

**AN ANALYSIS TO DETERMINE IF A SMALL BUSINESS ECONOMIC IMPACT STATEMENT
(SBEIS) IS REQUIRED FOR WSNWCB PROPOSALS TO CHANGE THE NOXIOUS WEED LIST
(17.10.080 RCW)**

Rule Summary

Chapter 17.10.080 RCW authorizes the Washington State Noxious Weed Control Board (WSNWCB) to adopt a state noxious weed list annually to make changes as deemed necessary and helpful in reducing the threat and impact of noxious weeds in the state. These annual changes to the weed list are based primarily on proposals received by the WSNWCB, and they are voted on in November following a public hearing. Possible changes to the weed list include but are not limited to: the addition of new species; deletion of species that have been eradicated or found to be less detrimental than originally predicted; changes in Class B areas designated for control; the change of noxious weed class of a species.

The current proposed changes to the 2018 noxious weed list include:

Adding:

- Small-flowered jewelweed, *Impatiens parviflora*, as a Class A noxious weed
- European coltsfoot, *Tussilago farfara*, as a Class B noxious weed, to be designated for control throughout Washington, except for in Grant, Lincoln, Adams, Benton, and Franklin counties
- Malta starthistle, *Centaurea melitensis*, as a Class B noxious weed, to be designated for control in Washington, except for Washington, except in Klickitat, Whitman, Benton, Franklin, Walla Walla, Columbia, Garfield, and Asotin counties, and a portion of Stevens County.
- The Eurasian watermilfoil hybrid, *Myriophyllum spicatum* x *M. sibiricum*, as a Class C noxious weed
- Spotted jewelweed, *Impatiens capensis*, as a Class C noxious weed
- Cheatgrass, *Bromus tectorum*, as a Class C noxious weed

Reclassifying:

- Spurge flax, *Thymelaea passerina*, from a Class A noxious weed to a Class B noxious weed, to be designated for control in eastern WA except in Okanogan County

Undesignating:

- Shiny geranium and butterfly bush in Thurston County
- Eurasian watermilfoil, *Myriophyllum spicatum*, and yellow nutsedge, *Cyperus esculentus*, in Clark County
- Eurasian watermilfoil, *Myriophyllum spicatum*, in Cowlitz County

Designating:

- Indigobush, *Amorpha fruticosa*, in Clark County, except within 200 feet of the ordinary high water mark of the Columbia River
- Policeman's helmet, *Impatiens glandulifera*, in Clark County
- Eurasian watermilfoil, *Myriophyllum spicatum*, in Kittitas County, except for in the Columbia River

Purpose of this Analysis

RCW 19.85.030 requires agencies to prepare a SBEIS if the proposed rule will impose more than minor costs on businesses in an industry. The purpose of this analysis is to determine if the proposed changes to the 2018 noxious weed list will impose "more than minor costs" on the businesses directly affected by these proposed changes, which would thereby require WSNWCB to prepare a formal SBEIS.

Nature of aforementioned noxious weed species in Washington

Proposed addition of a Class A noxious weed:

Small-flowered jewelweed, *Impatiens parviflora*, has been proposed as a Class A addition to the noxious weed list for 2018. Already widespread and highly invasive in Europe, this annual species has been found in two locations in King County. The two infestations of small-flowered jewelweed were found growing along roadsides and into adjacent properties. This species is known to rapidly dominate forest understories in Europe and outcompete native species. Small-flowered jewelweed grows in a wide range of habitats, including disturbed areas, forests, forest clearings and edges, riverbanks, and lake shores. A Class A listing means that eradication is required of all known plants. The intent is to eliminate known populations while its distribution is so limited to prevent this invasive species from gaining a foothold in Washington.

Proposed addition of Class B noxious weeds:

European coltsfoot, *Tussilago farfara*, has been proposed to be added as a Class B noxious weed for 2018. Considered a problematic weed in agricultural land in the Scandinavian region, it has also been documented disrupting restoration of native plants in Canada. It is currently an A designated noxious weed and quarantined in Oregon. The State Weed Board is considering the Class B listing of European coltsfoot and designating it for mandatory control throughout most of Washington except for Grant, Lincoln, Adams, Benton, and Franklin counties (where it is unlikely to pose a threat). Currently, known infestations are relatively small and have been found in primarily riparian areas and disturbed roadside habitats in King County, Snohomish County, and at the Mount Rainier National Park in Pierce County

Malta starthistle, *Centaurea melitensis*, is being considered as a Class B noxious weed. Malta starthistle was recently discovered on Cypress Island in Skagit County and it appears to be a coastal relative of the highly invasive noxious weed yellow starthistle. While the impacts of this spiny, unpalatable species are similar to those of yellow starthistle, it does not appear to be as aggressive. The State Weed Board is considering the Class B listing of Malta starthistle and matching the designation for mandatory control with that of yellow starthistle since they look so similar and pose similar threats. Therefore, control would be required throughout Washington except in Klickitat, Whitman, Benton, Franklin, Walla Walla, Columbia, Garfield, and Asotin counties, and a portion of Stevens County.

