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# APPENDIX 5

## COLORADO WEED LAW

### A Summary Regarding the Colorado Noxious Weed Act Title 35 Article 5.5

The Colorado general assembly clearly recognizes the profound negative impacts of noxious weeds on the economic and environmental values of Colorado's private and public lands. Consequently, the assembly has placed all Colorado lands under the jurisdiction of local governments that have been delegated the responsibility and power to assure the management of state and locally designated noxious weeds. Broadly speaking, this law has five parts:

**1. Definition of a Noxious Weed.** The law defines noxious weeds as plant species that are not indigenous (non-native) to the state of Colorado and meet at least one of several criteria regarding their negative impacts upon crops, native plant communities, livestock, and the management of natural or agricultural systems. This definition applies to species listed by both the state and local governing bodies.

Native plant species, those species that are indigenous to the state of Colorado, may not be designated as noxious weeds by either state or local governments. Furthermore, the law does not permit distinctions to be made regarding the historical range or habitats of native species. Therefore, even a native species that expands its range within Colorado due to human influences and otherwise meets the descriptive criteria as a noxious weed may not be listed as such.

**2. Duties and Powers of Local Governing Bodies.** The law confers upon the local governing bodies of counties and municipalities a number of responsibilities and powers to manage noxious weeds on both public and private lands. Each local governing body must appoint a local advisory board according to the requirements set out in section 107 (1). This advisory board has the power and duty to:

1. declare noxious weeds and any state-designated noxious weeds to be subject to integrated management (species not already on the state noxious weed list may be declared after a public hearing with 30 days prior notice to the public);
2. develop a recommended management plan for the integrated management of noxious weeds that considers all appropriate and available control and management methods and seeks those methods that are practical, economically reasonable, and the least environmentally damaging;
3. review the management plan at regular intervals but not less than once every three years;
4. recommend management criteria for declared noxious weeds; and

5. recommend that identified landowners be required to submit an individual integrated management plan to manage noxious weeds on their property.

All products, recommendations, and decisions made by the advisory board including management plans, criteria, and practices must be forwarded to the local governing body for approval. In addition, all noxious weed lists and management plans must be submitted to the state weed coordinator for review to note any inconsistencies between the recommendations of the coordinator or Commissioner of Agriculture and the local advisory board.

The local governing body itself has the sole and final authority to approve, modify, or reject the products, recommendations, and decisions made by the advisory board. However, the governing body must:

1. adopt a noxious weed management plan that applies to all the lands under the governing body's jurisdiction;
2. provide for the administration and implementation of its noxious weed management plan through the use of its staff or outside contractors; and
3. ensure that all public rights-of-way are in compliance with the law. Any violations of the law regarding rights-of-way will be the financial responsibility of the local governing body.

To manage noxious weeds successfully, the local governing body is empowered to adopt and provide for the enforcement of regulations necessary to carry out and enforce this plan, or otherwise manage noxious weeds on lands within its jurisdiction. All police powers rest with the local governing body and the procedures for controlling weeds on private and public properties are set forth in sections 109 and 110, respectively. In addition, the local governing body may declare noxious weeds to be a public nuisance and thus subject noxious weeds to all laws and remedies relating to the prevention and abatement of public nuisances. Furthermore, the general assembly has declared that all persons must use integrated management to manage noxious weeds if they are likely to be materially damaging to the land (and property) of neighboring landowners. Lastly, local governing bodies may cooperate with one another through intergovernmental agreements and are authorized to enter into cooperative agreements with federal and state agencies.

Costs associated with the administration of the noxious weed management plan must be paid from the noxious weed management fund of each county. This fund may be created through the authorization of a special tax, subject to the approval of the voters, on every dollar of valuation of assessment of taxable property within the county. The amount raised by such a levy in any one year may not exceed five mills.

**3. Duties of State Government Entities.** The law outlines the responsibilities of state government entities to manage noxious weeds on properties subject to their jurisdiction. If these entities fail to carry out these responsibilities, they are liable to the appropriate local governing body. The law states that each state board, Department, or agency must:

1. manage noxious weeds on all lands under its jurisdiction using the methods prescribed by the local governing body;

2. comply with the rules described in section 110 when notified of the presence of noxious weeds by the local governing body; and
3. ensure that all public rights-of-way under its jurisdiction are in compliance with the law. Any violations of the law regarding rights-of-way will be entirely its financial responsibility.

In addition to the above responsibilities, the Colorado Division of Wildlife must enter into agreements before July 1st, 1997 with local governing bodies for the control of weeds on any property the division owns in fee title or has effective surface control over pursuant to a lease or easement agreement that exceeds 10 years. The specifics of the agreement are described in section 110.

For the Colorado Department of Agriculture, additional responsibilities include the designation of noxious weeds by rule and the promulgation of rules necessary to carry out the purposes of the Act.

**4. State Weed Coordinator.** The law creates the position of state weed coordinator and outlines the following duties to:

1. develop a recommended management plan for the integrated management of designated noxious weeds within state-owned lands;
2. facilitate cooperation between federal, state, and local land managers in the formation of a memorandum of understanding;
3. provide guidance and coordination for local government weed managers;
4. review any recommendations of a local advisory board and note any inconsistencies between the recommendations of the state weed coordinator or the Commissioner of Agriculture and the local advisory board; and
5. survey counties that include significant amounts of federal land to determine the level of cooperation and compliance by the federal government with the law (before January 1, 1998).

**5. Noxious Weed Management Fund.** The law creates the fiscal structure for a noxious weed management fund and provides restrictions governing its uses. The law stipulates that the general assembly must appropriate moneys in the fund annually to the Department to cover costs incurred by the Department of Agriculture in administering the law and to provide grants or contracts to communities, weed control districts, and other entities the Department considers appropriate for noxious weed management projects.

The following uses of moneys require agricultural commission approval:

1. special grants to local weed control districts to eradicate or contain state noxious weeds, which may be made without sharing expenses;
2. any project the commission determines will significantly contribute to the management of noxious weeds within the state; and

3. grants to CSU Cooperative Extension Service, CSU Experiment Station, and universities for weed management research, evaluation, and education.

The following uses of moneys do not require agricultural commission approval (however, the Commissioner of Agriculture has stated by policy that the agricultural commission will review all expenses from the fund):

1. grants to local weed control districts for noxious weed management programs if expenses are shared (any noxious weed either local or state designated);
2. administrative expenses incurred by the Department;
3. employment of new and innovative noxious weed management projects or the development, implementation, or demonstration of any noxious weed management project that may be proposed, implemented, or established by local, state, or national organizations whether public or private (requires shared expenses); and
4. the expenditure of funds to combat weeds if the governor declares a noxious weed emergency.

