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ARCHIVES DIVISION

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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 603
DEPARTMENT OF AGRICULTURE

FILED

06/25/2024 1:51 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Update the Oregon Noxious Weed Quarantine List

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 07/31/2024 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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Salem, OR 97301

Filed By:
Sunny Summers
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 07/16/2024

TIME: 10:00 AM - 11:00 AM

OFFICER: Sunny Summers

REMOTE HEARING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 503-446-4951

CONFERENCE ID: 239538495205

SPECIAL INSTRUCTIONS:

Meeting ID: 239 538 495 205,

Passcode: 54idhG

Dial in by phone

+1 503-446-4951

Code 168401707#

NEED FOR THE RULE(S)

The proposed amendments to the noxious weed quarantine (603-052-1200) would update the Oregon noxious weed list. Add eight new noxious weeds: Add to the "A" list: Palmer amaranth (*Amaranthus palmeri*), Turkish thistle (*Carduus cinereus*); add to the "B" list: Common viper's bugloss (*Echium vulgare*), Dog rose (*Rosa canina*), English hawthorn (*Crataegus monogyna*), Giant reed (*Arundo donax*), Pine echium (*Echium pininana*), and Sweetbriar rose (*Rosa rubiginosa*). Remove the following 12 noxious weeds: Remove "A" listed: Silver nightshade (*Solanum elaeagnifolium*), and Syrian bean-caper (*Zygophyllum fabago*). Remove "B" listed: Bigseed dodder (*Cuscuta indecora*), Buffalobur (*Solanum rostratum*), Five-angled dodder (*Cuscuta pentagona*), Johnsongrass (*Sorghum halepense*), Ragweed (*Ambrosia artemisiifolia*), Smoothseed alfalfa dodder (*Cuscuta approximata*), Spike weed (*Hemizonia pungens*), Spiny cocklebur (*Xanthium spinosum*), Velvetleaf (*Abutilon theophrasti*) and Yellow-cress (*Rorippa sylvestris*). These changes

would bring the noxious weed quarantine in line with the State Noxious Weed List approved and maintained by the State Weed Board.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

Minutes of the Oregon State Weed Board February 20, 2020, February 23, 2022, September 26, 2023 and May 30, 2024. Minutes available from the Oregon Department of Agriculture, Noxious Weed Program 635 Capitol Street NE, Salem, Oregon, 97301.

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The rules are not expected to affect racial equity in Oregon.

FISCAL AND ECONOMIC IMPACT:

The proposed amendments update the State Noxious Weed List approved and maintained by the Oregon State Weed Board. The proposed rule revisions are not expected to have a fiscal impact to the public, industries or government agencies.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s):

Updating the Noxious Weed Quarantine should have no fiscal impact to the public, industries or government agencies. These plants are not currently sold in the nursery trade.

(2) Effect on small businesses: (a) estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

No effect is expected to the public, or small businesses. These plants are not currently sold in the nursery trade.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

The Oregon State Weed Board includes small business owners. Proposed changes were sent out for comment to Oregon Noxious Weed list serves on Gov Delivery with over 7000 subscribers, and public comment time was open at Oregon State Weed Board meetings.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The Oregon State Weed Board acts as the advisory committee for any noxious weed list changes. The Board reviewed and recommended these changes.

AMEND: 603-052-1200

RULE SUMMARY: Establishes list of noxious weeds.

CHANGES TO RULE:

Quarantine; Noxious Weeds ¶¶

(1) Establishing Quarantine. A quarantine is established against the noxious weeds listed herein. Noxious weeds have been declared a menace to the public welfare (ORS 569.180 and 569.350) because of the environmental and economic degradation that occurs when they become established.¶¶

(2) Areas Under Quarantine. The entire State of Oregon and all other states of the United States and all foreign countries.¶¶

(3) Covered Plants. For purposes of this rule the term "plants" applies to whole plants, plant parts, and seeds. This rule applies to all "A" and "B" state designated noxious weeds listed herein, except as provided in section (6). Plants on the Federal Noxious Weed List (7 C.F.R. 360.200) are also covered by this rule, with the exception of Japanese blood grass, *Imperata cylindrica*, var. Red Baron and Chinese water spinach, *Ipomoea aquatica*.¶¶

