



# PROPOSED RULE MAKING

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

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STATE OF WASHINGTON  
FILED

DATE: October 03, 2018  
TIME: 7:34 AM

WSR 18-20-116

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

**Original Notice**

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

**Continuance of WSR** \_\_\_\_\_

**Preproposal Statement of Inquiry was filed as WSR 18-16-010 ; 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 the state noxious weed list for 2019.

**Hearing location(s):**

**Date:**                      **Time:**                      **Location:** (be specific)                      **Comment:**

November 6, 2018	1:00 pm	The Coast Wenatchee Center Hotel 201 N. Wenatchee Ave Wenatchee, WA 98801	
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**Date of intended adoption:** November 26, 2018 (Note: This is **NOT** the **effective** date)

**Submit written comments to:**

Name: Wendy DesCamp  
Address: WSNWCB; P.O. Box 42560; Olympia, WA 98504-2560  
Email: [wdescamp@agr.wa.gov](mailto:wdescamp@agr.wa.gov) or [noxiousweeds@agr.wa.gov](mailto:noxiousweeds@agr.wa.gov)  
Fax: 360-902-2094  
Other:  
By (date) November 5, 2018

**Assistance for persons with disabilities:**

Contact Deanna Painter  
Phone: 360-902-2061  
Fax:  
TTY: (800) 833-6388  
Email: [dpainter@agr.wa.gov](mailto:dpainter@agr.wa.gov)  
Other:  
By (date) October 30, 2018

**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 16-750-011. Specifically, the Board is considering:

- Amending the designation regions of 19 Class B noxious weeds
  - Undesignate Brazilian elodea, *Egeria densa*, in Cowlitz County and designate Brazilian elodea, *Egeria densa*, in Pacific and Snohomish counties
  - Undesignate Eurasian watermilfoil, *Myriophyllum spicatum*, in Cowlitz County and designate Eurasian watermilfoil, *Myriophyllum spicatum*, in Mason County and Kittitas County except for the Columbia River
  - Undesignate hoary alyssum, *Berteroa incana*, in Spokane and Ferries counties

- Undesignate indigobush, *Amorpha fruticosa*, in Skamania County
  - Undesignate hawkweeds (*Hieracium*): all nonnative species and hybrids of the Wall subgenus (*Hieracium*) in Skamania and Clark counties
  - Undesignate hawkweeds (*Hieracium*): all nonnative species and hybrids of the Meadow subgenus (*Pilosella*) in Skamania County and designate hawkweeds (*Hieracium*): all nonnative species and hybrids of the Meadow subgenus (*Pilosella*) in Ferry County
  - Undesignate meadow knapweed, *Centaurea x moncktonii*, in Skamania and Clark counties
  - Undesignate spotted knapweed, *Centaurea stoebe*, in Skamania and Clark counties
  - Undesignate shiny geranium, *Geranium lucidum*, in Skamania County
  - Designate butterfly bush, *Buddleja davidii*, in San Juan and Grays Harbor counties
  - Designate camelthorn, *Alhagi maurorum*, in Walla Walla County
  - Designate Dalmatian toadflax, *Linaria dalmatica* ssp. *dalmatica*, in Cowlitz, Kittitas, and Franklin counties
  - Designate European coltsfoot, *Tussilago farfara*, in Adams, Lincoln, Benton, and Franklin counties
  - Designate fanwort, *Cabomba caroliniana*, in Grays Harbor County
  - Designate grass-leaved arrowhead, *Sagittaria graminea*, in Mason County
  - Designate hairy willow-herb, *Epilobium hirsutum*, in Walla Walla County
  - Designate houndstongue, *Cynoglossum officinale*, in Douglas and Franklin counties
  - Designate diffuse knapweed, *Centaurea diffusa*, in Mason County
  - Designate purple loosestrife, *Lythrum salicaria*, in Mason County
2. Updating the scientific name of 5 noxious weeds.

Designation changes in Mason County are by request of the Mason County Noxious Weed Control Board and intended to better match the distribution/threat of these noxious weeds. Each of these noxious weeds—Eurasian watermilfoil, grass-leaved arrowhead, diffuse knapweed, and purple loosestrife—are already being controlled in the county. Ferry County requested undesignating hoary alyssum to better match the distribution of this noxious weed in the county.

Undesignating nine Class B noxious weed eases control requirements of these species in particular counties. In these counties, county weed boards will have the option to require control at the local level.

Designation changes of designating thirteen Class B noxious weeds are intended to better match the distribution/threat of these noxious weeds. 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. European coltsfoot and fanwort and not known to occur in the counties they are proposed for designation and the other Class B noxious weed designations have very limited distribution.

The scientific name of five Class B noxious weeds will be updated to improve consistency with national taxonomic standards.

**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 17.10.080 RCW

**Statute being implemented:** Chapter 17.10 RCW

**Is rule necessary because of a:**

- |                         |                              |  |
|-------------------------|------------------------------|--|
| Federal Law?            | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision?   | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> 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:	Brad White	1111 Washington St SE, Olympia, WA 98504	(360) 902-1907
Implementation:	Brad White	1111 Washington St SE, Olympia, WA 98504	(360) 902-1907
Enforcement:	Brad White	1111 Washington St SE, Olympia, WA 98504	(360) 902-1907

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

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 Class B noxious weeds that have proposed designation changes, fifteen of which are already on WSDA's quarantine list (WAC 16-752). Of the four species that are not already on the quarantine list, none are known for being ornamental species. An analysis of the direct economic effects of the proposed rule amendments indicates that costs to small businesses would be negligible or none at all. Proposed undesignations of nine Class B noxious weeds ease control requirements of these species. The thirteen 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: Wendy DesCamp  
Address: P.O. Box 42560; Olympia, WA 98504-2560  
Phone: 360-725-5764  
Fax: 360-902-2094  
TTY: (800) 833-6388  
Email: wdescamp@agr.wa.gov  
Other:

<b>Date:</b> October 3, 2018	<b>Signature:</b> 
<b>Name:</b> Brad White	
<b>Title:</b> Assistant Director	