**For additional information:**

For more detailed information regarding the Colorado Noxious Weed Act, contact Eric Lane, the state weed coordinator, at (303) 239-4182 or [eric.lane@ag.state.co.us](mailto:eric.lane@ag.state.co.us).

*Revised on January 19, 1999*

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**Title 35  
Agriculture**

**Article 5.5  
Colorado Weed Management Act**

**35-5.5-101 - Short title.**

This article shall be known and may be cited as the "Colorado Noxious Weed Act".

**35-5.5-102 - Legislative declaration - rule of construction.**

(1) In enacting this article the general assembly finds and declares that there is a need to ensure that all the lands of the state of Colorado, whether in private or public ownership, are protected by and subject to the jurisdiction of a local government empowered to manage undesirable plants as designated by the state of Colorado and the local governing body. In making such determination the general assembly hereby finds and declares that certain undesirable plants constitute a present threat to the continued economic and environmental value of the lands of the state and if present in any area of the state must be managed. It is the intent of the general assembly that the advisory commissions appointed by counties and municipalities under this article, in developing undesirable plant management plans, consider the elements of integrated management as defined in this article, as well as all appropriate and available control and management methods, seeking those methods which are least environmentally damaging and which are practical and economically reasonable.

(1.5) The general assembly hereby finds and declares that noxious weeds have become a threat to the natural resources of Colorado, as thousands of acres of crop, rangeland, and natural habitat are being destroyed by noxious weeds each year. The general assembly further finds and declares that an organized and coordinated effort must be made to stop the spread of noxious weeds, and that such an effort can best be facilitated by a state coordinator who will assist in building local coalitions and coordinate the efforts of state, federal, local, and private land owners in developing plans for the control of noxious weeds. The general assembly further finds that, because the spread of noxious weeds can largely be attributed to the movement of seed and plant parts on motor vehicles and noxious weeds are becoming an increasing maintenance problem on highway right-of-ways in this state, additional resources are needed to fight the spread of noxious weeds. The general assembly declares that grants from the noxious weed management fund shall be made to allow local cooperative efforts to proceed with noxious weed management.

(2) This article is in addition to article 5 of this title and is intended to be an expansion of, not a substitution for, the provisions of said article 5.

**35-5.5-103 - Definitions.**

As used in this article, unless the context otherwise requires:

- (1) (Deleted by amendment, L. 96, p. 764, § 5, effective May 23, 1996.)
- (2) "Alien plant" means a plant species that is not indigenous to the state of Colorado.
- (3) (Deleted by amendment, L. 96, p. 764, § 5, effective May 23, 1996.)
- (4) "Commissioner" means the commissioner of the department of agriculture.

(4.5) "Department" means the department of agriculture.

(5) "District" means a local governing body's geographic description of a land area where noxious weeds are to be managed.

(6) (Deleted by amendment, L. 96, p. 764, § 5, effective May 23, 1996.)

(7) "Federal agency" means each agency, bureau, or department of the federal government responsible for administering or managing federal land.

(8) "Federal land manager" means the federal agency having jurisdiction over any federal lands affected by the provisions of this article.

(9) "Integrated management" means the planning and implementation of a coordinated program utilizing a variety of methods for managing noxious weeds, the purpose of which is to achieve desirable plant communities. Such methods may include but are not limited to education, preventive measures, good stewardship, and the following techniques:

(a) "Biological management", which means the use of an organism to disrupt the growth of noxious weeds.

(b) "Chemical management", which means the use of herbicides or plant growth regulators to disrupt the growth of noxious weeds.

(c) "Cultural management", which means methodologies or management practices that favor the growth of desirable plants over noxious weeds, including maintaining an optimum fertility and plant moisture status in an area, planting at optimum density and spatial arrangement in an area, and planting species most suited to an area.

(d) "Mechanical management", which means methodologies or management practices that physically disrupt plant growth, including tilling, mowing, burning, flooding, mulching, hand-pulling, hoeing, and grazing.

(10) "Landowner" means any owner of record of state, municipal, or private land and includes an owner of any easement, right-of-way, or estate in the land.

(10.5) "Local advisory board" means those individuals appointed by the local governing body to advise on matters of noxious weed management.

(11) "Local governing body" means the board of county commissioners of a county, the city council of a city and county or statutory or home rule city, the board of trustees of a statutory town or home rule town, or the board of selectmen or city council of a territorial charter municipality, as the context so requires.

(11.4) "Local noxious weed" means any plant of local importance that has been declared a noxious weed by the local governing body.

(11.6) "Management" means any activity that prevents a plant from establishing, reproducing, or dispersing itself.

(12) "Management plan" means the noxious weed management plan developed by any person or the local advisory board using integrated management.

(13) (Deleted by amendment, L. 96, p. 764, § 5, effective May 23, 1996.)

(14) "Municipality" has the meaning set forth in section 31-1-101 (6), C.R.S.

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(15) "Native plant" means a plant species that is indigenous to the state of Colorado.

(16) "Noxious weed" means an alien plant or parts of an alien plant that have been designated by rule as being noxious or has been declared a noxious weed by a local advisory board, and meets one or more of the following criteria:

- (a) Aggressively invades or is detrimental to economic crops or native plant communities;
- (b) Is poisonous to livestock;
- (c) Is a carrier of detrimental insects, diseases, or parasites;
- (d) The direct or indirect effect of the presence of this plant is detrimental to the environmentally sound management of natural or agricultural ecosystems.

(16.2) "Noxious weed management" means the planning and implementation of an integrated program to manage noxious weed species.

(17) "Person" or "occupant" means an individual, partnership, corporation, association, or federal, state, or local government or agency thereof owning, occupying, or controlling any land, easement, or right-of-way, including any city, county, state, or federally owned and controlled highway, drainage or irrigation ditch, spoil bank, borrow pit, gas and oil pipeline, high voltage electrical transmission line, or right-of-way for a canal or lateral.

(18) "Plant growth regulator" means a substance used for controlling or modifying plant growth processes without appreciable phytotoxic effect at the dosage applied.

(18.5) "State noxious weed" means any noxious weed identified by the commissioner by rule after surveying the local advisory boards and prioritizing the top ten weeds. Said survey should be conducted every three years.

(18.6) "State weed coordinator" means the state weed coordinator under contract with or appointed by the commissioner pursuant to section 35-5.5-117.

(19) and (20) (Deleted by amendment, L. 96, p. 764, § 5, effective May 23, 1996.)

(21) "Weed" means any undesirable plant.

#### **35-5.5-104 - Duty to manage noxious weeds.**

It is the duty of all persons to use integrated methods to manage noxious weeds if the same are likely to be materially damaging to the land of neighboring landowners.

