

**TITLE 22  
AGRICULTURE AND HORTICULTURE  
CHAPTER 24  
NOXIOUS WEEDS**

22-2401. DECLARATION OF POLICY. It is the purpose of this chapter to define noxious weeds; legal requirements, duties, and responsibilities of persons; and to provide the statutory and financial means for the control of noxious weeds, wherever such noxious weeds occur in this state.

22-2402. DEFINITIONS. As used in this chapter

(1) "Agency" means

(a) In the case of the federal government, any authority which exercises administrative control over defined areas of federal lands within the state of Idaho;

(b) In the case of the state of Idaho, any department, board, commission, or institution;

(c) In the case of local government, cities, counties and any legal subdivisions thereof, drainage districts, irrigation districts, canal companies, highway districts, or any special taxing district.

(2) "Applicable fund or account" means

(a) In the case of the state of Idaho, the noxious weed account, which is hereby created and established in the dedicated fund and which shall be used exclusively for the purposes prescribed by this chapter;

(b) In each county, the noxious weed fund, which is hereby created and established and shall be maintained in each county and which shall be used exclusively for the purposes prescribed by this chapter.

(3) "Containment" means halting the spread of a weed infestation beyond specified boundaries.

(4) "Control authority" means

(a) On the state level, the director of the department of agriculture;

(b) On the county level, the board of county commissioners.

(5) "Cooperative weed management area (CWMA)" means a distinguishable hydrologic, vegetative or geographic zone based upon geography, weed infestations, climate or human-use patterns. Cooperative weed management areas may be composed of a portion of a county, a county, portions of several counties, or portions of one (1) or more states.

(6) "Department" means the Idaho department of agriculture.

- (7) "Director" means the director of the department of agriculture or the director's designated agent.
- (8) "Eradication" means the complete elimination of all above-ground plant growth of a target noxious weed species for a period of two (2) years.
- (9) "Integrated weed management plan (IWMP)" means a plan developed to manage, control or eradicate a noxious weed(s) from a cooperative weed management area or other weed management area.
- (10) "Land" means all soil or water or other growing medium.
- (11) "Landowner" means
- (a) The person who holds legal title to the land, except that portion for which another person has the right to exclude others from possession of the parcel;
- (b) A person with an interest in a parcel of land such that the person has the right to exclude others from possession of the parcel.
- (12) "Noxious weed" means any plant having the potential to cause injury to public health, crops, livestock, land or other property; and which is designated as noxious by the director.
- (13) "Person" means any individual, partnership, firm, agency, corporation, company, society or association.
- (14) "Prevention" means any action that reduces the potential for the introduction or establishment of a plant species in areas not currently infested with that species.
- (15) "Quarantine" means the regulation of the production, movement, or existence of plants, plant products, animals, animal products, or any other article or material, or the normal activity of persons, to prevent or limit introduction or spread of noxious weeds.
- (16) "Restoration" means the process of reconditioning formerly weed infested land to a productive or desirable condition.
- (17) "Special management zone" is an area wherein specific requirements of this chapter may be modified.
- (18) "State noxious weed advisory committee" means an advisory committee appointed by the director to advise and to assist in development, modification and direction of a statewide noxious weed management strategy.
- (19) "Weed control" means any or all of the following prevention, restoration, eradication, or modified treatments specified in a special management zone.
- (20) "Weed control advisory committee" means a committee established by weed control agencies or authorities, at the county level, or a steering committee of a cooperative weed management area, to develop and to recommend implementation of integrated weed management plans and strategies.

22-2403. ENFORCEMENT OF CHAPTER VESTED IN DIRECTOR -- STATE DUTIES.

- (1) The duty of enforcing this chapter and carrying out its provisions is vested in the director.
- (2) The director shall
  - (a) Determine what weeds are noxious for the purposes of this chapter; and
  - (b) Compile and keep current a list of such noxious weeds or group of noxious weeds, which list shall be published and incorporated in the rules and regulations of the director; and
  - (c) Make and publish such rules and regulations as in the director's judgment are necessary to carry out the provisions of this chapter; and
  - (d) Employ a statewide weed coordinator to carry out the director's duties and responsibilities; and
  - (e) Publish a list of items capable of disseminating noxious weeds, and designate treatment of such articles as in the director's opinion would prevent such dissemination; and
  - (f) Consult with affected county control authorities before establishing a special management zone; and Consult and coordinate with other weed management agencies and authorities in the designation and development of cooperative weed management areas and development and implementation of integrated weed management plans.

22-2404. STATE POWERS.

