

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the adoption of a) NOTICE OF ADOPTION OF
Temporary Emergency Rule) TEMPORARY EMERGENCY RULE
amendment pertaining to Restricted) AMENDMENT
Weed Seeds)

TO: All Concerned Persons

1. The Montana Department of Agriculture is adopting the following emergency rule because yellow toadflax (*Linaria vulgaris*) is listed as a Priority 2B Noxious Weed (ARM 4.5.2019) and prohibited in seed (ARM 4.12.3010). Therefore, it is removed from the listing. Palmer amaranth is added to the listing as an invasive weed. It has not been detected in Montana but has the potential to be introduced through contaminated seed from out of state. Palmer amaranth has developed multi-modal herbicide resistance in other states and can contaminate agricultural seed in areas where it occurs which poses an imminent threat to Montana agricultural producers for the 2020 planting season. It is regulated as a noxious weed or prohibited plant in the states of Iowa, Ohio, Minnesota, North Dakota, South Dakota, Tennessee, Washington, and Wisconsin. The department recognizes that the hazard presented by Palmer amaranth to crop and forage production in Montana cannot be averted or remedied by any other administrative act. The economic impact of this rule will be to prevent the intentional shipment of palmer amaranth seeds and seed mix containing it into Montana. This will impact buyers and sellers but does not prevent them sending it elsewhere such as the southwest USA where it is not prohibited. The department has no way to know the exact financial impact, but it is assumed to be vastly lower than the cost of allowing palmer amaranth to become an established weed in Montana.

2. The Department of Agriculture will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Agriculture no later than 5:00 p.m. on April 10, 2020, to advise us of the nature of the accommodation that you need. Please contact Cort Jensen, Department of Agriculture, 302 N. Roberts, Helena, Montana, 59601; telephone (406) 444-3156; fax (406) 444-5409; or e-mail agr@mt.gov.

3. The temporary emergency rule amendment is effective March 17, 2020, when this rule notice is filed with the Secretary of State.

4. The text of the temporary emergency rule amendment provides as follows, stricken matter interlined, new matter underlined:

4.12.3011 RESTRICTED WEED SEEDS (1) The name and number of restricted weed seed must be shown on the label. When the number of restricted weed seeds exceeds the allowance, the seed lot is prohibited for sale in Montana.

(2) Seeds offered for sale or sold shall not contain the following restricted weed seeds in quantities in excess of those listed below:

<u>Common Name</u>	<u>Species</u>	<u>No. of Seeds Per Pound</u>
(a) Quackgrass	(Agropyron repens)	0
(b) Perennial Sowthistle	(Sonchus arvensis)	0
(c) Wild Oats	(Avena fatua)	45 of grass seed 5 of all other seed
(d) Dodder	(Cuscuta spp.)	9
(e) Curly Dock	(Rumex crispus)	45
(f) Jointed Goatgrass	(Aegilops cylindrica)	0
(g) Persian Darnel	(Lolium persicum)	9 of grass seed 0 of all other seed
(h) Yellow Toadflax	(Linaria vulgaris)	0
<u>(h) Palmer Amaranth</u>	<u>(Amaranthus palmeri)</u>	<u>0</u>

AUTH: 80-5-139, MCA

IMP: 80-5-120, MCA

5. The rationale for the temporary emergency rule amendment is set forth in paragraph 1.

6. The department is filing MAR Notice No. 4-20-266, which addresses a public hearing on this same subject to adopt this rule as a permanent rule. That notice is also available in this issue of the Montana Administrative Register.

7. Concerned persons are encouraged to submit their comments during the upcoming standard rulemaking process. If concerned persons wish to be personally notified of that rulemaking process, they should submit their names and addresses to Cort Jensen at the address above. Any comments must be received no later than 5:00 p.m., April 30, 2020.

8. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 2 above or may be made by completing a request form at any rules hearing held by the department.

9. The bill sponsor contact requirements of 2-4-302, MCA do not apply.

/s/ Cort Jensen
Cort Jensen
Rule Reviewer

/s/ Ben Thomas
Ben Thomas
Director
Department of Agriculture

Certified to the Secretary of State March 17, 2020.