#### **35-5.5-105 - Noxious weed management - powers of county commissioners.**

(1) The board of county commissioners of each county in the state shall adopt a noxious weed management plan for all of the unincorporated lands within the county. Such plan shall include all of the requirements and duties imposed by this article. Guidelines may be included that address no pesticide noxious weed management plans. In addition to and not in limitation of the powers delegated to boards of county commissioners in section 30-11-107 and article 15 of title 30, C.R.S., article 5 of this title, and elsewhere as provided by law, the board of county commissioners may adopt and provide for the enforcement of such ordinances, resolutions, rules, and other regulations as may be necessary and proper to enforce said plan and otherwise provide for the management of noxious weeds within the county, subject to the following limitation: No county ordinance, rule, resolution, other regulation, or

exercise of power pursuant to this article shall apply within the corporate limits of any incorporated municipality, nor to any municipal service, function, facility, or property, whether owned by or leased to the incorporated municipality outside the municipal boundaries unless the county and municipality agree otherwise pursuant to part 2 of article 1 of title 29, C.R.S., or article 20 of title 29, C.R.S.

(2) The board of county commissioners shall provide for the administration of the noxious weed management plan authorized by this article through the use of agents, delegates, or employees and may hire additional staff or provide for the performance of all or part of the management plan through outside contract. Any agent, delegate, employee, staff, or contractor applying or recommending the use of chemical management methods shall be certified by the department of agriculture for such application or recommendation. Costs associated with the administration of the noxious weed management plan shall be paid from the noxious weed management fund of each county.

(3) The board of county commissioners may cooperate with other counties and municipalities for the exercise of any or all of the powers and authorities granted by this article. Such cooperation shall take the form of an intergovernmental agreement pursuant to part 2 of article 1 of title 29, C.R.S., or article 20 of title 29, C.R.S.

#### **35-5.5-106 - Noxious weed management - municipal authority.**

(1) The governing body of each municipality in the state shall adopt a noxious weed management plan for all lands within the territorial limits of the municipality. In addition to and independent of the powers elsewhere delegated by law, the governing body of a municipality may adopt and provide for the enforcement of such ordinances, resolutions, rules, and other regulations as may be necessary and proper to enforce said plan and otherwise provide for the management of noxious weeds within the municipality, subject to the following limitation: No municipal ordinance, resolution, rule, other regulation, or exercise of power pursuant to this article shall apply to unincorporated lands or facilities outside the corporate limits of the municipality, except such lands or facilities which are owned by or leased to the municipality, unless the municipality and the county otherwise agree pursuant to part 2 of article 1 of title 29, C.R.S., or article 20 of title 29, C.R.S.

(2) The governing body of the municipality shall provide for the administration of the noxious weed management plan authorized by this article through the use of agents, delegates, or employees and may hire additional staff or provide for the performance of all or part of the noxious weed management plan through outside contract. Any agent, delegate, employee, staff, or contractor applying or recommending the use of chemical management methods shall be certified by the department of agriculture for such application or recommendation.

(3) The governing body may cooperate with counties and other municipalities for the exercise of any or all of the powers and authorities granted by this article. Such cooperation shall take the form of an intergovernmental agreement pursuant to part 2 of article 1 of title 29, C.R.S., or article 20 of title 29, C.R.S.

(4) To the degree that a municipality has, upon enactment of this article, or subsequent to that date, adopted an ordinance or ordinances for the management of noxious weeds, the adoption of such an ordinance or ordinances shall be deemed to satisfy the requirement for the adoption of a noxious weed management plan imposed by this article.

#### **35-5.5-107 - Local advisory board - formation - duties.**

(1) The governing body of each county and municipality shall appoint a local advisory board. The local governing body, at its sole option, may appoint itself, or a commission of landowners, to act as the local advisory board for that jurisdiction. The members of each local advisory board shall be residents of the unincorporated portion of the county or residents of the municipality, as the case may be, and in the case



of a county, at least a majority of the members of the local advisory board shall be landowners of over forty acres.

(2) In the event a county or municipality elects to cooperate with another county or municipality for any of the purposes set forth in this article, the membership of the local advisory board shall be determined by the governing bodies of such cooperating local governments.

(3) Each local advisory board shall annually elect a chairman and secretary. A majority of the members of the board shall constitute a quorum for the conduct of business.

(4) Local advisory boards shall have the power and duty to:

- (a) Develop a recommended management plan for the integrated management of designated noxious weeds and recommended management criteria for noxious weeds within the area governed by the local government or governments appointing the local advisory board. The management plan shall be reviewed at regular intervals but not less often than once every three years by the local advisory board. The management plan and any amendments made thereto shall be transmitted to the local governing body for approval, modification, or rejection.
- (b) Declare noxious weeds and any state noxious weeds designated by rule to be subject to integrated management.
- (c) Recommend to the local governing body that identified landowners be required to submit an individual integrated management plan to manage noxious weeds on their property.

(5) The local governing body shall have the sole and final authority to approve, modify, or reject the management plan, management criteria, management practice, and any other decision or recommendation of the local advisory board.

(6) The state weed coordinator shall review any recommendations of a local advisory board appointed pursuant to article 5 of this title and note any inconsistencies between the recommendations of the state weed coordinator or the commissioner and any such local advisory board.

#### **35-5.5-108 - Designated noxious weeds - legislative declaration.**

(1) The general assembly hereby finds and declares that the noxious weeds designated by rule are a present threat to the economic and environmental value of the lands of the state of Colorado and declare it to be a matter of statewide importance that the governing bodies of counties and municipalities include plans to manage such weeds as part of their duties pursuant to this article.

(2) The state list of plant species that are designated as noxious weeds shall be designated by rule and shall be managed under the provisions of this article.

(3) The board of county commissioners or governing body of a municipality may declare additional noxious weeds, within its jurisdictional boundaries, after a public hearing with thirty days prior notice to the public.

#### **35-5.5-109 - Private lands - management of noxious weeds - charges.**

(1) The local governing body, through its delegates, agents, and employees, shall have the right to enter upon any premises, lands, or places, whether public or private, during reasonable business hours for the purpose of inspecting for the existence of noxious weed infestations, when at least one of the following circumstances has occurred:

- (a) The landowner or occupant has requested an inspection;
- (b) A neighboring landowner or occupant has reported a suspected noxious weed infestation and requested an inspection; or
- (c) An authorized agent of the local government has made a visual observation from a public right-of-way or area and has reason to believe that a noxious weed infestation exists.