- (1) The director is authorized to
  - (a) Investigate the subject of noxious weeds; and
  - (b) Require information, annual work plans and reports from each county and from each state agency as to the presence of noxious weeds and other information relative to noxious weeds and the control thereof; and
  - (c) To cooperate with agencies and persons in carrying out the director's duties under this chapter, and to conduct matters outside this state in the interest of state noxious weed control; and
  - (d) Advise and confer as to the extent of noxious weed infestations and the methods of control; and
  - (e) Establish minimum requirements and proficiency training of county weed superintendents; and
  - (f) Call and attend meetings and conferences dealing with the subject of noxious weeds; and

- (g) Disseminate information and conduct educational campaigns independently or in cooperation with others; and
- (h) Appoint a state noxious weed advisory committee, as provided by section 22-103, Idaho Code, to aid in the development and implementation of a statewide noxious weed management strategy, aid in evaluation of cost share projects and research proposals, and advise the director on matters pertaining to the state noxious weed program; and
- (i) Procure materials and equipment; and
- (j) Inspect and certify Idaho crops and imports and exports to verify freedom from noxious weeds, and authorize others to conduct such inspections and certification; and
- (k) Enter on any public or private land at reasonable times for the purpose of carrying out the provisions of this chapter; and
- (l) Apply to any court of competent jurisdiction for a search warrant authorizing access to any land where access was denied and sought for the purposes set forth in this chapter. The court may, upon such application, issue the search warrant for the purposes requested; and
- (m) Perform such other acts as may be necessary or appropriate to the administration of the provisions of this chapter; and
- (n) Cooperate with the federal government or any established agency thereof in any program of noxious weed control which shall be deemed advisable for the welfare of the people of the state of Idaho, accept any advisable program and make any necessary regulations which are not in contradiction to the purposes of this chapter; and
- (o) Accept any gift, grant, contract or other funds, or grants-in-aid from the federal government or other entities for noxious weed control purposes and account for such moneys as prescribed by the state controller, and all such funds are hereby appropriated to the purpose for which they are received; and
- (p) Initiate agreements with federal agencies in accordance with applicable federal laws; and
- (q) Control noxious weeds on federal land within the state, with or without reimbursement, and with the consent of the federal agency involved; and
- (r) Take any appropriate action necessary to control or quarantine noxious weed infestations whenever an actual or potential emergency situation exists concerning noxious weed infestations anywhere in the state; and
- (s) Permit modification of specific noxious weed control requirements in certain areas, after consulting with the county control authority and designating the area as a special management zone; and
- (t) Initiate cooperative agreements with other agencies and states for the establishment and support of cooperative weed management areas; and

(u) Aid other weed control agencies or authorities in developing and implementing integrated weed management plans for control of noxious weeds; and

(v) Temporarily designate a weed as noxious for up to fifteen (15) months, after publication in a newspaper of general circulation serving the area of infestation; and

(w) Authorize the issuance of deficiency warrants for the purposes of defraying excess costs for the control of noxious weeds for emergency situations, in the event the actual cost for the control of noxious weeds in any one (1) year exceeds the appropriations made for that purpose. When so authorized the state controller shall draw deficiency warrants against the general account.

(2) If at any time the director determines that the county commissioners have failed to cooperate or carry out their duties and responsibilities as a control authority, the director shall notify them of the deficiency, and suggest corrective action. If the situation is not satisfactorily corrected within seven (7) days after the time outlined in the director's corrective action plan, the director shall initiate appropriate action and charge to the county all expenses including the hiring of necessary labor and equipment. Quarantine of specific crops or potential noxious weed propagating activities may be a part of the control program.

#### 22-2405. COUNTY DUTIES.

(1) The county control authority shall

(a) Carry out the duties and responsibilities vested in the county under this chapter and rules prescribed by the director; and

(b) Establish and maintain a coordinated program for control of noxious weeds in the county; employ a county weed superintendent, who may be a superintendent for more than one (1) county and who shall be qualified to detect and treat noxious weeds; and

(c) Designate one (1) of its members as the liaison between the county weed superintendent and the county commissioners; and

(d) Provide operational and educational funds for the county weed superintendent; and

(e) Be authorized to initiate cooperative agreements with other agencies or counties for the designation of or participation in cooperative weed management areas for control of noxious weeds.

(2) A general notice for control of noxious weeds shall be published between March 1 and April 30, in a newspaper of general circulation within the county. The notice shall contain the list of noxious weeds and identify those known to be in the county, and shall stipulate the obligation to control. Failure to publish the notice for control or serve individual notices herein provided does not relieve any person from full compliance with this chapter thereunder. In all cases said published notice shall be deemed legal and sufficient notice.