Proposed addition of Class C noxious weeds:

Spotted jewelweed, *Impatiens capensis*, is being considered as a Class C addition to the noxious weed list for 2018. This wetland species is native to the eastern U.S., but appears to be rapidly establishing in lowland areas in western Washington, particularly in freshwater wetlands and along riverbanks. While the rate at which it has been colonizing has raised concerns that it could displace native vegetation, there is even greater concern about its ability to hybridize with the native spurless jewelweed, *Impatiens ecornuta*. A Class C listing would mean that the State Weed Board would not require control, though outreach would be undertaken to encourage its removal in areas where it coexists with the native jewelweed. County noxious weed control boards can also provide education and may choose to require control if it is a local problem.

The Eurasian watermilfoil hybrid (*Myriophyllum spicatum* x *M. sibiricum*) is being considered as a Class C addition to the noxious weed list for 2018. The cross between the invasive and aggressive Eurasian watermilfoil (*Myriophyllum spicatum*) and the native northern watermilfoil (*Myriophyllum sibiricum*) exhibits a wide range of variability in appearance and impacts. The hybrid is often suspected when an aggressive infestation of what appears to be Eurasian watermilfoil does not respond as well to herbicide. DNA testing is used to confirm its hybrid parentage. Because it requires genetic testing and its impacts are variable, the State Weed Board is

considering the Class C listing and would not require control and will focus on providing education. County noxious weed control boards can also provide education and may choose to require control if it is a local problem. Cheatgrass (aka downy brome), *Bromus tectorum*, is being considered as a Class C addition to the noxious weed list for 2018. Cheatgrass is a highly invasive annual grass. Although it can be palatable to livestock when it is young, its productivity is unpredictable and the awns in the seeds in mature grass are injurious to animals. Cheatgrass produces a layer of highly flammable litter in the early summer and contributes to increased fire frequency. These wildfires and the highly competitive ability of this annual grass can transform healthy perennial grassland and sagebrush habitat into less productive areas dominated by cheatgrass. Cheatgrass appears to be expanding in a few parts of western Washington but is otherwise widespread in Washington. As a Class C noxious weed, the State Weed Board would not require control of cheatgrass and so far no county weed boards seem to be interested in selecting it for control. However, there is interest in educating more about cheatgrass management in areas impacted by wildfires. Many county weed boards already provide education about cheatgrass and will continue to do so.

Proposed reclassification of a Class A noxious weed to a Class B noxious weed:

The Okanogan County Noxious Weed Control Board has requested that the Class A spurge flax, *Thymelaea passerina*, be reclassified to a Class B noxious weed, because it has become too widespread in that county for eradication to be a reasonable requirement. If reclassified to a Class B noxious weed, control would be required throughout eastern Washington, except in Okanogan County.

Proposed undesignations of Class B noxious weeds:

- Shiny geranium, *Geranium lucidum*, be undesignated in Thurston county
- Butterfly bush, *Buddleja davidii*, to be undesignated throughout Thurston County
- Eurasian watermilfoil, *Myriophyllum spicatum*, to be undesignated in Clark County
- Yellow nutsedge, *Cyperus esculentus*, to be undesignated in Clark County
- Eurasian watermilfoil, *Myriophyllum spicatum*, to be undesignated in Cowlitz County

Proposed designations of Class B noxious weeds:

- Indigobush, *Amorpha fruticosa*, to be designated in Clark County, except within 200 feet of the ordinary high water mark of the Columbia River
- Policeman's helmet, *Impatiens glandulifera*, to be designated in Clark County
- Eurasian watermilfoil, *Myriophyllum spicatum*, to be designated in Kittitas County, except in the Columbia River.