(2) (a) No entry upon any premises, lands, or places shall be permitted until the landowner or occupant has been notified by certified mail that such inspection is pending. Where possible, inspections shall be scheduled and conducted with the concurrence of the landowner or occupant.

(b) If after receiving notice that an inspection is pending the landowner or occupant denies access to the inspector of the local governing body, the inspector may seek an inspection warrant issued by a municipal, county, or district court having jurisdiction over the land. The court shall issue an inspection warrant upon presentation by the local governing body, through its agent or employee, of an affidavit stating: The information which gives the inspector reasonable cause to believe that any provision of this article is being or has been violated; that the occupant or landowner has denied access to the inspector; and a general description of the location of the affected land. No landowner or occupant shall deny access to such land when presented with an inspection warrant.

(3) The local governing body of the county or municipality having jurisdiction over private lands upon which noxious weeds are found shall have the authority, acting directly or indirectly through its agent or staff, to notify the landowner or occupant of such lands, advising the landowner or occupant of the presence of noxious weeds. Said notice shall name the noxious weeds, advise the landowner or occupant to manage the noxious weeds, and specify the best available control methods of integrated management. Where possible, the local governing body shall consult with the affected landowner or occupant in the development of a plan for the management of noxious weeds on the premises or lands.

(4) (a) Within a reasonable time after receipt of notification, which at no time shall exceed ten days, the landowner or occupant shall either:

- (I) Comply with the terms of the notification;
- (II) Acknowledge the terms of the notification and submit an acceptable plan and schedule for the completion of the plan for compliance; or
- (III) Request an arbitration panel to determine the final management plan.

(b) The arbitration panel selected by the local governing body shall be comprised of a weed management specialist or weed scientist, a landowner of similar land in the same county, and a third panel member chosen by agreement of the first two panel members. The landowner or occupant shall be entitled to challenge any one member of the panel, and the local governing body shall name a new panel member from the same category. The decision of the arbitration panel shall be final.

(5) (a) In the event the landowner or occupant fails to comply with the notice to manage the identified noxious weeds or implement the plan developed by the arbitration panel, the local governing body has the authority to:

- (I) Provide for and compel the management of such noxious weeds at such time, upon such notice, and in such manner as the local governing body shall prescribe by ordinance or resolution; and
- (II) Assess the whole cost thereof, including up to twenty percent for inspection and other incidental costs in connection therewith, upon the lot or tract of land where the noxious weeds are located; except that no local governing body shall levy a tax lien against land it

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administers as part of a public right-of-way. Such assessment shall be a lien against each lot or tract of land until paid and shall have priority over all other liens except general taxes and prior special assessments. Such assessment may be certified to the county treasurer of the county in which the property is located and collected and paid over in the same manner as provided for the collection of taxes. Any funds collected pursuant to this section shall be deposited in the local governing body's weed fund or any similar fund.

(b) No local governing body shall provide for or compel the management of noxious weeds on private property pursuant to this subsection (5) without first applying the same or greater management measures to any land or rights-of-way owned or administered by the local governing body that are adjacent to the private property.

(c) No local governing body shall assess the cost of providing for or compelling the management of noxious weeds on private property until the level of management called for in the notice or the management plan developed by the arbitration panel has been successfully achieved.

(6) The local governing body, through its delegates, agents, and employees, shall have the right to enter upon any premises, lands, or places, whether public or private, during reasonable business hours for the purpose of ensuring compliance with the requirements of this article concerning noxious weed management and any other local requirements.

(7) No agent, employee, or delegate of a local governing body shall have a civil cause of action against a landowner or occupant for personal injury or property damage incurred while on public or private land for purposes consistent with this article except when such damages were willfully or deliberately caused by the landowner.

### **35-5.5-110 - Public lands - control of undesirable plants - charges.**

(1) It is the duty of each state board, department, or agency that administers or supervises state lands to manage noxious weeds on any lands under its jurisdiction using the methods prescribed by the local governing body in whose jurisdiction such state lands are located. The local governing body may give notice to any such state board, department, or agency advising of the presence of noxious weeds and naming them. Such notice shall specify the best available methods of integrated management that are not in conflict with federal law or contractual restrictions included in federal land conveyances to the state. Wherever possible, the local governing body shall consult with the affected state board, department, or agency in the development of a plan for the management of noxious weeds on the premises or lands.

(2) (a) Within a reasonable time after receipt of notification, which at no time shall exceed ten days, the state board, department, or agency shall do one of the following:

- (I) Comply with the terms of the notification;
- (II) Acknowledge the terms of the notification and submit an acceptable plan and schedule for the completion of the plan for compliance;
- (III) Request an arbitration panel to determine the final management plan.

(b) The arbitration panel selected by the local governing body shall be comprised of a weed management specialist or weed scientist, a landowner of similar land in the same county, and a third panel member chosen by agreement of the first two panel members. The state board, department, or agency shall be entitled to challenge any one member of the panel, and the local governing body shall name a new panel member from the same category. The decision of the arbitration panel shall be final.

(3) In the event the state board, department, or agency fails to comply with the notice to manage the identified noxious weeds or implement the plan developed by the arbitration panel, the local governing

body in whose jurisdiction the infestation is located may enter upon such lands and undertake the management of such noxious weeds or cause the same to be done, the expense thereof to be a proper charge against said state board, department, or agency which has jurisdiction over the lands. An agreement for payment shall be reached within two weeks after the date such an expense is submitted, with respect to the amount of reimbursement to be paid. Such agreement shall be in writing. If no agreement has been reached and if the charge is not immediately paid, such charge shall be submitted to the controller, who shall treat such amount as an encumbrance on the budget of the state board, department, or agency involved, or such charge may be recovered in any court with jurisdiction over such lands. Any state board, department, or agency may enter into a contract with the local governing body to authorize the management of noxious weeds on state-administered land on terms and conditions satisfactory to both parties.

(4) In addition to the requirements of subsection (3) of this section, the division shall enter into agreements with local governing bodies for the control of weeds on any property the division owns in fee title or has effective surface control over pursuant to a long-term lease or easement agreement. For purposes of this subsection (4) and subsection (5) of this section, "long-term lease or easement agreement" means any lease or easement agreement that exceeds ten years. Agreements between the division and local governing bodies for weed control shall describe the terms and conditions of weed control, provide an annual estimated budget for such weed control, and identify specific weed control responsibilities for the division and the property owner, if different than the division. Weed control agreements required pursuant to this subsection (4) shall be executed on or before July 1, 1997.

(5) Any weed control expense incurred by a local governing body pursuant to subsection (3) of this section on any lands held by the division in fee title or by long-term lease or easement agreement, as described in subsection (4) of this section, and for which a weed control agreement as described in subsection (4) of this section has been signed, and which costs are in accordance with that long-term agreement, shall be deemed correct and final and shall be paid by the division pursuant to section 33-1-110 (6.5), C.R.S.

