



# PROPOSED RULE MAKING

**CR-102 (December 2017)**  
**(Implements RCW 34.05.320)**  
Do **NOT** use for expedited rule making

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STATE OF WASHINGTON  
FILED

DATE: September 21, 2021

TIME: 9:41 AM

**WSR 21-19-130**

**Agency:** Washington State Noxious Weed Control Board

**Original Notice**

**Supplemental Notice to WSR** \_\_\_\_\_

**Continuance of WSR** \_\_\_\_\_

**Preproposal Statement of Inquiry was filed as WSR 20-11-059 ; or**

**Expedited Rule Making--Proposed notice was filed as WSR** \_\_\_\_\_; or

**Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or**

**Proposal is exempt under RCW** \_\_\_\_\_.

**Title of rule and other identifying information:** (describe subject) Chapter 16-750 WAC, State noxious weed list and schedule of monetary penalties. The Washington State Noxious Weed Control Board is proposing to amend the state noxious weed list for 2022.

**Hearing location(s):**

Date:	Time:	Location: (be specific)	Comment:
November 3, 2021	1:00 p.m.	WebEx Phone Numbers 1(415)-655-0001 Toll Free 1(855)-929-3239 Meeting Access Code 2463 999 4243	"Due to the mandated social distancing requirements in place during the current COVID-19 pandemic, the public hearings will be held solely over video and teleconference. "

**Date of intended adoption:** December 1, 2022 (Note: This is **NOT** the **effective** date)

**Submit written comments to:**

Name: Mary Fee

Address: WSNWCB; P.O. Box 42560; Olympia, WA 98504-2560

Email: [mfee@agr.wa.gov](mailto:mfee@agr.wa.gov) or [noxiousweeds@agr.wa.gov](mailto:noxiousweeds@agr.wa.gov)

Fax: 360-902-2053

Other:

By (date) November 2, 2021

**Assistance for persons with disabilities:**

Contact Deanna Painter

Phone: 360-902-2061

Fax:

TTY: (800) 833-6388

Email: [dpainter@agr.wa.gov](mailto:dpainter@agr.wa.gov)

Other:

By (date) November 5<sup>th</sup>, 2020

**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:

- 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: Reclassification and designation change from class C noxious weed species to class B noxious weed species.
  - Wild carrot: clarifying definition by adding the wording, to exclude *Daucus carota subsp. sativus* (garden carrot) grown commercially or for food.
3. Typo correction: Correcting scientific name of common bugloss from *Lycopsis officinalis* back to *Anchusa officinalis* and correcting scientific name of annual bugloss from *Anchusa arvensis*, to *Lycopsis arvensis*

**Reasons supporting proposal:** Under RCW 17.10.080, the Washington State Noxious Weed Control Board (WSNWCB) is charged with updating the state noxious weed list on an annual basis to ensure it accurately reflects the noxious weed control priorities and noxious weed distribution. Under RCW 17.10.070, the WSNWCB is charged with adopting, amending, or repealing rules, pursuant to the administrative procedure act, chapter 34.05 RCW, as may be necessary to carry out the duties and authorities assigned to the board by this chapter.

The proposed addition of hanging sedge, *Carex pendula*, rough chervil, *Chaerophyllum temulum* (*Carex pendula subsp. pendula* and *Carex pendula subsp. agastachys*), 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 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.