Affected Groups and the Cost of Compliance

The horticultural industry

Because so many noxious weeds are former or present ornamental species, the horticultural industry has the potential to be indirectly impacted by the additions of new noxious weeds, as their noxious weed status could reduce demand by consumers. However, the proposed additions to the 2018 noxious weed list are not known to be carried in nurseries, and it is unlikely that this listing will directly cause these businesses to lose sales, revenue, or jobs. 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 listings would not directly prohibit the sales of this plants. To help assess whether there could be an indirect economic impact to nurseries, the State Weed Board developed a survey through SurveyMonkey (<https://www.surveymonkey.com/r/L7LM3MQ>). A summary of the proposed changes to the 2018 noxious weed list along with a link to the online survey was emailed on September 7, 2017 to 395 nurseries that had provided emails when applying for their WSDA nursery licenses.

The survey was also sent to the Washington State Nursery and Landscape Association for distribution among those members. We received a total of 53 responses from nurseries between September 7 and September 19, 2017.

Ranchers, wheat growers, hay growers, and Washington businesses

The State Weed Board also sent out an email summarizing the proposed changes to the 2018 noxious weed list and a link to a similar survey on September 8, 2017 to the Washington Cattlemen's Association, Cattle Producers of Washington, Washington Hay Growers Association, Washington Association of Wheat Growers, and the Association of Washington Businesses. The Washington Cattlemen's Association included the information and survey link in their newsletter emailed to members September 15, 2017. We received a total of five responses between September 8 and September 19, 2017.

Demographics of respondents:

Of the total participating nurseries, 40 indicated that they were considered a small business as defined by RCW 19.85.020. Three establishments were not small businesses. Three respondents were not sure if their businesses were considered small businesses, and seven left this survey question blank. Nurseries participating in the surveys came from 16 different counties in Washington: Benton, Clallam, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Pierce, San Juan, Snohomish, Stevens, Thurston, Whatcom, Whitman, and Yakima. Four respondents noted that their businesses were situated in at least two counties.

Of the other suite of small businesses that were surveyed, all five indicated that they were considered a small business as defined by RCW 19.85.020. These small businesses resided in four counties in eastern Washington: Franklin, Kittitas, Lincoln, and Okanogan.

Survey Results:

Proposed addition of small-flowered jewelweed as a Class A noxious weed:

Fifty-two nurseries responding indicated that they did not carry small-flowered jewelweed; one nursery skipped this question. All five other small businesses indicated that they did not have small-flowered jewelweed on their land.

Proposed addition of European coltsfoot as a Class B noxious weed:

Fifty-two nurseries responding indicated that they did not carry European coltsfoot; one nursery skipped this question. All five other small businesses indicated that they did not have European coltsfoot on their land.

Proposed addition of Malta starthistle as a Class B noxious weed:

Fifty-two nurseries responding indicated that they did not carry Malta starthistle; one nursery skipped this question. All five other small businesses indicated that they did not have Malta starthistle on their land.

Proposed addition of spotted jewelweed as a Class C noxious weed:

Fifty-three nurseries responding indicated that they did not carry spotted jewelweed. All five other small businesses indicated that they did not have spotted jewelweed on their land.

Proposed addition of European watermilfoil hybrid as a Class C noxious weed:

Fifty-three nurseries responding indicated that they did not carry the watermilfoil hybrid. One of the five other small businesses indicated that it had the watermilfoil hybrid on its property. This small business, which resided in Kittitas County, was not sure if the listing of the watermilfoil hybrid would cause it to lose sales or revenue and estimated a loss of \$10K. However, as a Class C noxious weed, control would not be required by the State Weed Board and the Kittitas County Noxious Weed Control Board does not intend to require control at the local level.

Proposed addition of cheatgrass as a Class C noxious weed:

Fifty-three nurseries responding indicated that they did not carry cheatgrass. All five of the other small businesses indicated that they had cheatgrass on their land. Two of the five small businesses said that the listing of cheatgrass as a Class C noxious weed would not cause them to lose sales or revenue, two others were not sure, and one small business skipped that question. One of the small businesses that was not sure if there would be an economic impact resided in Kittitas County, estimated a loss of \$25K. However, as a Class C noxious weed, control of cheatgrass would not be required by the State Weed Board and the Kittitas County Noxious Weed Control Board has confirmed that it does not intend to require control at the local level.

Proposed reclassification of spurge flax from a Class A noxious weed to a Class B noxious weed:

Forty-six nurseries responding indicated that that this reclassification would not cost their businesses in lost revenue or lost jobs. One nursery was not sure if there would be an economic impact, and six nurseries skipped the question. Four of the five other small businesses indicated that that this reclassification would not cost their businesses in lost revenue or lost jobs and one was not sure.