#### **35-5.5-111 - Cooperation with federal and state agencies.**

The local governing bodies of all counties and municipalities in this state are hereby authorized to enter into cooperative agreements with federal and state agencies for the integrated management of noxious weeds within their respective territorial jurisdictions.

#### **35-5.5-112 - Public rights-of-way - management of noxious weeds - charges.**

It shall be the duty of each local governing body and each state board, department, or agency to confirm that all public roads, public highways, public rights-of-way, and any easements appurtenant thereto, under the jurisdiction of each such entity, are in compliance with this article, and any violations of this article shall be the financial responsibility of the appropriate local governing body or state board, department, or agency.

#### **35-5.5-113 - Public nuisance - abatement.**

All noxious weeds, at any and all stages, their carriers, and any and all premises, plants, and things infested or exposed to infestation therewith may be declared to be a public nuisance by the local governing body having jurisdiction over the lands upon which said noxious weeds are situated. Once declared, such nuisances are subject to all laws and remedies relating to the prevention and abatement of nuisances. The local governing body, in a summary manner or otherwise, may take such action, including removal and destruction, with reference to such nuisance as in its discretion appears necessary. The remedies of this section shall be in addition to all other remedies provided by law.

**35-5.5-114.1 - Survey of compliance on federal land.**

On or before January 1, 1998, the state weed coordinator shall survey those counties that include significant amounts of federal land to determine the level of cooperation and compliance by the federal government with this article.

**35-5.5-115 - Rules.**

The commissioner shall promulgate rules as necessary to carry out the purposes of this article, which rules shall include a designation of state noxious weeds.

**35-5.5-116 - Noxious weed management fund - creation - allocation of funds.**

(1) There is hereby created in the office of the state treasurer the noxious weed management fund. The fund shall consist of any civil penalties collected pursuant to section 35-5.5-118; any gifts, donations, and grants received pursuant to section 35-1-104 (1) (cc); and any moneys approved by the general assembly for the purpose of funding noxious weed management projects. All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. The general assembly shall annually appropriate moneys in the fund to the department of agriculture for the purposes specified in subsection (2) of this section.

(2) The interest earned on moneys in the noxious weed management fund and appropriated to the department of agriculture shall be expended for costs incurred by the department of agriculture in administering this article, and any moneys appropriated that exceed the amount needed for such costs may be expended for noxious weed management projects in accordance with this section.

(3) The department may expend moneys through grants or contracts to communities, weed control districts, or other entities it considers appropriate for noxious weed management projects.

(4) The department may expend moneys for the following purposes:

(a) Noxious weed management programs with local weed control districts, if expenses are shared with such districts;

(b) With the approval of the agricultural commission, the department may make special grants to local weed control districts to eradicate or contain state noxious weeds, which grants may be issued without matching funds from the district;

(c) Administrative expenses incurred by the department;

(d) Any project the agricultural commission determines will significantly contribute to the management of noxious weeds within the state;

(e) With the approval of the agricultural commission, grants to the Colorado state university cooperative extension service, the Colorado state university experiment station, and universities for weed management research, evaluation, and education;

(f) Employment of a new and innovative noxious weed management project or the development, implementation, or demonstration of any noxious weed management project that may be proposed, implemented, or established by local, state, or national organizations, whether public or private. Such expenditures shall be shared with such organizations.

(5) If a new and potentially harmful noxious weed is discovered growing in the state and its presence is verified by the department, the governor may declare a noxious weed emergency. In the absence of necessary funding from other sources, the department is authorized to allocate up to fifty thousand dollars of the principal in the noxious weed management fund to government agencies for emergency relief to manage or confine the new noxious weed species.

**35-5.5-117 - The state weed coordinator.**

(1) There shall be designated within the division of plant industry in the department of agriculture a state weed coordinator, who shall be under contract with or appointed by the commissioner.

(2) The state weed coordinator shall:

(a) Develop a recommended management plan for the integrated management of designated noxious weeds within state-owned lands;

(b) Facilitate cooperation between federal, state, and local land managers in the formation of a memorandum of understanding;

(c) Provide guidance and coordination for local governmental weed managers.

**35-5.5-118 - Civil penalties.**

(1) Any person who violates this article or any rule adopted pursuant to this article is subject to a civil penalty, as determined by the commissioner. The penalty shall not exceed one thousand dollars per violation; except that such penalty may be doubled if it is determined that the person has violated the provision or rule more than once. No civil penalty shall be imposed unless and until the person charged is given notice and opportunity for a hearing pursuant to article 4 of title 24, C.R.S.

(2) If the commissioner is unable to collect such civil penalty or if the person fails to pay all or a specified portion of the penalty, the department may bring suit in any court of competent jurisdiction to recover such amount plus costs and attorney fees.

(3) Before imposing any civil penalty, the commissioner may consider the effect of such penalty on the ability of the person charged to stay in business.

(4) Civil penalties collected pursuant to this section shall be deposited in the noxious weed management fund created in section 35-5.5-116.

**35-5.5-119 - County funding.**

The board of county commissioners is authorized to levy a special tax, subject to the approval of the voters, upon every dollar of valuation of assessment of taxable property within the county for the purpose of creating a county fund to control noxious weeds; except that the amount raised from such levy in any one year shall not exceed the amount raised by five mills.

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## RULES PERTAINING TO THE COLORADO NOXIOUS WEED ACT

### STATEMENT OF BASIS AND PURPOSE

These rules are adopted pursuant to the Colorado Noxious Weed Act, § 35-5.5-115, C.R.S. (1996 Supp.).

The purposes of these rules are to: designate the State Noxious Weed List and provide general guidelines pertaining to the application for and distribution of monies from the Noxious Weed Management Fund to manage noxious weeds within the State of Colorado.

### FACTUAL ISSUES ENCOUNTERED

As required by § 35-5.5-103(18.5), C.R.S. (1996 Supp.), the State Noxious Weed List was adopted after surveying the local advisory boards and counties. A survey was sent to all counties on August 29, 1996, requesting their input concerning the State Noxious Weed List. Based upon the input from the counties and public testimony, the State Noxious Weed List was generated and the top ten weeds designation was prioritized.

