



RULE-MAKING ORDER

CR-103 (7/10/97)

(RCW 34.05.360)

Agency: Washington State Department of Agriculture

- Permanent Rule
- Emergency Rule
- Expedited Adoption
- Expedited Repeal

(1) Date of adoption:

(2) Purpose: To establish an immediate quarantine on a serious infestation of yellow nutsedge (Cyperus esculentus) on a parcel of land located in Thurston County, Washington.

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

Repealed:
 Amended: 16-752-300 and 16-752-305
 Suspended:

(4) Statutory authority for adoption: Chapter 17.10 RCW, Noxious Weeds--Control Boards
Other Authority:

PERMANENT RULE ONLY (Including EXPEDITED ADOPTION)

Adopted under notice filed as WSR _____ on _____ (date).
 Describe any changes other than editing from proposed to adopted version:

EMERGENCY RULE ONLY

Under 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: Yellow nutsedge is a serious noxious weed of agronomic crops. It propagates by seed, rhizomes, bulbs, and nutlets. Soil containing nutlets is the primary mode of spread in cultivated land. Because yellow nutsedge is highly invasive, left unchecked the spread of this class B noxious weed would entail great economic loss to agricultural industries in the state of Washington. Immediate action is necessary to prevent seed set and nutlet formation this growing season, and to prevent movement of soil containing nutlets off-site.

EXPEDITED REPEAL ONLY

Under Preproposal Statement of Inquiry filed as WSR _____ on _____ (date)

(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:

Emergency Rules

- Permanent Rules or Expedited Repeal
- 31 days after filing
 - Other (specify) _____*
- Emergency Rules
- Immediately
 - Later (specify) _____

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

Name (Type or Print)
James M. Jesernig

Signature

Title: Director Date: August 13, 1997

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

AUG 14 1997

TIME: 4:38 AM
WSR: 97-17-018 PM

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____

AMENDATORY SECTION (Amending order 2069, filed 1/11/91, effective 2/11/91)

WAC 16-752-300 Establishing quarantine. Yellow nutsedge (*Cyperus esculentus* L.) is a herbaceous perennial that is one of the most serious noxious weeds of agronomic crops. It propagates by seed, rhizomes, bulbs, and nutlets. Soil containing nutlets is the primary mode of spread in cultivated land. It is highly invasive and its unchecked spread would entail great economic loss to the agricultural industries of the state. It is a class B noxious weed designated for control in Cowlitz and Thurston Counties (~~(County)~~) (WAC 16-750-011(~~(27)~~) (33(a))). Yellow nutsedge infests a dredging spoil site at the Port of Kalama in Kalama, Washington and a plant nursery site at the Port of Olympia in Tumwater, Washington. Movement of material from (~~(this)~~) these sites (~~(has)~~) initiate(~~(d)~~)s additional infestations. RCW 17.10.210 provides that either the director or the county noxious weed control board or a weed district may issue an order for quarantine and restriction or denial of access to land determined to be so seriously infested that control measures cannot be undertaken without quarantine of the land. The director has determined:

(1) That the identified sites (~~(is)~~) are so seriously infested as to require quarantine; and

(2) That the movement of contaminated materials from (~~(this)~~) these sites presents an immediate threat of infestation to the rest of the county agricultural and nonagricultural areas; and

(3) That the restriction of such spread is critical to control efforts.

AMENDATORY SECTION (Amending order 2069, filed 1/11/91, effective 2/11/91)

WAC 16-752-305 Quarantine area. The quarantine area shall encompass the dredge spoil site at and owned by the Port of Kalama, located along Hendrickson Drive, Kalama, Washington, and the Port of Olympia, located at the Olympia, Airport, Tumwater, Washington, and more particularly described (~~(as follows:))~~ in subsection (1) and (2).

