



RULE-MAKING ORDER
(RCW 34.05.360)

CR-103 (10/1/89)

Agency: Agriculture

- Permanent Rule
- Emergency Rule

(1) Date of adoption: September 20, 1990

(2) Purpose:
To clarify grant applications by grant type and to delete references to obsolete procedures

(3) Citation of existing rules affected by this order:

Repealed:

Amended: WAC 16-752, Rules Relating to the Noxious Weed Grant Program

Suspended:

(4) Authority for adoption:

Statute: RCW 17.10, Noxious Weeds--Control Boards

Other Authority:

(5.1) PERMANENT RULE ONLY

Pursuant to notice filed as WSR 90-16-074 on July 30, 1990 (date).

Describe any changes other than editing from proposed to adopted version:

(5.2) EMERGENCY RULE ONLY

Pursuant to RCW 34.05.350 the agency for good cause finds:

- (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If yes, explain:

(6) Effective date of rule:

Permanent Rules

31 days after filing

Other (specify) _____ *

*(if less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

Emergency Rules

Immediately

Later (specify) _____

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

SEP 20 1990

TIME: 9:02

WSR: 90-20-002

NAME (TYPE OR PRINT)

C. Alan Pettibone

SIGNATURE

TITLE
Director

DATE
9/20/90

AMENDATORY SECTION (Amending Order 1963, filed 1/29/88)

WAC 16-752-001 DEFINITIONS. The definitions set forth in this section shall apply throughout this chapter, unless the context otherwise requires:

(1) "Director" means the director of agriculture of this state, or a duly authorized representative.

(2) "Department" means the Washington state department of agriculture.

(3) "Person" means any individual, partnership, corporation, association, agency, or organized group of persons whether or not incorporated.

(4) "Hay" means the harvested herbage of forage plants, including but not limited to grasses, legumes, sedges and rushes.

(5) "State board" means the Washington state noxious weed control board.

~~((6))~~ ~~("Abstract"-means-a-concise-summary-of-the-main-parts-of-a-noxious-weed-control-project;~~

~~((7))~~ "Applicant" means a project sponsor.

~~((8))~~ (7) "BARS" means the budgeting, accounting, and reporting system of municipal fiscal management.

~~((9))~~ (8) "Environmental checklist" means the form in WAC 197-11-960.

~~((10))~~ (9) "Executive secretary" means the state noxious weed control board executive secretary.

~~((11))~~ ~~"Intangible benefits"-means-those-benefits-lacking-physical-form-including-but-not-limited-to-goodwill,-increased-public-awareness,-and-aesthetic-improvements;~~

~~((12))~~ ~~"Intangible costs"-means-those-costs-lacking-physical-form-including-but-not-limited-to-ill-will,-decreased-public-enjoyment,-reduced-aesthetics;~~

~~((13))~~ (10) "Integrated pest management" means a decision-making process which combines all feasible control techniques into a program for managing targeted noxious weeds including but not limited to prevention, monitoring, consideration of alternative methods, and evaluation.

~~((14))~~ (11) "Local noxious weed control agency" means any activated county or regional noxious weed control board created under chapter 17.10 RCW, any weed district created under chapter 17.04 RCW, or any intercounty weed district created under chapter 17.06 RCW.

~~((15))~~ (12) "Monitoring" means inspecting to gather and record site specific information on which decisions about treatment choices are to be based.

~~((16))~~ (13) "Objectives" means statements of precise outcomes which can be measured to determine actual accomplishments.

~~((17))~~ ~~Principle~~ (14) "Principal investigator" means the person under whose direction the noxious weed control project will be carried out such as the county weed control ~~((supervisor))~~ coordinator or county weed control board chairperson.

~~((18))~~ (15) "Project sponsor" means the county legislative authority of a county with an activated noxious weed control board, a local weed control agency, or a combination of two or more agencies acting through a lead agency, responsible for implementing an approved project.

~~((19))~~ (16) "Public benefits" means those services, goods, or other benefits, whether tangible or intangible, which accrue to persons other than those on whose property weed control measures pursuant to this chapter are undertaken.

~~((20))~~ (17) "Public costs" means those costs, whether tangible or intangible, which accrue to persons other than those on whose property weed control measures pursuant to this chapter are undertaken.

~~((21))~~ (18) "Significant environmental harm" means a reasonable likelihood of more than a moderate adverse impact on environmental quality as set forth in WAC 197-11-794.

~~((22))~~ ~~"Tangible benefits"-means-those-benefits-possessing-physical-form,-whether-monetary-or-nonmonetary,-including-but-not-limited~~

to public health and safety--enhancement,--environmental--enhancement, and cost savings on consumer goods.