### 1.00 DEFINITIONS

- A. "Act" means the Colorado Noxious Weed Act, §§ 35-5.5-101 through 119, C.R.S. (1996 Supp.).
- B. "Commissioner" means the Commissioner of Agriculture, Colorado Department of Agriculture or a designated employee of the Department of Agriculture.
- C. "Department" means the Colorado Department of Agriculture.
- D. "Division" as used in § 35-5.5-110 of the Act means the Colorado Division of Wildlife. See, § 33-1-110, C.R.S. (1996 Supp.).
- E. "Fund" means the Noxious Weed Management Fund, pursuant to § 35-5.5-116 of the Act.
- F. "State Weed Coordinator" means the Department employee appointed pursuant to § 35-5.5-117 of the Act.

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## 2.00 THE STATE NOXIOUS WEED LIST

- A. The following weed species, listed in alphabetical order, are identified as the State Noxious Weeds. They have been identified by individual counties as problem weeds in the county's area or have been recommended for management through public testimony. These weed species should be considered by each local advisory board and local governing body in the development, adoption and enforcement of their noxious weed list and noxious weed management plan. The State Noxious Weeds are:

African rue (*Peganum harmala*)  
Black henbane (*Hyoscyamus niger*)  
Black knapweed (*Centaurea nigra*)  
Black nightshade (*Solanum nigrum*)  
Blue mustard (*Chorispora tenella*)  
Bouncingbet (*Saponaria officinalis*)  
Bull thistle (*Cirsium vulgare*)  
Camelthorn (*Alhagi pseudalhagi*)  
Canada thistle (*Cirsium arvense*)  
Chicory (*Cichorium intybus*)  
Chinese clematis (*Clematis orientalis*)  
Coast tarweed (*Madia sativa*)  
Common burdock (*Arctium minus*)  
Common groundsel (*Senecio vulgaris*)  
Common mullein (*Verbascum thapsus*)  
Common St. Johnswort (*Hypericum perforatum*)  
Common tansy (*Tanacetum vulgare*)  
Common teasel (*Dipsacus fullonum*)  
Cypress spurge (*Euphorbia cyparissias*)  
Dalmatian toadflax (*Linaria dalmatica*)  
Dame's rocket (*Hesperis matronalis*)  
Diffuse knapweed (*Centaurea diffusa*)  
Downy brome (*Bromus tectorum*)  
Dyer's woad (*Isatis tinctoria*)  
Field bindweed (*Convolvulus arvensis*)  
Flixweed (*Descurainia sophia*)  
Green foxtail (*Setaria viridis*)  
Hairy nightshade (*Solanum sarrachoides*)  
Halogeton (*Halogeton glomeratus*)  
Hoary cress (*Cardaria draba*)  
Houndstongue (*Cynoglossum officinale*)  
Johnsongrass (*Sorghum halepense*)  
Jointed goatgrass (*Aegilops cylindrica*)  
Kochia (*Kochia scoparia*)  
Leafy spurge (*Euphorbia esula*)  
Longspine sandbur (*Cenchrus longispinus*)  
Mayweed chamomile (*Anthemis cotula*)



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Mediterranean sage (*Salvia aethiopis*)  
 Musk thistle (*Carduus nutans*)  
 Myrtle spurge (*Euphorbia myrsinites*)  
 Oxeye daisy (*Chrysanthemum leucanthemum*)  
 Perennial pepperweed (*Lepidium latifolium*)  
 Plumeless thistle (*Carduus acanthoides*)  
 Poison hemlock (*Conium maculatum*)  
 Puncturevine (*Tribulus terrestris*)  
 Purple loosestrife (*Lythrum salicaria*)  
 Quackgrass (*Elytrigia repens*)  
 Redstem filaree (*Erodium cicutarium*)  
 Rush skeletonweed (*Chondrilla juncea*)  
 Russian knapweed (*Centaurea repens*)  
 Russian thistle (*Salsola collina*)  
 Russian thistle (*Salsola iberica*)  
 Saltcedar (*Tamarix parviflora*)  
 Saltcedar (*Tamarix ramosissima*)  
 Scentless chamomile (*Anthemis arvensis*)  
 Scotch thistle (*Onopordum acanthium*)  
 Scotch thistle (*Onopordum tauricum*)  
 Spotted knapweed (*Centaurea maculosa*)  
 Squarrose knapweed (*Centaurea virgata*)  
 Sulfur cinquefoil (*Potentilla recta*)  
 Velvetleaf (*Abutilon theophrasti*)  
 Wild caraway (*Carum carvi*)  
 Wild mustard (*Brassica kaber*)  
 Wild proso millet (*Panicum miliaceum*)  
 Yellow foxtail (*Setaria glauca*)  
 Yellow nutsedge (*Cyperus esculentus*)  
 Yellow starthistle (*Centaurea solstitialis*)  
 Yellow toadflax (*Linaria vulgaris*)

- B. The following weed species are recognized as the top ten prioritized weed species for the State of Colorado. After analysis of a statewide survey of counties, these species are acknowledged to be the most widespread and to cause the greatest economic impact in the State of Colorado. These species shall be considered by each local advisory board and local governing body in the development, adoption and enforcement of their noxious weed list and noxious weed management plan. They are listed in alphabetical order:

Canada thistle (*Cirsium arvense*)  
 Diffuse knapweed (*Centaurea diffusa*)  
 Field bindweed (*Convolvulus arvensis*)  
 Hoary cress (*Cardaria draba*)  
 Jointed goatgrass (*Aegilops cylindrica*)  
 Leafy spurge (*Euphorbia esula*)

Musk thistle (*Carduus nutans*)  
Russian knapweed (*Centaurea repens*)  
Spotted knapweed (*Centaurea maculosa*)  
Yellow toadflax (*Linaria vulgaris*)

- C. The following weed species may not be present or are not yet widespread or causing great economic impact within the State of Colorado. However, counties and local advisory boards are encouraged to contain and eradicate these species before they proliferate and significantly impact the economic and environmental values of the lands of the State. They are listed in alphabetical order:

African rue (*Peganum harmala*)  
Black knapweed (*Centaurea nigra*)  
Bouncingbet (*Saponaria officinalis*)  
Camelthorn (*Alhagi pseudalhagi*)  
Coast tarweed (*Madia sativa*)  
Common St. Johnswort (*Hypericum perforatum*)  
Common teasel (*Dipsacus fullonum*)  
Cypress spurge (*Euphorbia cyparissias*)  
Dyer's woad (*Isatis tinctoria*)  
Myrtle spurge (*Euphorbia myrsinites*)  
Rush skeletonweed (*Chondrilla juncea*)  
Scentless chamomile (*Anthemis arvensis*)  
Squarrose knapweed (*Centaurea virgata*)  
Sulfur cinquefoil (*Potentilla recta*)  
Yellow starthistle (*Centaurea solstitialis*)

### 3.00 NOXIOUS WEED MANAGEMENT FUND

- A. Applications for grants shall be submitted to the Commissioner at the Department, on a form developed by the Commissioner.