(3) Whenever any county finds it necessary to secure more prompt or definite control of noxious weeds than is accomplished by the general notice, it shall cause individual

notices on a form prescribed by the director to be served upon the landowner and where possible on the operator of the land giving specific instructions when and how certain named noxious weeds are to be controlled. The individual notice shall also contain information concerning the right to appeal pursuant to section 22-2408, Idaho Code. Individual notices shall be applicable only to the current growing season.

(4) Whenever the landowner of any nonfederal land on which noxious weeds are present has neglected or failed to initiate control as required pursuant to this chapter within five (5) working days from receipt of an individual notice given pursuant to this section, the county having jurisdiction shall have proper control methods used on such land, including necessary destruction of crops, and shall advise the landowner of the cost incurred in connection with such operation. The cost of any such control shall be at the expense of the landowner. If the costs have not been paid to the control authority within sixty (60) days, the control authority may direct that suit be brought in a court of competent jurisdiction for the unpaid charges. On private lands, if unpaid for sixty (60) days or longer the amount of such expense shall become a lien upon the property; and thereafter the lien shall be subject to collection by the county by sale of the property in the same manner as for delinquent taxes. Nothing contained in this section shall be construed to require satisfaction of the imposed obligation by the sale of property or to bar the application of any other available remedy.

(5) Amounts collected under the provisions of this section shall be deposited to the noxious weed fund of the county and shall be accounted for as prescribed by the county auditor. Disbursements from the noxious weed fund shall be made only for noxious weed control purposes.

(6) The county weed superintendent shall

(a) Examine all land within the county for the purpose of determining whether the provisions of this chapter and rules of the director have been complied with; and

(b) Compile data and submit reports as the director or county may require; and

(c) Implement enforcement action as outlined in this chapter; and

(d) Consult, advise and provide direction on matters pertaining to the most effective and most practical methods of noxious weed control; and

(e) Investigate or aid in the investigation and prosecution of any violation of the provisions of this chapter; and

(f) Meet certification requirements as prescribed by the regulations of the director; and

(g) Make recommendations regarding establishment of special management zones; and

(h) Make recommendations regarding establishment of cooperative weed management areas; and

(i) Participate on weed control advisory committees to develop and implement noxious weed control strategies for cooperative weed management areas, at the discretion of the county weed control authority.

22-2406. COUNTY POWERS.

(1) The county control authority is authorized to

(a) Have noxious weeds controlled without cost to the landowner, notwithstanding any other provision of this chapter relating to payment of cost; and

(b) Quarantine any tract of land under its jurisdiction when it appears there is an infestation of noxious weeds beyond the ability of the landowner to control and put into immediate operation the required means for the control or containment of such noxious weeds including necessary destruction of crops; and

(c) Serve individual notice on the landowner and where possible on the operator of the land prior to the entry upon such land declaring a quarantine and specifying the date of the proposed entry and the proposed cost to the violator, and advise the same person of the completion of the control operation and the required reimbursement thereof. If the landowner is not known or readily available, notice shall be deemed satisfied after eight (8) days from postmark of registered mail to the address as shown on the assessment roll of the county; and

(d) Stop movement of noxious weed infested items. Such items shall not be moved from designated premises except in accordance with the written permission of the county control authority; and

(e) Purchase or provide for equipment and materials for the control of noxious weeds, independently or in combination with other control authorities, and use such equipment or materials upon any lands within the state; and

(f) Levy annually upon all taxable property of said county a tax for the control of noxious weeds to be collected and apportioned to the county noxious weed fund, which levy shall not exceed six hundredths percent (.06%) of the market value for assessment purposes of said property in said county; and

(g) Utilize any other methods or local options that may be available for the purpose of funding a coordinated noxious weed control program on the county level; and

(h) Use the noxious weed fund, which may be a revolving fund, only for noxious weed purposes. In addition to any appropriated funds designated for the control of noxious weeds, the county control authority shall have the power to receive and disburse funds from any source as a continuing appropriation at any time for the purpose of controlling noxious weeds; and

(i) Propose and accept plans for noxious weed control which may be extended over a period of years by agreement with the landowner. The agreement shall be a contract and the control authority shall have the power and duty to enforce the terms of any such agreement; and

(j) Propose, accept and implement integrated weed management plans developed by weed control advisory committees for control of noxious weeds in cooperative weed management areas; and

(k) Designate weeds, in addition to the state noxious weed list, as noxious within their county, but such additional species are not subject to provisions of the state noxious weed laws.

(2) The county weed superintendent is authorized to

(a) Enter upon all lands within the county where there are noxious weeds to ascertain conditions, if a reasonable attempt has been made to contact the landowner and where possible the operator of the land prior to entry and there is probable cause for entry; and

(b) Stipulate items as requiring treatment to prevent dissemination of noxious weeds, in accordance with the applicable regulations.

