



# 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 02, 2019

TIME: 11:02 AM

WSR 19-20-120

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

**Original Notice**

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

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

**Preproposal Statement of Inquiry was filed as WSR 19-16-012 and 19-16-03 ; 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 2020, create two new sections regarding the Executive Secretary and the Education Specialist, and update three additional sections of WAC 16-750.

**Hearing location(s):**

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

November 5, 2019	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, 2019 (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:

By (date) November 4, 2019

**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, 2019

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

1. WAC 16-750-005 One Proposed Class A addition- South American spongeplant, *Limnobiium laevigatum*
2. WAC 16-750-011 Proposed Class B designation changes-
  - Designate Eurasian watermilfoil, *Myriophyllum spicatum*, in Kitsap County of region 2, and Kittitas and Whitman counties of region 5
  - Designate Bohemian knotweed, *Polygonum x bohemicum*, in San Juan County of region 2, Stevens County of region 4, and Whitman and Yakima counties of region 5
  - Designate Japanese knotweed, *Polygonum cuspidatum*, in Stevens County of region 4

- Designate Himalayan knotweed, *Persicaria wallichii*, in Clark County of region 3 and Stevens County of region 4
- Designate lesser celandine, *Ficaria verna*, in all of region 1, 3, 4, 5, 6 and region 2 except for King and Whatcom counties
- Designate leafy spurge, *Euphorbia virgata*, in Whitman County of region 5 and Garfield County of region 6
- Designate purple loosestrife, *Lythrum salicaria*, in Pierce County of region 2 and Benton County of region 6
- Designate wand loosestrife, *Lythrum virgatum*, in Mason County of region 1, Pierce County of region 2, and Benton County of region 6
- Designate poison hemlock, *Conium maculatum*, in Douglas County of region 4
- Designate policeman's helmet, *Impatiens glandulifera*, in Pacific County of region 1 and Pierce County of region 2
- Designate Ravenna grass, *Saccharum ravennae*, in Grant County of region 5
- Designate rush skeletonweed, *Chondrilla juncea*, in Kitsap County of region 2
- Designate European coltsfoot, *Tussilago farfara*, in Grant County of region 5

Designation changes are intended to better match the distribution/threat of these noxious weeds.

The Washington State Noxious Weed Control Board is also proposing the following changes;

1. WAC 16-750-140 Adding a standing legislative committee.
2. WAC 16-750-142 Create a new section for the State noxious weed control board—Executive secretary and education specialist—Hiring and dismissal.
3. WAC 16-750-145 Editing the State noxious weed control board—Executive secretary—Definition.
4. WAC 16-750-146 Adding new section for the State noxious weed control board—Education specialist—Definition.
5. WAC 16-750-150 Repealing section on State noxious weed control board- Executive secretary- Hiring and dismissal. Moved to section 142.

**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 additional of South American spongeplant, *Limnobium laevigatum*, as a Class A noxious weed, is intended to keep it from spreading from the one known location in Washington State.

Designation changes of 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.

The additional edits to the remaining sections are intended to improve the ability of the WSNWCB to carry out the duties and authorities assigned to the board per Chapter 17.10 RCW.

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

**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:	Mary Fee	1111 Washington St SE, Olympia, WA 98504	(360) 902-2053
Implementation:	Mary Fee	1111 Washington St SE, Olympia, WA 98504	(360) 902-2053
Enforcement:	Mary Fee	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)<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. Approximately 250 businesses responded to an online survey emailed to licensed nurseries and agricultural industry associations. Participating businesses do not appear to carry any of the Class B noxious weeds that have proposed designation changes, nine of which are already on WSDA's quarantine list (WAC 16-752). Of the five species that are not already on the quarantine list, only Ravenna grass is known for being ornamental species, and it is currently undergoing rule-making by WSDA to be added to the quarantine list. An analysis of the direct economic effects of the proposed rule amendments indicates that costs to businesses would be negligible or none at all. The thirteen Class B noxious weeds may be designated for control in counties where they are either absent or limited in distribution, 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 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 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: Mary Fee  
Address: P.O. Box 42560; Olympia, WA 98504-2560  
Phone: 360-902-2053  
Fax: 360-902-2094  
TTY: (800) 833-6388  
Email: mfee@agr.wa.gov  
Other:

<b>Date:</b> October 2, 2019	<b>Signature:</b> 
<b>Name:</b> Mary Fee	
<b>Title:</b> Executive Secretary	