



STATE OF WASHINGTON
DEPARTMENT OF AGRICULTURE
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Small Business Economic Impact Statement – Checklist to Determine whether a SBEIS is Required

Date: September 21, 2021
To: Official Rule File
From: Mary Fee
Subject: Proposed Amendments to Chapter 16-750 WAC, **State Noxious Weed List
And Schedule Of Monetary Penalties**

This Checklist must be completed for any rule making where a CR-102 is required; the Checklist is not required for emergency rule making or expedited rule making.

1. What are the actual changes you propose to make to the rule?

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The Washington State noxious weed list provides the basis for noxious weed control efforts for county noxious weed control boards and other entities. It also provides guidelines for the state noxious weed control board. This proposal makes a few amendments to WAC 16-750-011 and WAC 16-750-015. Specifically, the Board is proposing:

1. WAC 16-750-011 Proposed Class B additions and designation changes-
 - Hanging sedge, *Carex pendula* (*Carex pendula* subsp. *pendula* and *Carex pendula* subsp. *agastachys*): Additional as a class B noxious weed species designated in region 1, 3, 4, 5, 6, and region 2 except for King County.
 - Rough chervil, *Chaerophyllum temulum*: Additional as a class B noxious weed species designated in region 1, 3, 4, 5, 6, and region 2 except for King County.
 - Wild basil/basil savory, *Clinopodium vulgare*: Additional as a class B noxious weed species designated in region 1, 2, 4, 5, 6, and region 3 except for Skamania County.
 - Common tansy, *Tanacetum vulgare*: Reclassification and designation change from a class C to a class B noxious weed designated in Clallam County of region 1, Kitsap and San Juan counties of region 2, Cowlitz

and Lewis counties of region 3, and Adams and Lincoln counties of region 5.

2. WAC 16-750-015

- Green alkanet: Addition as a Class C noxious weed species.
- Common tansy: designation change from class C noxious weed species to class B noxious weed species.
- Wild carrot: clarifying definition by changing the wording of the listing, to exclude for *Daucus carota subsp. sativus* (garden carrot) grown commercially or for food.

3. Typo correction: Correcting the scientific name of common bugloss from *Lycopsis officinalis* back to *Anchusa officinalis* and correcting the scientific name of annual bugloss from *Anchusa arvensis*, to *Lycopsis arvensis*

2. For each change, briefly identify the impacts (positive and negative).

The proposed addition of hanging sedge, *Carex pendula* (*Carex pendula subsp. pendula* and *Carex pendula subsp. agastachys*), rough chervil, *Chaerophyllum temulum*, wild basil/basil savory, *Clinopodium vulgare*, as Class B noxious weeds and green alkanet, *Pentaglottis sempervirens* as a class C noxious weed species is intended to keep them from spreading from their very limited distribution to new locations within Washington State. Noxious weeds are very invasive species that when left uncontrolled outcompete agricultural crops and native species. Noxious weed infestations negatively impact both terrestrial and aquatic habits as well as farming and grazing lands.

The reclassification and designation change of common tansy from a class C noxious weed to a class B noxious weed is intended to better match help control and contain this species in designated counties. Class B noxious weeds are generally designated where they are absent, limited, or pose a serious threat to health, agriculture, or natural areas so the economic impact is not unreasonable.

The clarification of wild carrot to except subs. sativus is intended to allow for the growing of garden carrots for food and commercially.

The correction of common bugloss from *Lycopsis officinalis* back to *Anchusa officinalis* and change *Anchusa arvensis*, annual bugloss to *Lycopsis arvensis* is intended to correct a typo included in the 2021 noxious weed list update.

3. Does an exemption to the SBEIS requirement apply to all or a portion of your proposed rule? For each component of your proposed rule, answer all the following questions. Where you answer “yes,” note the applicable section(s) of your proposed rule.

- Is the rule solely for the purpose of conformity or compliance, or both, with federal statute or regulations? If yes, cite the federal statute or regulation and describe the consequences to the state if the rule is not adopted. See RCW 19.85.061.

No Yes, Explain:

- Is the rule adopting or incorporating by reference without material change federal statutes or regulations, Washington state laws, or rules of other Washington State

agencies? If yes, cite the law or rule and explain any changes you propose and whether or not those changes are 'material changes.' See RCW 19.85.025(3)/RCW 34.05.310(4)(c).

No Yes, Explain:

- Is the rule adopting or incorporating by reference without material change national consensus codes that generally establish industry standards? If yes, what is the national consensus code? Does state law require that we adopt or follow these national consensus codes – explain and provide the state law citation? See RCW 19.85.025(3)/RCW 34.05.310(4)(c).

No Yes, Explain:

- Is the rule change only correcting typographical errors, making address or name changes, or clarifying language of a rule without changing its effect? See RCW 19.85.025(3)/RCW 34.05.310(4)(d).

No Yes, Explain:

- Is the proposed rule content explicitly and specifically dictated by state law? If yes, cite the state law. See RCW 19.85.025(3)/RCW 34.05.310(4)(e).

No Yes, Explain:

- Does the proposed rule set or adjust fees or rates pursuant to legislative standards? If yes, cite the state law. See RCW 19.85.025(3)/RCW 34.05.310(4)(f).

No Yes, Explain:

- Does the rules adopt, amend, or repeal: a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit? If yes, explain. See RCW 19.85.025(3)/RCW 34.05.310(4)(g).