#### 22-2407. LANDOWNER AND CITIZEN DUTIES.

(1) It shall be the duty and responsibility of all landowners to control noxious weeds on their land and property, in accordance with this chapter and with rules and regulations promulgated by the director.

(2) The cost of controlling noxious weeds shall be the obligation of the landowner.

(3) Noxious weed control must be for prevention, eradication or restoration. However, areas may be modified from the eradication requirement after the director has determined them to be unreasonable for short-term eradication and has designated the area as a special management zone.

(4) The landowner shall reimburse the county control authority for work done because of failure to comply with a five (5) day notice, as outlined in section 22-2405, Idaho Code.

(5) If an article is infested with noxious weeds, it shall not be moved from designated premises until it is treated in accordance with the applicable regulations, or in accordance with the written permission of a control authority.

#### 22-2408. LANDOWNER AND CITIZEN POWERS.

(1) If any person shall be dissatisfied with the amount of any charge made against it by a county control authority for control work or for the purchase of materials or use of equipment, he may, within thirty (30) days after being advised of the amount of the charge, file a protest with the director.

(2) If any person shall be dissatisfied with the control measures used or the manner in which control is conducted upon his property, he may, within thirty (30) days file a protest with the director.

(3) Any person served with an individual notice may, within two (2) days of receipt of the notice, appeal to the board of county commissioners. A hearing shall be set by the board of county commissioners within five (5) days after receipt of notice of the appeal. Notice of the hearing shall be sent by the board of county commissioners to the appellant.

(4) Other than the procedures specifically set out in this chapter, procedures for hearings thereon and appeals pertaining to this chapter shall be as provided in chapter 52, title 67, Idaho Code.

#### 22-2409. VIOLATIONS -- PENALTIES.

(1) Any person knowing of the existence of any noxious weeds on lands owned or controlled by him, who fails to control such weeds in accordance with this chapter or any person who intrudes upon any land under quarantine or who moves or causes to be moved any article covered by this chapter except as provided or who prevents or threatens to prevent entry upon land as provided in this chapter, or who interferes with the carrying out of the provisions of this chapter or who violates any of the provisions of this chapter, shall be guilty of a misdemeanor and shall be subject to a fine not to exceed one thousand dollars (\$1,000) or up to one (1) year in jail or both such fine and imprisonment for each violation.

(2) The director or a control authority may bring an action to enforce the provisions of this chapter, and the penalty provided for under this section.

#### 22-2410. WEED CONTROL ADVISORY COMMITTEES.

(1) Control agencies or authorities may appoint persons to a weed control advisory committee, who shall be persons knowledgeable of noxious weeds and the damage done by such weeds. The members of the advisory committee shall be residents of or landowners in one (1) of the counties included in the cooperative weed management area, and shall be appointed for renewable terms of two (2) years.

(2) It shall be the function of each weed control advisory committee to

(a) Assist in planning and carrying out noxious weed control programs within or across county, state or federal boundaries as may be provided by cooperative agreement among the participating parties for control of noxious weeds in cooperative weed management areas; and

(b) Act as liaison to other weed control advisory committees; and

(c) Provide a forum for public input on matters relating to the control of noxious weeds.

(3) Members of the advisory committee may be reimbursed for actual and necessary expenses when on committee business. Expense payments may be made from the noxious weed fund.

(4) Advisory committees have no executive powers and act in an advisory capacity only.

#### 22-2411. DELEGATION OF AUTHORITY.

The director of the department of agriculture may delegate in writing its authority, or any part thereof, under this chapter to any instrumentality or entity as an agent and servant of the state whose principal purpose is to establish and maintain a uniform and reasonable system of inspection and certification of crops, plants, plant parts or products

thereof. Any agent designated hereunder shall be a servant of the state of Idaho and shall be acting in an official capacity for the state of Idaho and under the supervision of the director consistent with this chapter. The delegated instrumentality or entity as agent and servant of the state shall be an entity of the state of Idaho as provided in the tort claims act, chapter 9, title 6, Idaho Code.

#### 22-2412. FEES CHARGED BY CERTIFYING AGENCY.

Fees may be charged by the certifying agency, under schedules set forth in rules of the department for certification of crops, plants, plant parts or products thereof under this chapter, but these fees shall have a reasonable relation to the cost, and may be used only for expenses in connection with inspection and certification and improvement of inspection and certification services.

#### 22-2413. LIABILITY OF DEPARTMENT LIMITED.

The department shall not be financially responsible for debts incurred, damages inflicted, or contracts broken by the certifying agent in conducting certification work. The certifying agent shall be entitled to all the protections as provided in the tort claims act, chapter 9, title 6, Idaho Code.