



# PROPOSED RULE MAKING

## CR-102 (June 2012)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Dept. of Agriculture

- Preproposal Statement of Inquiry was filed as WSR 15-13-071 ; 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).

- Original Notice
- Supplemental Notice to WSR \_\_\_\_\_
- Continuance of WSR \_\_\_\_\_

**Title of rule and other identifying information:** (Describe Subject) Chapter 16-752 WAC – Noxious Weed Seed and Plant Quarantine. The agency is clarifying language and proposing to add additional species to the noxious weed seed and plant quarantine. These species include: butterfly bush (*Buddleja davidii*), except for accepted sterile cultivars; yellow archangel (*Lamium galeobdolon*); lesser celandine (*Ficaria verna*); all nonnative hawkweed species and hybrids (nonnative *Hieracium spp.*); Senegal tea plant (*Gymnocoronis spilanthoides*); and Australian water clover (*Marsilea mutica*).

**Hearing location(s):**  
 Washington State Dept. of Agriculture  
 Natural Resources Building  
 1111 Washington Street SE  
 Olympia, WA 98504-2560  
 Conference Room 205

**Submit written comments to:**  
 Name: Henri Gonzales  
 Address: PO Box 42560  
 Olympia, WA 98504-2560  
 e-mail [wdsarulescomments@agr.wa.gov](mailto:wdsarulescomments@agr.wa.gov)  
 fax (360) 902-2094 by (date) June 9, 2016

Date: June 9, 2016 Time: 10:00 AM

**Date of intended adoption:**  
 (Note: This is NOT the effective date)  
  
 June 23, 2016

**Assistance for persons with disabilities:** Contact  
Deanna Painter by June 2, 2016  
 TTY (800) 833-6388 or ( ) 711

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** This proposal adds butterfly bush (*Buddleja davidii*), except for accepted sterile cultivars; yellow archangel (*Lamium galeobdolon*); lesser celandine (*Ficaria verna*); all nonnative hawkweed species and hybrids (nonnative *Hieracium spp.*); Senegal tea plant (*Gymnocoronis spilanthoides*); and Australian water clover (*Marsilea mutica*) to the noxious weed seed and plant quarantine, prohibiting their sale and distribution in Washington State. Regulated status also applies to all synonyms of these botanical names and interspecies hybrids if both parents are regulated species. Adding these species to the quarantine to ensure these plants are not being sold through the nursery trade may be critical to their exclusion or control.

In addition to adding species, WSDA is adding language clarifying the fees charged for compliance agreements and defining what are 'regulated articles'.

**Reasons supporting proposal:** The purpose of the noxious weed seed and plant quarantine is to prevent the establishment or spread of noxious weeds within the state by prohibiting their sale and movement. The noxious weed quarantine prohibits the sale of certain plant species that are determined to be invasive, non-native, and harmful to our local ecosystems or disrupt agricultural production. Many of the quarantined species were introduced as ornamentals through the horticulture trade. Most of the listed species in the quarantine are also listed in chapter 16-750 WAC, the state noxious weed list, as a Class A or a Class B noxious weed, requiring mandatory control by county weed boards. However, designation as a noxious weed on the state noxious weed list doesn't prohibit its sale, allowing consumers to buy a plant species that's prohibited by their county weed board. Prohibiting the sale of plants designated under the state noxious weed list for mandatory control will support the efforts of county weed boards to control noxious weeds.

**Statutory authority for adoption:** RCW 17.10.074, 17.24.011, 17.24.041, and chapter 34.05 RCW

**Statute being implemented:** RCW 17.10.074, 17.24.011, and 17.24.041

**Is rule necessary because of a:**

- Federal Law?  Yes  No
  - Federal Court Decision?  Yes  No
  - State Court Decision?  Yes  No
- If yes, CITATION:

**CODE REVISER USE ONLY**

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 STATE OF WASHINGTON  
 FILED

**DATE:** May 04, 2016

**TIME:** 9:33 AM

**WSR 16-10-100**

**DATE**  
 May 4, 2016

**NAME** (type or print)  
 Brad White

**SIGNATURE**

**TITLE**  
 Assistant Director

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:**

None

**Name of proponent:** (person or organization) Washington State Noxious Weed Control Board and Washington State Dept. of Ecology