(4) "A" weeds¶¶

(a) "A" designated weeds. Weeds of known economic importance which occur in the state in small enough infestations to make exclusion, eradication, or containment possible; or which are not known to occur, but their presence in neighboring states makes future occurrence in Oregon seem imminent.¶¶

(b) "A" weeds are controlled through exclusion, early detection, and rapid response (EDRR). Control of "A" weeds is a high priority for Oregon Department of Agriculture (ODA) and the primary goal is to prevent introduction and permanent establishment of "A" weeds. If "A" weeds are introduced, and eradication is not feasible, the secondary goal is to implement control measures to contain the "A" weeds to as small an area as possible so as to prevent widespread occurrence in Oregon.¶¶

(c) When "A" weeds are detected, control actions are mandatory and the goal of such control is eradication. Any person owning or occupying property upon which "A" weeds are detected must contact the Oregon Department of Agriculture within 48 hours of detection.¶¶

(d) Upon detection of "A" weeds, ODA may develop a survey, eradication, and monitoring plan to control or eradicate detected weeds. ODA may either develop and conduct appropriate measures to control or eradicate such weeds or may enter into a contract for the purpose of controlling or eradicating "A" weeds.¶¶

(e) Control or eradication of "A" weeds may be implemented at no cost to a person owning or controlling land within this state upon which "A" weeds are detected. However, ODA may request any person owning or controlling land within this state to control, prevent the spread of, or eradicate where feasible "A" weeds, subject to supervision of such activities by the ODA.¶¶

(f) If ODA or a county are unable to control or eradicate "A" weeds on private property, any person owning or controlling land within this state must control and take measures to eliminate or prevent the possibility of spread of "A" weeds to other lands and ownerships. Control measures for "A" weeds must be implemented in a timely manner as determined by ODA. Treatments must provide sufficient levels of control to make progress toward the goal of eradication.¶¶

(g) ODA inspectors may access all lands within Oregon for the purpose of ORS 569.175 to 569.195 including carrying out the control or eradication of "A" weeds.¶¶

(h) Any person owning or controlling land within this state found in violation of ORS 569.175 to 569.195 or these rules may be subject to fines up to the maximum for Class B violations.¶¶

