

## Wisconsin Department of Agriculture, Trade and Consumer Protection

### Initial Regulatory Flexibility Analysis

**Rule Subject:** Prohibited Noxious Weed Seeds  
**Adm. Code Reference:** ATCP 20  
**Rules Clearinghouse #:** Not yet assigned  
**DATCP Docket #:** 17-R-09

#### *Rule Summary*

This rule adds Palmer amaranth and Waterhemp to the list of prohibited noxious weed seeds in Wis. Admin. Code ATCP 20.01(27). “Prohibited noxious weed seeds” are defined in Wis. Admin. Code ATCP 20.01(27) as the seeds of weeds that are highly destructive and difficult to control by good cultural practices and use of herbicides.

Palmer amaranth and Waterhemp are both very destructive and difficult to control and are not currently listed as prohibited noxious weed seeds in Wisconsin. This means it is currently not a violation for these weed seeds to be distributed in seed mixes in Wisconsin. Adjacent states, including Iowa, are facing the emergence of these herbicide-resistant weeds due to the distribution of seed mixes that included these weeds. These weeds spread quickly and are extremely difficult to eradicate, risking cropland and crop production.

The Department is taking proactive steps in response to significant crop loss in the neighboring state of Iowa due to the inadvertent introduction of Palmer amaranth seeds in conservation seed mixes distributed and planted in Iowa. The Department also consulted with the Wisconsin Crop Improvement Association and the Wisconsin Agribusiness Association in determining the effect on small business. If this rule were not to be implemented, Wisconsin will continue to be at a higher risk for the introduction of Palmer amaranth and Waterhemp, which is able to spread widely in a growing season due to its ability to produce large volumes of seeds and to date is extraordinarily difficult to eradicate due to it being resistant to multiple herbicides.

#### *Small Business Affected*

This rule will have a minimal impact on seed labelers in Wisconsin. Seed labelers may be small businesses. This rule adds two weeds to the list of prohibited noxious weed seeds, which a seed labeler will be required to exclude from seed packages.

#### *Reporting, Bookkeeping and other Procedures*

The proposed rule does not create any reporting, bookkeeping, or other requirement for small businesses.

#### *Professional Skills Required*

The proposed rule does not require any new professional skills for small businesses.

#### *Accommodation for Small Business*

This rule will have a minimal impact upon small business.

***Conclusion***

This rule will not have a significant adverse effect on small business and is not subject to the delayed small business effective date provided in s. 227.22(2) (e), Stats.