

## **Basis Statement for Chapter 273, Criteria for Listing Invasive Terrestrial Plants**

In 2007 the Department of Agriculture was directed by the legislature to study invasive terrestrial plants with stakeholder input. In February 2008 a report was presented to the joint standing committee on Agriculture, Conservation and Forestry which presented a list of criteria for evaluating invasive terrestrial plants. Subsequently the Department was directed to establish criteria for evaluating invasive terrestrial plants in rule.

In 2011-2012 the Department adopted rules which established the criteria for listing invasive, likely invasive and potentially invasive plants. Those criteria were used to develop a draft plant list by the Invasive Plant Workgroup which was appointed by the Commissioner of the Department of Agriculture, Conservation and Forestry.

The Secretary of State published a notice on November 16, 2016 and by this date well over 500 companies and individuals representing the horticulture and environmental interests in the state had been notified electronically. A public hearing was held in Augusta on December 8, 2016 with two people representing horticulture businesses, three others environmental/land trust organizations and one representing herself. Four spoke in favor of the proposed rule and two spoke neither for nor against. There were a few suggestions to exempt certain cultivars of plants and to adjust the plant list to differing plant hardiness zones in the state.

The comment period ended on December 16, 2016. There were 125 email messages that were all in support of the rule as proposed. There were 41 commenters that had more substantive comments and only 7 suggested specific language changes. Four commenters suggested adding new plants to the list and four others suggested removing plants or cultivars of certain species. Two commenters suggested that observations from land management professionals or nursery professionals could be used to help support the exemption of plant species or cultivars while four others did not support that change and wanted the rule to be very restrictive regarding potential plant exemptions. Other comments included adding an educational component or an eradication component to the rules and there were three commenters that wanted to extend the phase-in period while six others wanted to keep the phase-in period one year and/or implement the rule ASAP. There was one request to amend a common plant name on the list as well. Finally there was one commenter who asked to adjust the plant listing to hardiness zones while four others disagreed with that comment.

The Department's staff reviewed the hearing record on December 28, 2016. Minor word changes suggested in the comments were made to the proposed rule. Substantive suggestions made by some commenters were countered by others, and the Department made no changes with regard to those suggested amendments.

The rule was adopted with increased specificity on the word propagation making it intentional propagation for sale or distribution. The common name of False Indigo was amended to False Indigo Bush. Finally a few typographical errors were corrected.