



PROPOSED RULE MAKING

CR-102 (August 2017)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: September 20, 2017
TIME: 9:58 AM

WSR 17-19-110

Agency: Washington State Noxious Weed Control Board

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 17-14-032 ; 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).

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 the state noxious weed list for 2018. Specifically, the Board is considering:

1. Adding one Class A noxious weed;
2. Adding two Class B noxious weeds;
3. Adding three Class C noxious weeds;
4. Reclassifying a Class A noxious weed to a Class B; and
5. Amending the designation regions of six Class B noxious weeds.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
October 31, 2017	1:00 pm	Wenatchee Convention Center 201 N Wenatchee Ave., Wenatchee, WA 98801	

Date of intended adoption: November 17, 2017 (Note: This is **NOT** the effective date)

Submit written comments to:

Name: Alison Halpern

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

Email: ahalpern@agr.wa.gov or noxiousweeds@agr.wa.gov

Fax: 360-902-2094

Other:

By (date) October 30, 2017

Assistance for persons with disabilities:

Contact Susie Allen

Phone: 360-902-1901

Fax:

TTY: (800) 833-6388

Email: SAllen@agr.wa.gov

Other:

By (date) October 24, 2017

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 makes a few amendments to WAC 16-750-005, 16-750-011, and 16-750-015.

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.

Statutory authority for adoption: Chapter 17.10 RCW

Statute being implemented: Chapter 17.10 RCW

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 Private
 Public
 Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Alison Halpern	1111 Washington St SE, Olympia, WA 98504	(360) 902-2053
Implementation:	Alison Halpern	1111 Washington St SE, Olympia, WA 98504	(360) 902-2053
Enforcement:	Alison Halpern	1111 Washington St SE, Olympia, WA 98504	(360) 902-2053

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 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:

- | | |
|-----------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> 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 _____.

Explanation of exemptions, if necessary:

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. An online survey was emailed to about 400 licensed nurseries and distributed to several nursery and agricultural industry associations to pass along to their members.

Participating 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.

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: Alison Halpern

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

Phone: 360-902-2053

Fax: 360-902-2094


TTY: (800) 833-6388

Email: ahalpern@agr.wa.gov

Other:

Date: September 20, 2017

Signature:



Name: Alison Halpern

Title: WSNWCB Executive Secretary