(~~The following described the real estate, situated in the county of Cowlitz, state of Washington:))~~

Real Estate situation in the counties of Cowlitz and Thurston, state of Washington:

(1) Cowlitz County parcel - containing twenty-three acres, more or less.

A tract of land in the Jacob Ahles D.L.C. No. 44 in Section 20, Township 6 north, Range 1 west of the Willamette Meridian, more particularly described as follows:

Beginning at a point on the north line of a tract of land leased to the North Pacific Grain Growers, Inc., said point being north 2374.49 feet, and north 88 degrees 46'22" west parallel with the south line of said Ahles D.L.C., 263.94 feet from the

southeast corner of said Section 20; thence north 1 degree 12'00" west 612.50 feet; thence north 20 degrees 23'00" west 186.52 feet to a point 30.00 feet westerly when measured at right angles from the westerly line of the Northern Pacific Railway right of way; thence parallel with and 30.00 feet from said right of way north 37 degrees 24'37" west 1325.90 feet; thence south 61 degrees 05'28" west 344.47 feet to the inner harbor line as shown on the Plat of Kalama Tidelands; thence south 27 degrees 54'56" east along said inner harbor line 1045.78 feet to the one mile limit as shown on said plat; thence south 62 degrees 05'04" west 100 feet to the low water line of the Columbia River; thence south 22 degrees 48'46" east along said low water line 751.17 feet to said north line of the North Pacific Grain Growers, Inc. lease; thence south 88 degrees 46'22" east parallel with said south line of the Ahles D.L.C. 492.48 feet to the true point of beginning.

County of Thurston, state of Washington:

Parcel number 12711230000 - a portion of this parcel containing twenty-two acres of nursery production, more or less and three access roads one of which begins at 85th Avenue SW, the other two begin at Old Highway 99 SW.

A tract of land in Section 11, Township 17 north, Range 2 west of the Willamette Meridian, more particularly described as follows:

A portion of the Southeast Quarter of the Southwest Quarter and the Southwest Quarter of the Southeast Quarter, Section 11, Township 17 North, Range 2 West, W.N., Thurston County, Washington.

Beginning at the South Quarter corner of Section 11; Thence north 01°53'09"E, along the center of the section line 77.6 feet to the southerly edge of the infestation, said point being 75 feet northerly of the center of taxiway 5 and the point of beginning; Thence south 88°14'46"E parallel to and 75 feet northerly of taxiway 5, 1254.2 feet to coordinate pair N 604966 E 1043268 North American Datum 83/91, Washington State Lambert projection South Zone; Thence north 01°32'43" E parallel to and 75 feet westerly of taxiway 5, 256.1 feet (N605222 E 1043275); Thence north 74°44'42" W, parallel to and 200 feet southerly of runway 8-26, 2031.7 feet (N 605757 E 1041315); Thence south 12°53'58"W, parallel to and 75 feet easterly of taxiway 4, 744.6 feet (N605031 E 1041148); Thence south 88°14'46"E parallel to and 75 feet northerly of taxiway 5, 866.5 feet to the point of beginning. TOGETHER WITH: Two (2) 50 foot easements for ingress and egress described as follows: Beginning at the centerline of Old Highway 99 at coordinate pair N605688 E 1044159; Thence south 62°13'04"W, 337 feet (N 605531 E1043861); Thence south 37°34'07"W, 66 feet (N 605479 E 1043821); Thence south 15°34'51"W, 432 feet (N 605063 E 1043705); Thence south 56°50'31"W, 90 feet (N 605014 E 1043630); Thence north 73°42'21"W, 135 feet (N 605052 E 1043500); Thence south 73°31'23"W, 47 feet (N 605031 E 1043429).

Beginning at the coordinate pair N605479 E1043821; Thence N 10° 18' 17" W, 78' (N605556 E103807); Thence N52°23'38"W, 93' (N605613 E1043733); Thence N 74°34'40"W, 331' (N605701 E1043414); Thence N 24° 31' 11" W, 63' (N605758 E1043388); Thence N 0° 58' 36" W, 352' (N606110 E1043382).