Applications for grants will be evaluated on a competitive basis, with consideration given, but not restricted to, the following factors: the extent of cooperation among private and public landowners; the use of integrated pest management; the potential impact of the project on noxious weed species; the impact that grant funds may be expected to have on continued weed management efforts in future years; and the availability of matching funds from private and public sources.

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**Title 35  
AGRICULTURE**

**ARTICLE 27.5  
FORAGE CROP CERTIFICATION**

**35-27.5-101 - Short title.**

This article shall be known and may be cited as the "Weed Free Forage Crop Certification Act".

**35-27.5-102 - Definitions.**

As used in this article, unless the context otherwise requires:

- (1) "Authorized inspector" means a person qualified to identify noxious weeds according to standards adopted by the commissioner pursuant to section 35-27.5-103.
- (2) Repealed.
- (3) "Commissioner" means the commissioner of agriculture.
- (4) "Crop" means any agricultural forage crop product whether cultivated or not cultivated, irrigated or nonirrigated, planted or naturally occurring.
- (5) "Department" means the department of agriculture.
- (6) "Noxious weeds" means those weeds, including any weed seed or propagative plant parts, designated by the commissioner as noxious and which are prohibited pursuant to section 35-27.5-103.
- (7) "Person" means any association, corporation, firm, individual or combination of individuals, partnership, or society.
- (8) "Qualified employee" means an employee of the department designated as qualified who is trained to identify noxious weeds in accordance with standards adopted by the commissioner pursuant to section 35-27.5-103.
- (9) "Weed free" means any crop certified as free of noxious weeds by the commissioner pursuant to this article.
- (10) "Weed free certification" means crops inspected and certified as free of noxious weeds by the commissioner pursuant to this article.

**35-27.5-103 - Rules and regulations.**

- (1) The commissioner shall adopt reasonable and necessary rules and regulations to carry out the provisions of this article in compliance with section 24-4-103, C.R.S., and subject to the requirements of section 35-27.5-107.
- (2) Rules and regulations adopted pursuant to subsection (1) of this section shall include but shall not be limited to rules and regulations concerning the following:
  - (a) Designation of weeds as noxious and prohibited;

- (b) Procedures for certification of weed free crops;
- (c) Qualification standards for persons seeking designation as authorized inspectors or as qualified employees;
- (d) Crop inspection procedures;
- (e) Treatment procedures for the eradication of viable noxious weeds from crops; and
- (f) Procedures for identifying and tracking certified weed free crops.

**35-27.5-104 - Delegation of duties - cooperative agreements.**

- (1) (a) The commissioner may delegate any powers vested in the commissioner pursuant to this article to qualified employees of the department who are designated as qualified employees pursuant to standards adopted in accordance with section 35-27.5-103.  
  
(b) The commissioner may delegate any powers vested in the commissioner pursuant to this article that are related to the duties of authorized inspectors to persons who are designated as authorized inspectors pursuant to standards adopted in accordance with section 35-27.5-103.
- (2) The commissioner may enter into cooperative agreements with Colorado state university for the purpose of training authorized employees and qualified inspectors in the identification of those plants designated as noxious weeds by the commissioner pursuant to section 35-27.5-103.
- (3) For purposes of carrying out the provisions of this article and subject to any other law of this state, the commissioner may accept grants-in-aid from any agency of the federal government and may cooperate and enter into agreements with any federal agency, any agency of any other state, and any agency of this state or its political subdivisions.

**35-27.5-105 - Administration and enforcement.**

- (1) The commissioner shall administer and enforce the provisions of this article.
- (2) Upon the motion of the commissioner or upon the motion of any other person, the commissioner may make any investigations necessary to ensure compliance with or determine whether there has been a violation of this article.
- (3) The commissioner shall have reasonable access during regular business hours to all pertinent documents concerning any person who has requested that a crop be inspected for purposes of certification of such crop or who has had a crop certified as weed free.
- (4) (a) The commissioner may, after notice and a hearing in compliance with the provisions of article 4 of title 24, C.R.S., resulting in a finding of a violation of this article or any rule or regulation promulgated pursuant to this article, rescind any weed free certification of a crop.  
  
(b) For purposes of paragraph (a) of this subsection (4), any action taken by the commissioner following a hearing shall be deemed final.  
  
(c) A person aggrieved by a final decision made by the commissioner pursuant to this subsection (4) may appeal such decision to the Colorado court of appeals pursuant to section 24-4-106 (11), C.R.S.

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(d) The commissioner may employ administrative law judges appointed pursuant to part 10 of article 30 of title 24, C.R.S., to conduct hearings.

**35-27.5-106 - Inspections.**

- (1) Any crop for which weed free certification is sought shall be inspected in the field of origin and such inspection shall include an inspection of any ditches, fence rows, roads, easements, rights-of-way, and buffer zones, as applicable, surrounding such field of origin.
- (2) Crops which contain any weeds which have been designated as noxious pursuant to section 35-27.5-103, may be certified if certain conditions established pursuant to section 35-27.5-103 are met.

**35-27.5-107 - Penalties.**

Any person who intentionally violates any provision of this article or the rules or regulations promulgated pursuant to section 35-27.5-103 commits a class 3 misdemeanor and shall be punished as provided in section 18-1-106, C.R.S.

**35-27.5-108 - Colorado weed free crop certification fund - fees.**

- (1) The commissioner shall set fees for the certification of weed free crops pursuant to this article in amounts adequate to cover all costs, direct and indirect, of the department in the administration and enforcement of this article.
- (2) All fees collected pursuant to this article shall be transmitted to the state treasurer who shall credit such fees to the Colorado weed free crop certification fund, which fund is hereby created in the state treasury. The general assembly shall make annual appropriations from such fund to the department for the direct and indirect costs of carrying out the provisions of this article. All moneys in the fund at the end of any fiscal year shall not revert to the general fund but shall remain in the fund and shall remain available for appropriation to the department to carry out the provisions of this article.

**RULES AND REGULATIONS  
PERTAINING TO THE  
WEED FREE FORAGE CROP CERTIFICATION ACT**

**STATEMENT OF BASIS AND PURPOSE**

These rules and regulations are adopted pursuant to the Weed Free Forage Crop Certification Act, § 35-27.5-103, C.R.S. (1993 Supp.).

The purpose of these rules and regulations is to adopt such rules and regulations necessary to carry out the provisions of the Act, including establishing definitions of pertinent terms, state and regional lists of weeds, procedures for certification of weed free forage crops and forage crop inspection, qualification standards for persons seeking designation as authorized inspectors or as qualified employees, delegations by the Commissioner of Agriculture pursuant to § 35-27.5-104 of the Act, procedures for identifying and tracking certified forage crops, and violations of the Act and rules and regulations thereto.