(i) The following is a list of "A" weeds:¶¶

(A) African rue - *Peganum harmala*¶¶

(B) Camelthorn - *Alhagi pseudalhagi*¶¶

(C) Cape ivy - *Delairea odorata*¶¶

(D) Coltsfoot - *Tussilago farfara*¶¶

(E) Common frogbit - *Hydrocharis morsus-ranae*¶¶

(F) Cordgrass:¶¶

(i) Common - *Spartina anglica*¶¶

(ii) Dense-flowered - *Spartina densiflora*¶¶

(iii) Saltmeadow - *Spartina patens*¶¶

(iv) Smooth - *Spartina alterniflora*¶¶

Common frogbit - *Hydrocharis morsus-ranae*¶¶

(G) Delta arrowhead - *Sagittaria platyphyla*¶¶

(H) European water chestnut - *Trapa natans*¶¶

(I) Flowering rush - *Butomus umbellatus*¶¶

(J) Garden yellow loosestrife - *Lysimachia vulgaris*¶¶

(K) Giant hogweed - *Heracleum mantegazzianum*¶¶

(L) Goatgrass:¶¶

(i) Barbed - *Aegilops triuncialis*¶¶

- (ii) Ovate - Aegilops ovata
- (M) Goatsrue - Galega officinalis
- (N) Hawkweed:
- (i) King-devil - Hieracium piloselloides
- (ii) Mouse-ear - Hieracium pilosella
- (iii) Orange - Hieracium aurantiacum
- (iv) Yellow - Hieracium floribundum
- (O) Hoary alyssum - Berteroa incana
- (P) Hydrilla - Hydrilla verticillata
- (Q) Japanese dodder - Cuscuta japonica
- (R) Kudzu - Pueraria lobata
- (S) Matgrass - Nardus stricta
- (T) Oblong spurge - Euphorbia oblongata
- (U) Palmer amaranth - Amaranthus palmeri
- (V) Paterson's curse - Echium plantagineum
- (W) Purple nutsedge - Cyperus rotundus
- (X) Ravennagrass - Saccharum ravennae
- ~~Silverleaf nightshade - Solanum elaeagnifolium~~
- (Y) Squarrose knapweed - Centaurea virgata
- (Z) Starthistle:
- (i) Iberian - Centaurea iberica
- (ii) Purple - Centaurea calcitrapa
- ~~Syrian bean-caper - Zygophyllum fabago~~
- (AA) Thistle:
- (i) Plumeless - Carduus acanthoides
- (ii) Smooth distaff - Carthamus baeticus
- (iii) Taurian - Onopordum tauricum
- (iv) Turkish - Carduus cinereus
- (v) Wetted (curly plumeless) - Carduus crispus
- (vi) Woolly distaff - Carthamus lanatus
- (BB) Water soldiers - Stratiotes aloides
- (CC) West Indian spongeplant - Limnobium laevigatum
- (DD) White bryonia - Bryonia alba
- (EE) Yellow floating heart - Nymphoides peltata
- (FF) Yellowtuft - Alyssum murale, A. corsicum
- (5) "B" Weeds

(a) "B" designated weeds means weeds of economic importance which are regionally abundant, but which may not occur or have limited distribution in some counties. "B" weeds shall be managed on a priority basis as resources allow. Control of "B" weeds may vary according to ODA-established priorities as well as site-specific or case-by-case factors. When available, biological control may be the primary long-term control strategy.

(b) The goal of "B" weed management is control and prevention of new infestations of "B" weeds in Oregon. ODA may advise persons owning or controlling lands upon which "B" weeds are detected on the control of "B" weeds on those lands as well as how to prevent "B" weeds from infesting new lands. As determined by ODA or a county, "B" weeds may be controlled or eradicated in the same manner as "A" weeds when "B" weeds appear in parts of the state where they were not previously detected or established.

(c) Pursuant to ODA's determination as to treatment of "B" weeds, ODA may develop a regional control plan or cooperate with a county, local entity, or persons owning or controlling private lands to develop and implement a plan to control "B" weeds. ODA may assist with implementing control measures.

(d) Persons owning or controlling lands where "B" weeds are detected may request assistance from their respective local County Weed Inspector.

(e) Cost-share assistance grants may be available for the control of State listed noxious weeds to any person owning or occupying land upon which "A" or "B" weeds are detected. If within a county weed control district or special weed control district the county may provide assistance by applying for cost-share assistance grants. Information on cost-share assistance grants may be found at ODA's Plant Division website.

(f) As determined by ODA, biological control agents may be available for some "B" weeds. Information on the current availability of biological control agents is provided on ODA's Plant Division website. Releases of some biological control agents targeting noxious weeds may require reporting to ODA for tracking purposes.

(g) The following is a list of "B" weeds:

- (A) Armenian (Himalayan) blackberry - Rubus armeniacus (R. procerus, R. discolor)

