



PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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FILED

DATE: October 06, 2020

TIME: 1:50 PM

WSR 20-20-126

Agency: Washington State Noxious Weed Control Board

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 20-11-059 ; 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 the state noxious weed list for 2021.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
November 10, 2020	11:00 am	WebEx Phone Numbers 1(415)-655-0001 Toll Free 1(855)-929-3239 Meeting Access Code 133 374 0485	"Due to the mandated social distancing requirements in place during the current COVID-19 pandemic, the public hearings will be held solely over video and teleconference. "

Date of intended adoption: November 26, 2020 (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 or noxiousweeds@agr.wa.gov

Fax: 360-902-2053

Other:

By (date) November 9th, 2020

Assistance for persons with disabilities:

Contact Deanna Painter

Phone: 360-902-2061

Fax:

TTY: (800) 833-6388

Email: dpainter@agr.wa.gov

Other:

By (date) November 5th, 2020

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 amends WAC 16-750-005 and 16-750-011. Specifically, the Board is proposing:

1. WAC 16-750-005 Two proposed Class A additions- Turkish thistle, *Carduus Cinereus*, and Hanging sedge, *Carex pendula*.
2. WAC 16-750-011 Proposed Class B designation changes-

- Un-designating hawkweeds: all nonnative species and hybrids of the Wall subgenus, *Hieracium*, in Snohomish County of region 2.
- Designate Ravenna grass, *Tripidium ravennae*, in Chelan County of region 4.
- Designate saltcedar, *Tamarix ramosissima*, in Benton and Franklin counties of region 6.
- Designate spurge laurel, *Daphne laureola*, in Skamania County of region 3.
- Designate spurge, myrtle, *Euphorbia myrsinites*, in Stevens County of region 4.
- Designate tansy ragwort, *Jacobaea vulgaris*, in Klickitat County of region 5.
- Designate velvetleaf, *Abutilon theophrasti*, in Franklin County of region 6.
- Designate wild chervil, *Anthriscus sylvestris*, in Island County of region 2 and Clark, Cowlitz, and Skamania counties of region 3.
- Designate water primrose, *Ludwigia hexapetala*, in Cowlitz County of region 3.
- Designate white bryony, *Bryonia alba*, in Garfield County of region 6.
- Designate yellow archangel, *Lamium galeobdolon*, in Cowlitz County of region 3.
- Designate yellow floating heart, *Nymphoides peltata*, in Cowlitz County of region 3.

3. Updating the scientific name of 10 noxious weeds.

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 chapter 17.10 RCW.

The proposed addition of Turkish thistle, *Carduus Cinereus*, and hanging sedge, *Carex pendula*, 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.

Designation changes of twelve 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 scientific name of ten noxious weed species will be updated to improve consistency with national taxonomic standards

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? 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:	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 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. Approximately 200 businesses responded to an online survey emailed to licensed nurseries and agricultural industry associations. Only one business reported selling class A proposed addition Turkish thistle. However, Turkish thistle is not known to be an ornamental plant nor are there any known ornamental plantings in Washington. This report may have been made by a misidentification of the plant. Three businesses reported carrying hanging sedge. All four reported that these two class A additions would not cause an anticipated loss in sales or revenue.

This rule would require the eradication of infestations of these two species. Currently the only known infestations of hanging sedge are in King, Whatcom, Skamania, and Mason counties. Skamania County has one possible ornamental planting with less than 24 square feet. Whatcom County has 6 documented sites with a total less than 200 square feet. There is little to no documentation on possible infestations in King and Mason counties. Turkish thistle has been found in both Oregon and Idaho. There are no known infestations in Washington State at this time. Typically county noxious weed control boards offer financial assistance for eradicating class A noxious weeds either in the form of a cost share program or providing control through their program.

Participating businesses do not appear to carry eleven of the twelve Class B noxious weeds that have proposed designation changes, eight of which are already on WSDA's quarantine list (WAC 16-752). Of the four 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 twelve Class B noxious weeds are being 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. Limited distribution is typically defined as less than 100 infested acres within a county.

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 cost to comply 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 the proposed rule changes will not impose more than a minor cost on businesses. 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: 360-561-4428
Fax: 360-902-2094
TTY: (800) 833-6388
Email: mfee@agr.wa.gov
Other:

Date: October 5, 2020	Signature: 
Name: Mary Fee	
Title: Executive Secretary	