Beginning at the end of 85th Avenue SE; Thence N14° 36' 57"

W, 44'; Thence N1°44'13"E, 103'; Thence N1°44'13"E, 122'; Thence N4°2'36"E, 103'; Thence N1°44'13"E, 140'; Thence N3°31'10"E, 134'; Thence N1°44'13"E, 146'; Thence N6°43'41"W, 141'; Thence N6°3,35"W, 92'; Thence N1°44'13"E, 128'; Thence N15°58'50"W, 96'; Thence S85°33'49"W, 113'; Thence N88°15'39"W, 100'; Thence N85°38'49"W, 133'; Thence N88°15'36"W, 137'; Thence N85°28'20"W, 125'; Thence S89°35'45"W, 162'; Thence N88°15'32"W, 129'; Thence N88°15'30"W, 200'; Thence N88°15'28"W, 150'; Thence N85°43'23"W, 137'; Thence N88°38'45"E, 113'; Thence N83°56'12"W, 242'; Thence N40°38'52"W, 25'; Thence N40°6'3"W, 25'.

AMENDATORY SECTION (Amending order 2069, filed 1/11/91, effective 2/11/91)

WAC 16-752-310 Articles whose movement is restricted. The movement of all plants and parts of plants of yellow nutsedge and soil contaminated with propagules (~~((nutlets or seeds))~~) of the plant, including soil in nursery pots, is covered by this quarantine. The movement of all balled and burlap nursery stock is covered by this quarantine.

AMENDATORY SECTION (Amending order 2069, filed 1/11/91, effective 2/11/91)

WAC 16-752-315 Regulations. Use of the property identified in WAC 16-752-305 is restricted as follows:

(1) All removal of sand or soil, potted nursery plants and other plants from the quarantine site, except as provided in subsection (6) of this section, is prohibited without a permit from the Cowlitz or Thurston County noxious weed control board that details the end use and exact geographic destination.

(2) All land disturbing operations including excavation, utilities work, and similar activities require a one time, no fee permit from the weed board that obligates the operator to thoroughly hose down all equipment before leaving the quarantine area and record the next two areas where the equipment is used after leaving the quarantine area.

(3) All off-road vehicles are banned in the quarantine area without the written permission of the Cowlitz or Thurston County noxious weed control board, except in designated parking areas.

(4) All weed control measures and irrigation practices in the quarantine area are to be (~~((undertaken in consultation with))~~) conducted at the direction of the Cowlitz or Thurston County noxious weed control board.

(5) Yellow nutsedge control shall take precedence over all other land uses in the quarantine area.

(6) The Cowlitz or Thurston County noxious weed control board may designate and clearly mark portions of the site as free from infestation and allow removal of sand or soil from these areas without specific permit to nonagricultural sites: *Provided,* That adequate precautions are taken to prevent commingling of infested and noninfested soils and equipment used in the infested area is thoroughly cleaned before use in the area designated as uninfested.

AMENDATORY SECTION (Amending order 2069, filed 1/11/91, effective 2/11/91)

WAC 16-752-320 Costs of quarantine. The costs of serving the notice required by RCW 17.10.210(2) shall be borne by the department. The costs of control work shall be borne by the landowner unless otherwise determined by the Cowlitz or Thurston County noxious weed control board or the director in consultation with the Washington State Noxious Weed Control Board.

AMENDATORY SECTION (Amending order 2069, filed 1/11/91, effective 2/11/91)

WAC 16-752-330 Violation and penalty. Any person who violates this quarantine shall have committed a civil infraction and shall be subject to the provisions of RCW 17.10.310 and 350 and WAC 16-750-~~900~~ 020 (~~(3)~~) which provides (~~(a)~~) monetary penalt(~~(y)~~)ies of up to one thousand dollars per infraction.