(B) Bidly-bidly - *Acaena novae-zelandiae*¶
(C) Broom:¶
(i) French - *Genista monspessulana*¶
(ii) Portuguese - *Cytisus striatus*¶
(iii) Scotch - *Cytisus scoparius*¶
(iv) Spanish - *Spartium junceum*¶
~~Buffalobur - *Solanum rostratum*¶~~
(D) Butterfly bush - *Buddleja davidii* (*B. variabilis*)* (*Plants being sold in Oregon that are labeled "Butterfly Bush" are assumed to be *B. davidii* and will be subject to a stop sale order. ODA approved sterile varieties of *Buddleja* that produce less than 2% viable seed and inter-specific hybrids that are not regulated, and may be propagated and sold if labeled with the approved variety name. Information concerning process, criteria and approved seedless varieties is available online at:
<https://www.oregon.gov/ODA/programs/NurseryChristmasTree/Pages/ButterflyBush.aspx>¶
(E) Common bugloss - *Anchusa officinalis*¶
(E) Common crupina - *Crupina vulgaris*¶
(G) Common reed - *Phragmites australis*¶
~~Creeping yellow cress - *Rorippa sylvestris*¶~~
~~Cutleaf teasel - *Dipsacus laciniatus*¶~~
~~Dodder:¶~~
~~Smoothseed alfalfa - *Cuscuta approximata*¶~~
~~Five-angled - *Cuscuta pentagona*¶~~
~~Bigseed - *Cuscuta indee*~~(H) Common viper's bugloss - *Echium vulgare*¶
(I) Cutleaf teasel - *Dipsacus laciniatus*¶
(J) Dyer's woad - *Isatis tinctoria*¶
~~Dyer's woad - *Isatis tinctoria*¶~~
(K) English hawthorn - *Crataegus monogyna* ¶
(L) Eurasian watermilfoil - *Myriophyllum spicatum*¶
(M) False brome - *Brachypodium sylvaticum*¶
(N) Field bindweed - *Convolvulus arvensis*¶
(O) Garlic mustard - *Alliaria petiolata*¶
(P) Geranium:¶
(i) Herb Robert - *Geranium robertianum*¶
(ii) Shiny leaf - *Geranium lucidum*¶
(Q) Giant reed - *Arundo donax*¶
(R) Gorse - *Ulex europaeus*¶
(S) Halogeton - *Halogeton glomeratus*¶
(T) Houndstongue - *Cynoglossum officinale*¶
(U) Indigo bush - *Amorpha fruticosa*¶
(V) Ivy:¶
(i) Atlantic - *Hedera hibernica*¶
(ii) English - *Hedera helix*¶
~~Johnsongrass - *Sorghum halepense*¶~~
(W) Jointed goatgrass - *Aegilops cylindrica*¶
(X) Jubata grass - *Cortaderia jubata*¶
(Y) Knapweed:¶
(i) Diffuse - *Centaurea diffusa*¶
(ii) Meadow - *Centaurea pratensis*¶
(iii) Russian - *Acroptilon repens*¶
(iv) Spotted - *Centaurea stoebe* (*C. maculosa*)¶
(Z) Knotweed:¶
(i) Bohemian - *Fallopia x bohemica*¶
¶
(ii) Giant - *Fallopia sachalinensis* (*Polygonum*)¶
(iii) Himalayan - *Polygonum polystachyum*¶
(iv) Japanese - *Fallopia japonica* (*Polygonum*)¶
(AA) Kochia - *Kochia scoparia*¶
(BB) Lesser celandine - *Ranunculus ficaria*¶
(CC) Meadow hawkweed - *Hieracium caespitosum*¶
(DD) Mediterranean sage - *Salvia aethiopsis*¶