Undesignations of Class B noxious weeds:

Proposed undesignation of shiny geranium and butterfly bush in Thurston County:

Forty-five nurseries indicated that these undesignations in Thurston County would not cost their businesses in lost revenue or lost jobs. One nursery was not sure if there would be an economic impact, and seven nurseries skipped the question. Four of the five other small businesses indicated that that these undesignations would not cost their businesses in lost revenue or lost jobs and one was not sure.

Proposed undesignation of Eurasian watermilfoil and yellow nutsedge in Clark County:

Forty-five nurseries indicated that these undesignations in Clark County would not cost their businesses in lost revenue or lost jobs. Two nurseries were not sure if there would be an economic impact, and six nurseries skipped the question. Four of the five other small businesses indicated that that these undesignations would not cost their businesses in lost revenue or lost jobs and one was not sure.

Designations of Class B noxious weeds:

Proposed designation of Eurasian watermilfoil in Kittitas County everywhere except in the Columbia River:

Forty-seven nurseries indicated that this designation in Kittitas County would not cost their businesses in lost revenue or lost jobs. Six nurseries skipped the question. Four of the five other small businesses indicated that that this designation would not cost their businesses in lost revenue or lost jobs. One small business, which resided in Kittitas County, was not sure if the designation of Eurasian watermilfoil in that county would cause it to lose sales or revenue and estimated a loss of \$10K. However, the Kittitas County Noxious Weed Control Board has indicated that it would not require private landowners to control this aquatic invasive plant.

Proposed designation of policeman's helmet and indigobush in Clark County:

Forty-seven nurseries indicated that these designations in Clark County would not cost their businesses in lost revenue or lost jobs. Six nurseries skipped the question. Four of the five other small businesses indicated that that these designations would not cost their businesses in lost revenue or lost jobs and one was not sure.

Alternatives to the Proposed Assessment

Proposed additions of six noxious weeds:

The alternative to the proposed additions of one Class A, two Class B, and three Class C noxious weeds would be to not list them, resulting in a status quo of the current situation, whereby individual landowners or land managers have the option of voluntarily controlling these species. County noxious weed control boards could continue to educate about these species where they are a local concern, but control could not be mandated for any of those species.

Proposed reclassification of a Class A to a Class B noxious weed:

The alternative to reclassifying spurge flax from a Class A to a Class B noxious weed is to leave this species as a Class A. All landowners would be required to eradicate spurge flax if it exists on their property.

Proposed undesignations of Class B noxious weeds:

The alternative to undesignating Class B noxious weeds in particular counties is to leave the designations as they are. Landowners in these counties would still be required to control these Class B noxious weeds.

Proposed designations of Class B noxious weeds:

The alternative to designating Class B noxious weeds in particular counties is to leave them undesignated. County weed boards would have the option of selecting them for control at the local level.

Conclusions

Few, if any, small businesses will be directly impacted by these proposed changes to the 2018 noxious weed list.

Nurseries do not appear to carry any of the proposed new noxious weeds, none of which are known for being ornamental species. None of the nurseries surveyed indicated the proposed changes would result in lost revenue or jobs.

All landowners, both public and private, are responsible for eradicating Class A noxious weeds and controlling Class B noxious weeds in areas where they have been designated. The proposed Class A noxious weed small-flowered jewelweed is only known to occur in two locations in King County, which do not appear to be on land owned by small businesses. The proposed Class B noxious weed European coltsfoot is only known to occur in a few locations in western Washington, specifically in riparian areas and disturbed roadside habitats in King County, Snohomish County, and at the Mount Rainier National Park in Pierce County, which are not known to be owned by small businesses. The proposed Class B noxious weed Malta starthistle is currently only known to occur on Cypress Island on state-managed land. While some small businesses indicated that they have some of the proposed new Class C noxious weeds on their land, the State Weed Board does not require the control of Class C noxious weeds.

The reclassification of the Class A noxious weed spurge flax eases landowner responsibilities from eradication to control, and landowners in Okanogan County, where this species has become more abundant, are not required to control it. Proposed undesignations of four Class B noxious weeds ease control requirements of these species. The three Class B noxious weeds may be designated for control in counties where they are either absent or limited in distribution, so small business in these counties should not be faced with more than minor costs to control those noxious weeds.

Based upon the above analysis, the WSNWCB concludes that direct minor costs – if any – imposed would affect less than 10% of small businesses and would not exceed \$100 in lost sales or revenue as a direct result of these proposed rule-making changes. Nor would any of these amendments to the noxious weed list directly cause the creation of or loss of any jobs. The WSNWCB concludes that small businesses will not be disproportionately impacted, nor would the proposed rule changes impose more than a minor cost on businesses in an industry. Therefore, we conclude that a formal SBEIS is not required.