- Private
- Public
- Governmental

**Name of agency personnel responsible for:**

Name	Office Location	Phone
Drafting..... Cindy Cooper	1111 Washington Street SE, Olympia, WA 98504-2560	(360) 902-2062
Implementation....Cindy Cooper	1111 Washington Street SE, Olympia, WA 98504-2560	(360) 902-2062
Enforcement..... Cindy Cooper	1111 Washington Street SE, Olympia, WA 98504-2560	(360) 902-2062

**Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?**

Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name:  
Address:

phone ( )  
fax ( )  
e-mail

No. Explain why no statement was prepared. No small business economic impact statement has been prepared under chapter 19.85 RCW. Regarding butterfly bush, yellow archangel, lesser celandine and nonnative hawkweeds, analysis of the economic effects of the proposed rule amendments demonstrates that the changes will not be more than a minor cost to small business in the regulated industry because alternative noninvasive species are readily available and, therefore, a SBEIS is not required. However, failure to adopt these changes has potential to have a large negative economic impact on the state, due to the cost of eliminating these species if they were to become established. WSDA consulted Department of Ecology experts, and nursery industry experts that serve on the Nursery Advisory Committee to determine that *Gymnocoronis spilanthoides* and *Marsilea mutica* are not commonly sold in the nursery trade and therefore their listing has no economic impact on small business.

**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 ( ) \_\_\_\_\_  
e-mail \_\_\_\_\_

No: Please explain: The Washington State Department of Agriculture is not a listed agency under RCW 34.05.328(5)(a)(i).

AMENDATORY SECTION (Amending WSR 14-07-040, filed 3/12/14, effective 4/12/14)

**WAC 16-752-600 Establishing the noxious weed seed and plant quarantine.** Washington agriculture, environmental quality and natural resources, including waters and wetlands, are threatened by nonnative, aggressive species of noxious weeds. A number of these noxious weeds are transported and sold within the state of Washington both as nursery plants and as seeds in packets of flower seeds or "wildflower mixes." Subsequent "escape" of these ornamentals has been a documented source of a number of infestations and has resulted in large public and private expenditures by landowners and land managers, weed boards, and weed districts and the department of agriculture to achieve the control mandated in chapter 17.10 RCW. The director of agriculture, pursuant to the powers provided in chapters 17.10 and 17.24 RCW, finds that regulation of the sale of these seed packets and plants as "regulated articles" is necessary to protect Washington agriculture and natural resources and to prevent public and private costs of control.

((Note: For rules prescribing the limits of prohibited and restricted noxious weed seeds as contaminants in certified seed, see WAC 16-300-010 through 16-300-025.))

[Statutory Authority: RCW 17.10.074, 17.24.011, 17.24.041 and chapter 34.05 RCW. WSR 14-07-040, § 16-752-600, filed 3/12/14, effective

4/12/14. Statutory Authority: Chapters 17.24, 17.10 RCW. WSR 00-24-021, § 16-752-600, filed 11/28/00, effective 12/29/00; WSR 92-07-025, § 16-752-600, filed 3/10/92, effective 4/10/92.]

AMENDATORY SECTION (Amending WSR 14-07-040, filed 3/12/14, effective 4/12/14)

**WAC 16-752-610 Regulated articles.** All plants, plant parts, and seeds in packets, blends, and "wildflower mixes" of the following listed species are designated as regulated articles under the terms of this noxious weed seed and plant quarantine. This list is comprised of the most recent and accepted scientific and common names of the quarantine plant species. Regulated status also applies to all synonyms of these botanical names and interspecies hybrids if both parents are regulated species:

<b>Scientific Name</b>	<b>Common Names</b>
<i>Abutilon theophrasti</i>	velvetleaf
<i>Alliaria petiolata</i>	garlic mustard
<i>Amorpha fruticosa</i>	indigobush, lead plant
<i>Anchusa officinalis</i>	common bugloss, alkanet, anchusa
<i>Anthriscus sylvestris</i>	wild chervil
<i>Arundo donax</i> (except variegated cultivars)	giant reed
<i>Brachypodium sylvaticum</i>	false brome
<u><i>Buddleia davidii</i></u> (except accepted sterile cultivars)	<u>butterfly bush</u>
<i>Butomus umbellatus</i>	flowering rush
<i>Cabomba caroliniana</i>	fanwort
<i>Carduus acanthoides</i>	plumeless thistle