**Statutory authority for adoption:** RCW 17.10.070, 17.10.080,

**Statute being implemented:** Chapter 17.10 RCW

**Is rule necessary because of a:**

- |                         |                              |  |
|-------------------------|------------------------------|--|
| Federal Law?            | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision?   | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

If yes, CITATION:

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:**

**Name of proponent:** (person or organization) Washington State Noxious Weed Control Board  Private  
 Public  
 Governmental

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting:	Mary Fee	1111 Washington St SE, Olympia, WA 98504	(360) 561-4428
Implementation:	Mary Fee	1111 Washington St SE, Olympia, WA 98504	(360) 561-4428
Enforcement:	Mary Fee	1111 Washington St SE, Olympia, WA 98504	(360) 561-4428

**Is a school district fiscal impact statement required under RCW 28A.305.135?**  Yes  No  
 If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:  
 Name:  
 Address:  
 Phone:  
 Fax:  
 TTY:  
 Email:  
 Other:

**Is a cost-benefit analysis required under RCW 34.05.328?**

Yes: A preliminary cost-benefit analysis may be obtained by contacting:  
 Name:  
 Address:  
 Phone:  
 Fax:  
 TTY:  
 Email:  
 Other:

No: Please explain: The Washington State Noxious Control Board is not one of the agencies listed in this section.

**Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:**

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

<input type="checkbox"/> RCW 34.05.310 (4)(b) (Internal government operations)	<input type="checkbox"/> RCW 34.05.310 (4)(e) (Dictated by statute)
<input type="checkbox"/> RCW 34.05.310 (4)(c) (Incorporation by reference)	<input type="checkbox"/> RCW 34.05.310 (4)(f) (Set or adjust fees)
<input type="checkbox"/> RCW 34.05.310 (4)(d) (Correct or clarify language)	<input type="checkbox"/> RCW 34.05.310 (4)(g) (i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under RCW \_\_\_\_\_.  
 Explanation of exemptions, if necessary:

**COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES**

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's analysis showing how costs were calculated. Approximately 270 businesses responded to an online survey emailed to licensed nurseries and agricultural industry associations. Seven businesses (2%) reported selling class B proposed addition rough chervil but indicated the listing would have no impact on their business do to loss of sales, revenue, or jobs. Five businesses (1.8%) reported selling class B proposed addition hanging sedge but indicated the listing would have no impact on their business do to loss of sales, revenue, or jobs. Two businesses (0.7%) reported selling class B proposed addition wild basil but indicated the listing would have no impact on their business do to loss of sales, revenue, or jobs. One business (0.3%) reported selling class C proposed addition green alkanet but indicated the listing would have no impact on their business do to loss of sales, revenue, or jobs. Zero businesses reported selling common tansy and indicated the listing change would have no impact on their business do to loss of sales, revenue, or jobs. Additionally, 91.8% of the businesses indicated that they are considered a small business as defined by RCW 19.85.020.

This rule would require the control of class B noxious weed species infestations designated for control only in specific counties. 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.

Green alkanet is being proposed as class C additions. Green alkanet is in limited distribution in western WA. There are very little infestation to none in eastern WA. Class C noxious weed species are not designated for required control at the state level.

An analysis of the direct economic effects of the proposed rule amendments indicates that costs to businesses would be negligible or none at all. The three new Class B noxious weed additions are being designated for control in counties where they are either absent or limited in distribution, businesses in these counties should not be faced with more than minor costs to control those noxious weeds. Limited distribution is typically defined as less than 100 infested acres within a county.

Based upon the above analysis, the WSNWCB concludes that direct minor costs – if any – imposed would affect less than 10% of businesses and would not exceed \$100 in cost to comply as a direct result of these proposed rule-making changes. Nor would any of these amendments to the noxious weed list directly cause the creation of or loss of any jobs. The WSNWCB concludes that businesses will not be disproportionately impacted, nor would the proposed rule changes impose more than a minor cost on businesses in an industry. Therefore, we conclude that a formal SBEIS is not required.

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name: Mary Fee  
Address: P.O. Box 42560; Olympia, WA 98504-2560  
Phone: 360-561-4428  
Fax: 360-902-2094  
TTY: (800) 833-6388  
Email: [mfee@agr.wa.gov](mailto:mfee@agr.wa.gov)  
Other:

**Date:** September 21, 2021

**Name:** Mary Fee

**Title:** Executive Secretary

**Signature:**