(EE) Medusahead rye - *Taeniatherum caput-medusae*¶
 (FF) Old man's beard - *Clematis vitalba*¶
 (GG) Parrot feather - *Myriophyllum aquaticum*¶
 (HH) Perennial peavine - *Lathyrus latifolius*¶
 (II) Perennial pepperweed - *Lepidium latifolium*¶
 (JJ) Pheasant's eye - *Adonis aestivalis*¶
 (KK) Pine echium - *Echium pininana* ¶
 (LL) Poison hemlock - *Conium maculatum*¶
 (MM) Policeman's helmet - *Impatiens glandulifera*¶
 (NN) Primrose-willow:¶
 (i) Large-flower - *Ludwigia grandiflora* ssp.¶
 (ii) Water primrose - *Ludwigia hexapetala*¶
 (iii) Floating - *Ludwigia peploides*¶
 (OO) Puncturevine - *Tribulus terrestris*¶
 (PP) Purple loosestrife - *Lythrum salicaria*¶
 Ragweed - *Ambrosia artemisiifolia*¶
 (QQ) Ribbongrass - *Phalaris arundinacea* var. *Picta*¶
 (RR) Rose: ¶
 (i) Dog - *Rosa canina* ¶
 (ii) Sweetbriar - *Rosa rubiginosa* ¶
 (SS) Rush skeletonweed - *Chondrilla juncea*¶
 (TT) Saltcedar - *Tamarix ramosissima*¶
 (UU) Small broomrape - *Orbanche minor*¶
 (VV) South American waterweed - *Egeria densa* (*Elodea*)¶
 (WW) Spanish heath - *Erica lusitanica*¶
 Spikeweed - *Hemizonia pungens*¶
 Spiny cocklebur - *Xanthium spinosum*¶
 (XX) Spurge laurel - *Daphne laureola*¶
 (YY) Spurge:¶
 (i) Leafy - *Euphorbia esula*¶
 (ii) Myrtle - *Euphorbia myrsinites*¶
 (ZZ) St. Johnswort - *Hypericum perforatum*¶
 (AAA) Sulfur cinquefoil - *Potentilla recta*¶
 (BBB) Swainsonpea - *Sphaerophysa salsula*¶
 (CCC) Tansy ragwort - *Senecio jacobaea*¶
 (DDD) Thistle:¶
 (i) Bull - *Cirsium vulgare*¶
 (ii) Canada - *Cirsium arvense*¶
 (iii) Italian - *Carduus pycnocephalus*¶
 (iv) Milk - *Silybum marianum*¶
 (v) Musk - *Carduus nutans*¶
 (vi) Scotch - *Onopordum acanthium*¶
 (vii) Slender-flowered - *Carduus tenuiflorus*¶
 (EEE) Toadflax:¶
 (i) Dalmatian - *Linaria dalmatica*¶
 (ii) Yellow - *Linaria vulgaris*¶
 (FFF) Tree of heaven - *Ailanthus altissima*¶
 Velvetleaf - *Abutilon theophrasti*¶
 (GGG) Ventenata grass - *Ventenata dubia*¶
 (HHH) Whitetop:¶
 (i) Hairy - *Lepidium pubescens*¶
 (ii) Lens-podded - *Lepidium chalepensis*¶
 (iii) Whitetop (hoary cress) - *Lepidium draba*¶
 (III) Yellow archangel - *Lamiastrum galeobdolon*¶
 (JJJ) Yellow flag iris - *Iris pseudacorus*¶
 (KKK) Yellow nutsedge - *Cyperus esculentus*¶
 (LLL) Yellow starthistle - *Centaurea solstitialis*¶
 (6) Exemptions¶
 (a) Agricultural seed as defined in Oregon's Seed Law, ORS 633.511 to 633.750, is exempt from this quarantine

but subject to the noxious weed seed tolerances in OAR 603-056-0205.¶

(b) Other commodities, such as, but not limited to, wheat are exempt from this quarantine to the extent that they are contaminated with noxious weed seed.¶

(7) Prohibited and Permitted Acts¶

(a) All plants covered in section (3) of this rule are prohibited entry into the State of Oregon.¶

(b) All plants listed in section (3) of this rule are prohibited from transport, purchase, sale or offering for sale in the State of Oregon.¶

(c) All plants listed in section (3) of this rule are prohibited from being propagated in the State of Oregon.¶

(d) All plants listed in section (3) may be collected from the wild in areas that are already infested with the specific species that is collected, provided that the plants, plant parts, or seed are not used for propagation or sale within the State of Oregon.¶

(8) Disposition of Plants in Violation of the Quarantine. All covered plants listed in section (3) of this rule are found to be in violation of this quarantine shall be returned immediately to point of origin by the Oregon receiver, if from out of state, or at the owner's option be destroyed under the supervision of ODA, without expense to or indemnity paid by ODA.¶

(9) Exceptions. The director may issue a permit allowing entry into this state, propagation, or research on plants covered by this rule, upon request, and upon investigation and finding that unusual circumstances exist justifying such action, and that the benefits of granting the permit outweigh the potential harm that may result from the requested action. The director may impose specific conditions on any permit issued hereunder, and the permit may be canceled for failure to meet the conditions therein. Any permit issued under this section shall be for a limited duration not to exceed one year.

Statutory/Other Authority: ORS 561.510, 569, ORS 561.190

Statutes/Other Implemented: ORS 561.510