<b>Scientific Name</b>	<b>Common Names</b>
<i>Carduus nutans</i>	musk thistle, nodding thistle
<i>Carduus pycnocephalus</i>	Italian thistle
<i>Carduus tenuiflorus</i>	slenderflower thistle
<i>Centaurea calcitrapa</i>	purple starthistle
<i>Centaurea diffusa</i>	diffuse knapweed
<i>Centaurea jacea</i>	brown knapweed, rayed knapweed, brown centauray horse-knobs, hardheads
<i>Centaurea jacea x nigra</i>	meadow knapweed
<i>Centaurea stoebe</i>	spotted knapweed
<i>Centaurea macrocephala</i>	bighead knapweed
<i>Centaurea nigra</i>	black knapweed
<i>Centaurea nigrescens</i>	Vochin knapweed
<i>Chaenorrhinum minus</i>	dwarf snapdragon
<i>Clematis orientalis</i>	oriental clematis
<i>Crassula helmsii</i>	Australian swamp stonecrop
<i>Crupina vulgaris</i>	common crupina
<i>Cyperus rotundus</i>	purple nutsedge
<i>Cytisus scoparius</i>	Scotch broom
<i>Daucus carota</i>	wild carrot, Queen Anne's lace
<i>Echium vulgare</i>	blueweed, blue thistle, blue devil, viper's bugloss, snake flower
<i>Egeria densa</i>	Brazilian elodea
<i>Epilobium hirsutum</i>	hairy willow herb
<i>Euphorbia esula</i>	leafy spurge
<i>Euphorbia oblongata</i>	eggleaf spurge
<i>Ficaria verna</i>	<u>lesser celandine</u>
<i>Galega officinalis</i>	goatsrue
<i>Genista monspessulana</i>	French broom
<i>Geranium lucidum</i>	shiny geranium
<i>Glossostigma diandrum</i>	mud mat
<i>Glyceria maxima</i>	reed sweetgrass, tall manna grass
<i>Gymnocoronis spilanthoides</i>	<u>Senegal tea plant</u>
<i>Helianthus ciliaris</i>	Texas blueweed
<i>Heracleum mantegazzianum</i>	giant hogweed, giant cow parsnip
<i>Hibiscus trionum</i>	Venice mallow, flower-of-an-hour, bladder ketmia, modesty, shoo-fly
<del>(<i>Hieracium aurantiacum</i>)</del>	<del>orange hawkweed, orange paintbrush, red daisy flameweed, devil's weed, grim-the collier</del>

Scientific Name	Common Names
<i>Hieracium caespitosum</i>	yellow hawkweed, yellow paintbrush, devil's paintbrush, yellow devil, field hawkweed, king devil
<i>Hieracium floribundum</i>	yellow devil hawkweed
<i>Hieracium pilosella</i>	mouseear hawkweed
<i>Hieracium sabaudum</i>	European hawkweed))
<i>Hieracium</i> spp. All nonnative species and hybrids	nonnative hawkweeds
<i>Hydrilla verticillata</i>	hydrilla
<i>Hydrocharis morsus-ranae</i>	European frog-bit
<i>Impatiens glandulifera</i>	policeman's helmet
<i>Isatis tinctoria</i>	dyers' woad
<i>Kochia scoparia</i>	kochia, summer-cyprus, burning-bush, fireball, Mexican fireweed
<i>Lagarosiphon major</i>	African elodea
<i>Lamiastrum galeobdolon</i>	yellow archangel
<i>Lepidium latifolium</i>	perennial pepperweed
<i>Leucanthemum vulgare</i>	oxeye daisy, white daisy, whiteweed, field daisy, marguerite, poorland flower
<i>Linaria dalmatica</i> spp. dalmatica	Dalmatian toadflax
<i>Ludwigia hexapetala</i>	water primrose
<i>Ludwigia peploides</i>	floating primrose-willow
<i>Lysimachia vulgaris</i>	garden loosestrife
<i>Lythrum salicaria</i>	purple loosestrife
<i>Lythrum virgatum</i>	wand loosestrife
<i>Marsilea mutica</i>	Australian water clover
<i>Mirabilis nyctaginea</i>	wild four o'clock, umbrella-wort
<i>Murdannia keisak</i>	marsh dew flower, Asian spiderwort
<i>Myriophyllum aquaticum</i>	parrotfeather
<i>Myriophyllum heterophyllum</i>	variable-leaf milfoil
<i>Myriophyllum spicatum</i>	Eurasian watermilfoil
<i>Najas minor</i>	slender-leaved naiad, brittle naiad
<i>Nymphoides peltata</i>	yellow floating heart
<i>Onopordum acanthium</i>	Scotch thistle
<i>Polygonum cuspidatum</i>	Japanese knotweed
<i>Polygonum polystachyum</i>	Himalayan knotweed
<i>Polygonum sachalinense</i>	giant knotweed