(23) "Tangible costs" means those costs possessing physical form, whether monetary or nonmonetary, including but not limited to public health and safety degradation,--environmental--degradation--cost increases on consumer goods.)

AMENDATORY SECTION (Amending Order 1963, filed 1/29/88)

WAC 16-752-115 NOXIOUS WEEDS GRANT PROGRAM--PURPOSE. The purpose of the noxious weeds grant program is to control and prevent noxious weed infestations that pose a potential economic or environmental threat to the state by funding educational projects ((with--comprehensive)), weed surveys, biological control activity and control projects with strategies that are well planned, documented, and specific to targeted weed species.

AMENDATORY SECTION (Amending Order 1963, filed 1/29/88)

WAC 16-752-125 NOXIOUS WEEDS GRANT PROGRAM--WHO MAY APPLY. The legislative authority of any county with an activated county noxious weed control board, or the board of any ((local)) weed control ((agency)) district may apply for noxious weed control grant program funds ((if such applicant employs adequate administrative personnel to supervise the proposed project for the duration of such project)). In addition, pursuant to RCW 17.10.074(3), the Washington state noxious weed control board may advise the director to reallocate funds designated for the noxious weed grant program to identified projects of general benefit to activated county weed boards and weed districts and/or of benefit to noxious weed control efforts state-wide.

AMENDATORY SECTION (Amending Order 1963, filed 1/29/88)

WAC 16-752-130 NOXIOUS WEEDS GRANT PROGRAM--APPLICATION PROCEDURE. (1) The department shall specify funding cycles, and application and reporting deadlines as necessary, and shall give reasonable notice in writing and shall send by regular mail to the legislative authority of each county with an activated county noxious weed control board and each local weed control ((agency)) district notice of such cycles and deadlines.

(2) The applicant may request assistance from the state board executive secretary or from the department in completing the application. The state board executive secretary and the department may provide such assistance subject to the availability of staff and funds for this purpose.

(3) The state board may ((reject or)) establish a committee to provide a preliminary review of grant applications. The committee may refer back to the applicant or the state board may reject those applications which it finds are:

- (a) Insufficiently documented; or
- (b) Incomplete; or
- (c) Inadequate; or
- (d) Postmarked after the deadline.

AMENDATORY SECTION (Amending Order 1963, filed 1/29/88)

WAC 16-752-135 NOXIOUS WEEDS GRANT PROGRAM--CONTENT OF GRANT APPLICATION. Applications for grants shall include, but not be limited to, the following information:

- (1) The legal name and address of the organization to whom the award should be made;
- (2) The scientific name of targeted noxious weed species if applicable;
- (3) The weed classification status if applicable;
- (4) The project title and status (new or renewal);
- (5) The amount of money being requested from the state;
- (6) The estimated length of the project and the starting and ending dates;
- (7) The name, business address, and telephone number of the ((principle)) principal investigators;
- (8) The type of performing organization;
- (9) The signature of the ((principle)) principal investigator;
- (10) ~~((The abstract, not to exceed one page, which summarizes the main parts of the project;~~
- ~~((11))~~ Background information which demonstrates the applicant's familiarity with similar projects;
- ~~((12))~~ (11) The objectives of the project;
- ~~((13))~~ (12) The statement of the approach and procedures to be used to accomplish objectives. This section of the proposal shall describe how the applicant plans to approach the problem and indicate the method the applicant will employ to accomplish the objective;
- ~~((14))~~ (13) A description of actual project activity, utilization of personnel, and compilation of data ~~((including--the following:))~~;
- ~~((a))~~ ~~The precise location of the area affected by the project;~~
- ~~((b))~~ ~~The known distribution of the weed species outside the project area;~~
- ~~((c))~~ ~~The number of acres encompassed by project area;~~
- ~~((d))~~ ~~The number of acres infested by the targeted noxious weed species;~~
- ~~((e))~~ ~~The type of land affected in the project area--including--but not--limited to cropland, rangeland, pasture, urban/industrial, transportation rights-of-way, or forest;~~
- ~~((f))~~ ~~A designation of the land within the project areas--expressed as--percent--including--but--not--limited to public land, federal land, tribal land, state land, or private land;~~
- ~~((g))~~ ~~A description of the agricultural and nonagricultural uses of the project area;~~
- ~~((15))~~ (14) A projected breakdown of the work to be accomplished on a monthly basis during the funding period;
- ~~((16))~~ (15) A budget consistent with the BARS format which indicates revenues and expenditures by source;
- ~~((17))~~ (16) A quarterly expenditure plan;
- ~~((18))~~ (17) A list of any in-kind contributions committed to the proposed project;
- ~~((19))~~ (18) If the project is sponsored by several agencies, a draft copy of the interlocal cooperation agreement, memorandum of understanding, or other contract showing the relationship and responsibilities of the agencies;
- ~~((20))~~ (19) A statement that the project sponsor will enter into a contract with the department for utilization of grant program funds upon approval of the application.