No Yes, Explain:

4. Are all of the businesses impacted by the proposed rule large businesses? “Small business” means a business entity, including a sole proprietorship, corporation, partnership, or other legal entity that is owned and operated independently from all other businesses and that employs 50 or fewer employees.

No Yes Explain:

5. If any components of your proposed rule do not meet one of the exemptions listed in either number 3 or 4, you must complete the following analysis to determine whether your proposed rule will impose more than minor costs on businesses in an industry:

- List the types of businesses that will be impacted by the proposed rule.

A survey sent to potentially impacted licensed nurseries and agricultural industry associations indicated a very small proportion of the responding businesses sell plants included in the proposed rules and none of those businesses indicated the classification of those plants proposed here would result in impact due to loss of sales, revenue, or jobs.

This rule-making affects any business that own land infested with hanging sedge, rough chervil, or wild basil as a class B noxious weed species. The class change and designation of common tansy from a class C to a class B noxious weed species should have no effect. Each county where common tansy will be designated for control, already has it selected for control at the local level. Green alkanet is being added as class C noxious weed species. Businesses that own land with infestation of green alkanet may be required to control those infestations at the local level but these will not be designated for control at the state level.

- What are the costs a business will incur to comply with the proposed rule?
 - Increased licensing, inspection, or other fees? None
 - Increased costs for equipment, supplies, training? If a business owns land that contains newly designated class B noxious weeds, it may control the plant itself. Such a business would incur minor costs associated with control efforts, i.e. a shovel, possible herbicide, and/or herbicide sprayer which would total less than \$100. Over the counter herbicides are readily available, relatively inexpensive, and will control most noxious weed species.
 - Increased staff hours (salary and benefits)? Most land-owning businesses have established vegetation management or landscaping plans and practices. The additional costs for staff hours for weed control related to the proposed changes to the noxious weed list are expected to be minor.
 - Increased reporting, record keeping, and administration? There are over the counter herbicides available for noxious weed control. However, if a business chooses to use an optional regulated herbicide, then they will be required to retain an application record consistent with laws governing use of such regulated herbicides. The application record is the responsibility of the person applying the herbicide.
 - Increased costs for professional services, such as laboratory tests or veterinary services? While some land-owning businesses may choose to engage in professional services to control newly added/designated noxious weeds, it is expectation that businesses will choose the more cost-effective option of controlling the weeds themselves.
 - Decreased sales or revenue? None
- Will the proposed rule impose more than minor costs on businesses? “Minor cost” means a cost per business that is less than three-tenths of one percent of annual

revenue or income, or one hundred dollars, whichever is greater, or one percent of annual payroll. Explain how you determined whether or not the rule imposes more than minor costs on businesses.

No Yes Explain: Currently, the only known infestations of hanging sedge are in King, Whatcom, Skamania, and Mason counties. Skamania County has one possible ornamental planting with less than 24 square feet. Whatcom County has 6 documented sites with a total less than 200 square feet. There is little to no documentation on possible infestations in King and Mason counties. Currently, the only known rough chervil infestations are limited in distribution in Pacific, Mason, Pierce, Kitsap, and King counties. The only know infestations of wild basil are in limited distribution in western WA. There are very limited to no infestations of wild basil in eastern WA. With the limited known distribution of these species in the state, it is expected that businesses will not incur more than minor costs to control them. Class B noxious weeds are generally designated where they are absent, limited, or pose a serious threat to health, agriculture, or natural areas so the economic impact is not unreasonable. Limited distribution is typically defined as less than 100 infested acres within a county. These infested acres are typically divided amongst many landowners including private, public, and business. Noxious weed infestations are commonly found in disturbed soils, open areas, and along vectors of spread such as trails and rivers. The changes in classification and designation of common tansy will not cause businesses to incur more that minor costs to control. Common tansy is already required to be controlled in the counties that it will be designated for control in.

Green alkanet is being proposed as an addition to the class C noxious weed species list. Class C noxious weed species are not designated for control at the state level. The intent in adding green alkanet to the class C noxious weed list is to educate and provide outreach on the concern of the threat to both native habitats and agriculture. This may also give individuals and agencies the ability to get and provide funding for on the ground control work.

The cost to control one acre of a noxious weed infestations varies depending on control method and density of the infestations. Over the counter herbicides are available for controlling noxious weed species. A typical one gallon container of herbicide will treat up to 1 to 2 acres depending on concentration of the herbicide and density of infestation. The estimated cost for over the counter herbicides and sprayer is less than \$100. Given the known distribution of noxious weeds implicated by this rule amendment, and the likelihood that most land-owning businesses already take some action to manage vegetation on their properties, costs to comply with the proposed rule changes are expected to be minor.]

Pre-CR 101 Meeting Determination:

- 1. A SBEIS is required on the proposed rule component changes listed below:**

- 2. A SBEIS is not required on the proposed rule component changes listed below for the reasons stated:**

RCW 19.85.030(1)(a) requires that an agency prepare a small business economic impact statement (SBEIS) for proposed rules that impose more than a minor cost on businesses in an industry. An analysis of the direct economic effects of the proposed rule amendments indicates that costs to businesses would be reduced, negligible, or none at all for the three class B additions, class C to B reclassification, and one class C addition to the noxious weed list.