Scientific Name	Common Names
<i>Polygonum x bohemicum</i>	Bohemian knotweed, Japanese and giant knotweed hybrid
<i>Proboscidea louisianica</i>	unicorn-plant
<i>Pueraria montana var. lobata</i>	kudzu
<i>Sagittaria graminea</i>	grass-leaved arrowhead
<i>Sagittaria platyphylla</i>	delta arrowhead
<i>Salvia aethiopsis</i>	Mediterranean sage
<i>Salvia pratensis</i>	meadow clary
<i>Salvia sclarea</i>	clary sage
<i>Schoenoplectus mucronatus</i>	ricefield bulrush
<i>Senecio jacobaea</i>	tansy ragwort
<i>Silybum marianum</i>	milk thistle
<i>Solanum elaeagnifolium</i>	silverleaf nightshade
<i>Solanum rostratum</i>	buffaloburr
<i>Soliva sessilis</i>	lawnweed
<i>Sorghum halepense</i>	johnsongrass
<i>Spartina alterniflora</i>	smooth cordgrass
<i>Spartina anglica</i>	common cordgrass
<i>Spartina densiflora</i>	dense-flowered cordgrass
<i>Spartina patens</i>	salt meadow cordgrass
<i>Spartium junceum</i>	Spanish broom
<i>Stratiotes aloides</i>	water soldier
<i>Tamarix ramosissima</i>	saltcedar
<i>Thymelaea passerina</i>	spurge flax
<i>Torilis arvensis</i>	hedgearsley
<i>Trapa natans</i>	water chestnut, bull nut
<i>Trapa bicornus</i>	water caltrap, devil's pod, bat nut
<i>Ulex europaeus</i>	gorse, furze
<i>Utricularia inflata</i>	swollen bladderwort
<i>Zygophyllum fabago</i>	Syrian bean-caper

~~((This list is comprised of the most recent and accepted scientific and common names of the quarantine plant species. Regulated status also applies to all synonyms of these botanical names and interspecies hybrids if both parents are regulated species.))~~

[Statutory Authority: RCW 17.10.074, 17.24.011, 17.24.041 and chapter 34.05 RCW. WSR 14-07-040, § 16-752-610, filed 3/12/14, effective

4/12/14. Statutory Authority: Chapters 17.10, 17.24, and 34.05 RCW. WSR 09-19-006, § 16-752-610, filed 9/3/09, effective 10/4/09; WSR 04-19-004, § 16-752-610, filed 9/2/04, effective 10/3/04. Statutory Authority: Chapters 17.24, 17.10, 15.13 RCW. WSR 02-12-030, § 16-752-610, filed 5/29/02, effective 6/29/02. Statutory Authority: Chapters 17.24, 17.10 RCW. WSR 00-24-021, § 16-752-610, filed 11/28/00, effective 12/29/00; WSR 98-13-008, § 16-752-610, filed 6/4/98, effective 7/5/98. Statutory Authority: Chapters 17.10 and 17.24 RCW. WSR 92-07-025, § 16-752-610, filed 3/10/92, effective 4/10/92.]

AMENDATORY SECTION (Amending WSR 14-07-040, filed 3/12/14, effective 4/12/14)

**WAC 16-752-640 Compliance agreements.** The director may allow activities prohibited under this chapter by compliance agreement. Such compliance agreement shall specify the terms and conditions under which such activities are allowed. A fee may be charged for these services under (~~chapter 16-470~~) WAC 16-401-027 or 16-470-912 and 16-470-921.

[Statutory Authority: RCW 17.10.074, 17.24.011, 17.24.041 and chapter 34.05 RCW. WSR 14-07-040, § 16-752-640, filed 3/12/14, effective

4/12/14. Statutory Authority: Chapters 17.10 and 17.24 RCW. WSR 92-07-025, § 16-752-640, filed 3/10/92, effective 4/10/92.]