AMENDATORY SECTION (Amending Order 1963, filed 1/29/88)

WAC 16-752-140 NOXIOUS WEEDS GRANT PROGRAM--APPLICATION EVALUATION--RANKING AND NOTICE OF ACCEPTANCE OR REJECTION OF APPLICATION.

(1) The state board shall review, evaluate, assign points to, and rank each application by grant type according to the criteria contained in WAC 16-752-145: PROVIDED, That board members who are also officials of the project sponsor shall not be eligible to rank that project sponsor's application. The state board may establish funding targets by grant application type prior to review of grant applications: PROVIDED, That grant applicants are advised of such targets prior to the final recommendations for grant funding. Each grant application type may be considered separately in line with funding targets.

(2) For control, other than biocontrol, first priority in funding will be given to class "A" and class "B" designate noxious weed species: PROVIDED, That the minimal acceptable standards set forth in WAC 16-752-145(2) are met.

(3) Each state board member shall independently evaluate and score each application by grant type according to WAC 16-752-145(3), after which the state board shall discuss the applications and review the scores. During such discussions, any state board member may change her or his scores. Following the review, the sum of the individual state weed board member scores for each application shall be determined and divided by the number of members scoring the application. This product shall constitute the board's score for the application. The applications thus scored shall be ranked from highest to lowest score.

(4) The results of the state board's scores and ranking shall be submitted to the director for final scoring, ranking, and acceptance or rejection of the application: PROVIDED, That in scoring applications, the director shall use the same criteria as that used by the state board and shall consult with the state board prior to any change in an applicant's rank.

(5) The department shall give notice to each applicant in writing and send by regular mail notice of the action taken on their application. Such notice shall include the applicant's final score and ranking among the applications considered during that cycle.

AMENDATORY SECTION (Amending Order 1963, filed 1/29/88)

WAC 16-752-145 NOXIOUS WEEDS GRANT PROGRAM--EVALUATION CRITERIA.

(1) The state board shall evaluate each application to determine if it meets all the minimal acceptable standards set forth in subsection (2) of this section. Any application which does not meet these standards shall be rejected and no further consideration shall be given to the application.

(2) The minimal acceptable standards are as follows:

(a) The grant applicant employs adequate administrative personnel to supervise the proposed project for the duration of such project;

~~(b)~~ (b) The proposed ((method-of-control)) project is technically feasible;

~~((c))~~ (c) The grant application does not represent an unreasonable portion of the weed board or weed districts total budget;

(d) The project provides public benefits in excess of public costs;

~~((e))~~ (e) The project will not cause significant environmental harm;

(f) Past grants have been used according to the terms of the grant, reports have been compiled as required, and no serious problems have been identified in project audits;

(g) For control projects, adequate insurance coverage is in place.

(3) Any application which meets all of the minimal acceptable standards shall be assigned points by the state board for each of several specific scientific, technical, economic, and environmental measures established by the state board.

NEW SECTION

WAC 16-752-146 MINIMUM STANDARDS FOR ALL GRANT PROJECT PERFORMANCE. All grants funded by the department shall meet the following requirements:

- (1) All treatments of A, B designate, B, or C weeds will be done in a timely manner, at the most susceptible stage.
- (2) Record keeping will be consistent with good accounting practices. All records will be available for audit during regular business hours.
- (3) All statutory requirements of chapter 17.10 RCW will be met.

NEW SECTION

WAC 16-752-147 MINIMUM STANDARDS FOR A AND B DESIGNATE CONTROL WORK--GRANT FUNDING. In addition to the requirements of WAC 16-752-146, all grants for A and B designate control shall meet the following performance requirements:

