## SECTION 7:

*Describe how small businesses were involved in the development of the proposed rule.*

### *Stakeholder contact events*

<b>Date(s)</b>	<b>Activity How were small businesses notified and involved in the development of the proposed rule? (News release, public meeting, survey etc.)</b>
May 6 <sup>th</sup> , 2024 June 12 <sup>th</sup> , 2024 July 10 <sup>th</sup> , 2024 August 8 <sup>th</sup> , 2024	Noxious Weed Committee Meetings (a member of the Noxious Weed Committee, Ken Bajema, is also a member of the Northwest Holly Growers Association).
August 26 <sup>th</sup> , 2024	Survey sent out to Nurseries, Holly Growers, and others to gather information about economic impacts.
September 19 <sup>th</sup> , 2024	WSNWCB Regular September meeting, Received and reviewed written comments pertaining to proposed changes before voting to move proposals forward to the Open Public Hearing in November.

At the August 8<sup>th</sup> Noxious Weed Committee meeting, the committee agreed to include the Northwest Holly Growers recommendation of definition of wild holly to include the genus rather than species specific to help reduce the impact on Christmas or English holly individually.

The WSNWCB has taken into consideration letters from individual holly growers as well as the Northwest Holly Growers Association pertaining to the perceived cost and impacts to commercially holly businesses and their recommendations for the proposed rule wording. The WSNWCB will consider written and verbal testimony at the November 5<sup>th</sup> Open Public Hearing regarding the 2025 Proposed Noxious Weed List changes.

## SECTION 8:

*Identify the estimated number of jobs that will be created or lost as the result of compliance with the proposed rule.*

One out of state grower suggested 10 jobs will be lost due to the perception of holly as harmful or undesirable. However, it is estimated that no jobs will be lost due to compliance requirements of the proposed rule. There is no state mandated regulatory compliance for the proposed listing of wild holly.

## SECTION 9:

*Summarize the results of the analysis, including the determination if costs are disproportionate.*

Few, if any, small businesses will be directly impacted by these proposed changes to the 2025 noxious weed list. The additions of round leaf bittersweet and march thistle as Class A noxious weeds will help to protect Washington's ecosystems, habitats, and agriculture from these very invasive species. The un-designation of shiny geranium will better match the distributions of shiny geranium in Pierce County. This will allow for education and control work when needed.

The proposed addition of wild holly, *Ilex species*, as a class C noxious weed species is intended to keep it from spreading from current wild infestations to new locations within Washington State and allow for funding and permitting. Wild holly is known to invade riparian and sensitive areas as well as grow in forested understories. Noxious weeds are very invasive species that when left uncontrolled outcompete agricultural crops and native species. Noxious weed infestations negatively impact both terrestrial and aquatic habits as well as farming and grazing lands.

The class A proposed addition round leaf bittersweet is not being sold. One business indicated having the class A proposed addition march thistle in their inventory or on their land but did not indicate a loss in sales or jobs. Holly Growers anticipate an indirect negative economic impact to English holly sales due to the perception of English holly as an undesirable plant if listed. There is no cost to comply with the proposed addition of wild holly as a class C noxious weed. The WSNWCB has taken measures to help mitigate indirect costs to holly growers associated with this listing.

The un-designation of shiny geranium in Pierce County is less restrictive and will have no bearing on sales or job loss.

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

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Other

<b>Date:</b> September 30 <sup>th</sup> , 2024	<b>Signature:</b> 
<b>Name:</b> Mary Fee	
<b>Title:</b> Executive Secretary	