- (1) Principal goal of designed projects will be immediate containment, and control to the extent that containment is assured; medium range reduction in size of infestation, and long range eradication.
- (2) Infestations must be adequately surveyed (as per guidelines provided by the survey committee) to assure that the species is not growing outside the project containment. In cases of newly discovered infestations, where prompt control action is necessary and the survey has not been done, grant applications may be approved if:
 - (a) The local weed board or weed district has a survey plan to accompany the grant application as a condition of the grant; or
 - (b) The control grant application is accompanied by a survey grant application.
- (3) A and B designates must be treated in a timely fashion at the most susceptible stage of growth and soon enough to prevent viable seed production. Late treatments are not acceptable except in case of newly identified infestation.
- (4) All herbicide treatments of A and B designates will be performed by licensed applicators/operators.
- (5) Target areas will be inspected after treatment but before seed set to determine if seed production has been prevented. If seed may still be produced then appropriate follow-up action will be required to prevent seed set.
- (6) Landowners who employ alternative methods to that approved in the grant will do so at their own expense. Landowners who opt for hand removal must have an approved disposal method, and both infestation and disposal sites are subject to inspection.
- (7) In cases of noncompliance, where the landowner fails to control A and B designates, legal enforcements by counties and districts for immediate control and containment will be mandatory for all state funded programs.

AMENDATORY SECTION (Amending Order 1963, filed 1/29/88)

WAC 16-752-155 NOXIOUS WEEDS GRANT PROGRAM--PROJECT MONITORING, EVALUATION AND REPORTING. (1) The ((principle)) principal investigator shall monitor the progress of the project; evaluate the effects of the project; account for all project funds and expenditures; and submit ((an--annual)) a biennial and/or final report of its findings to the department and state board.

(2) The department shall conduct financial, compliance, or performance audits as necessary to review project accounting, ensure program compliance, and determine project efficiency and effectiveness.

(3) If the department determines that the project's progress effectiveness or fiscal management is deficient, the department may take one or more of the following actions:

(a) Advise the project sponsor in writing of the deficiency and direct the necessary corrective action;

(b) Suspend the project for a period of not more than sixty days during which time the department shall evaluate the project and determine what, if any, corrective action shall be taken to correct the deficiency: PROVIDED, That the department shall notify the project sponsor by certified mail of such suspension and shall forward a copy of such notice to the state board;

(c) Terminate the project: PROVIDED, That the department shall consult with the state weed board before termination of a project.

AMENDATORY SECTION (Amending Order 1963, filed 1/29/88)

WAC 16-752-165 NOXIOUS WEEDS GRANT PROGRAM--RECORDS RETENTION, FINAL REPORT, UNUSED ALLOCATED MONEYS. (1) Grant program records shall be retained by the project sponsor and a copy forwarded to the department and the executive secretary upon request upon project completion or termination.

(2) The project sponsor shall submit a financial statement within thirty days and a final report within one hundred eighty days of the completion or termination of a project to the department and the executive secretary which shall include:

(a) A brief listing of the primary objectives of the project;

(b) ~~((The results))~~ A review of the effectiveness of the project summarized according to project objectives;

(c) A brief summary of the public benefits accrued to the state as a result of the project;

(d) An itemized accounting of all grant moneys spent consistent with the BARS format.

(3) ~~((Unused--allocated--grant--moneys--shall--be--returned--to--the--state--grant--fund--within--thirty--days--of--the--termination--of--a--project: PROVIDED; That unused allocated moneys shall be returned no later than thirty--days--before--the--end--of--the--biennium.))~~ Grant applicants shall notify the department at the earliest possible date, but no later than thirty days from the termination of the project or the end of the biennium, of any allocated grant funds that will not be expended. The director, with the advice of the state board, may reallocate those funds consistent with WAC 16-752-125.

AMENDATORY SECTION (Amending Order 1963, filed 1/29/88)

WAC 16-752-170 NOXIOUS WEEDS GRANT PROGRAM--~~((EMERGENCIES))~~ EMERGENCY AND INTERIM FUNDING. Nothing in this chapter shall prevent the use of available noxious weed grant funds when it is determined by the director with advice of the state board that a noxious weed emergency exists because of:

(1) The discovery of a new infestation of an A or B designate weed in a county or weed district;

(2) A significant underestimation of the cost of control by the principal investigator due to circumstances beyond his or her control;

(3) The failure of a control strategy to be as efficacious as the investigator and the state board had anticipated.

Interim funding may be provided where unallocated grant funds are available according to the criteria in WAC 16-752-125.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-752-200 EMERGENCY NOXIOUS WEEDS GRANT PROGRAM--PURPOSE.
 WAC 16-752-201 EMERGENCY NOXIOUS WEEDS GRANT PROGRAM--ALLOTMENT.
 WAC 16-752-202 EMERGENCY NOXIOUS WEEDS GRANT PROGRAM--
 APPLICATION.
 WAC 16-752-203 EMERGENCY NOXIOUS WEEDS GRANT PROGRAM--
 REQUIREMENTS.
 WAC 16-752-204 EMERGENCY NOXIOUS WEEDS GRANT PROGRAM--PAYMENT.