**1.00 DEFINITION OF TERMS**

- a. "Weed free" means to be free from propagative plant parts and free from weed seed from plants set forth on the state or regional lists in Sections 1.01 and 1.02 below.
- b. "Propagative plant parts" are any part of a plant capable of reproducing itself, including live roots, rhizomes, and/or stolons present in the forage to be harvested.
- c. "Weed seed" includes the bud stage of broadleaf plants and the boot stage of grasses.
- d. "Weeds" are those weeds set forth in the state and regional lists in Sections 1.01 and 1.02 below.
- e. "Treated" means utilizing treatment methods to prevent weed seed formation including, but not limited to, burning, mowing, roguing, mechanical methods, or chemically treating.
- f. "Forage" includes hay, straw or mulch.
- g. "Department" is the Plant Industry Division, Colorado Department of Agriculture.
- h. "Commissioner" is the Commissioner of Agriculture, State of Colorado.
- i. "Producer" is the grower and/or seller of the forage.
- j. "Cubes" means certified weed free forage that has been processed into cube form. Cubes, as that term is used herein, are derived solely from hay and not from other feed crops.

- k. "Pellets" means certified weed free forage that has been processed into pellet form. Pellets, as that term is used herein, are derived solely from hay and not from other feed crops.

#### 1.01 COLORADO STATE WEED LIST

[This section shall be deleted in its entirety.]

#### 1.02 REGIONAL LIST

As to regional certification, the following list applies. In any field to be regional list certified, there shall be no tolerance for any regional list weeds, except as provided in paragraphs 2.00(e)(1) and (2) below.

Absinth wormwood (*Artemisia absinthium*)  
 Biennial wormwood (*Artemisia biennis*)  
 Bermudagrass (*Cynodon dactylon*)  
 Buffalobur (*Solanum rostratum*)  
 Canada thistle (*Cirsium arvense*)  
 Common burdock (*Arctium minus*)  
 Common crupina (*Crupina vulgaris*)  
 Common tansy (*Tanacetum vulgare*)  
 Dalmatian toadflax (*Linaria genistifolia* ssp *dalmatica*)  
 Diffuse knapweed (*Centaurea diffusa*)  
 Dyers woad (*Isatis tinctoria*)  
 Field bindweed (*Convolvulus arvensis*)  
 Hemp (*Cannabis sativa*)  
 Henbane, black (*Hyoscyamus niger*)  
 Hoary cress (*Cardaria draba*)  
 Horsenettle (*Solanum carolinense*)  
 Houndstongue (*Cynoglossum officinale*)  
 Johnsongrass (*Sorghum halepense*)  
 Jointed goatgrass (*Aegilops cylindrica*)  
 Leafy spurge (*Euphorbia esula*)  
 Loosestrife (*Lythrum salicaria*)  
 Matgrass (*Nardus stricta*)  
 Meadow knapweed (*Centaurea pratensis*)  
 Medusahead (*Taeniatherum caput-medusae*)  
 Miliun (*Milium vernale*)  
 Musk thistle (*Carduus nutans*)  
 Orange hawkweed (*Hieracium aurantiacum*)  
 Ox-eye daisy (*Chrysanthemum leucanthemum*)  
 Perennial pepperweed (*Lepidium latifolium*)  
 Perennial sowthistle (*Sonchus arvensis*)

Plumeless thistle (*Carduus acanthoides*)  
Poison hemlock (*Conium maculatum*)  
Puncture vine (*Tribulus terrestris*)  
Quackgrass (*Elytrigia repens*)  
Rush skeletonweed (*Chondrilla juncea*)  
Russian knapweed (*Acroptilon repens*)  
Scentless chamomile (*Maticaria perforata*) Mayweed chamomile (*Anthemis cotula*)  
Scotch broom (*Cytisus scoparius*)  
Scotch thistle (*Onopordum acanthium*)  
Sericea lespedeza (*Lespedeza cuneata*)  
Silverleaf nightshade (*Solanum elaeagnifolium*)  
Skeletonleaf bursage (*Ambrosia tomentosa*)  
Sorghum-almum (*Sorghum almum*)  
Spotted knapweed (*Centaurea maculosa*)  
Squarrose knapweed (*Centaurea squarrosa*)  
St. Johnswort (*Hypericum perforatum*)  
Sulfur cinquefoil (*Potentilla recta*)  
Syrian bean caper (*Zygophyllum fabago*)  
Tansy ragwort (*Senecio jacobaea*)  
Toothed spurge (*Euphorbia dentata*)  
Yellow hawkweed (*Hieracium pratense tause*)  
Yellow starthistle (*Centaurea solstitialis*)  
Yellow toadflax (*Linaria vulgaris*)  
Wild proso millet (*Panicum miliaceum*)  
Wild oats (*Avena fatua*)

## 2.00 PROCEDURES FOR CERTIFICATION OF WEED FREE CROPS

- a. A request for certification of a forage crop shall be made to the Department. Said request may be made by phone or in writing.
- b. An inspection request form shall be completed by the producer prior to inspection.
- c. The Department shall arrange for an inspector.
- d. The forage crop shall be inspected in the field(s) of origin. The field shall include the surrounding ditches, fence rows, roads, easements, rights of way, or buffer zones surrounding the field.
- e. Forage which contains any weed(s) designated on the regional list may be certified if the following requirements are met:
  1. The field upon which the forage was produced has been treated to prevent seed formation prior to bud stage or boot stage to the degree that there is no danger of dissemination of the seed or any injurious portion thereof from such weeds; and



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2. Live roots, rhizomes, or stolons of the weeds are not present in the forage to be harvested.
  - f. A certificate of inspection shall be completed for each field/lot. The certificate of inspection shall document whether the requirements stated in Section 2.00(e), immediately above, have been met based upon a reasonable and prudent visual inspection.

#### 2.01 INSPECTION PROCEDURES

- a. There shall be a minimum of two entry points per field.
- b. There shall be a minimum of one entry point per each 10 acres.
- c. Each point of entry shall be at least 150 feet into the field, and each additional 150 feet traveled shall constitute an entry point. Travel shall be uninterrupted, proceeding through the field being inspected.
- d. The entire field border shall be walked or driven.
- e. Fields shall be inspected within 10 days prior to harvest.
- f. [This subparagraph shall be deleted in its entirety.]
- g. An inspector may not inspect fields of which said inspector has ownership or financial interest.

#### 2.02 PROCEDURES FOR TRACKING AND IDENTIFYING CERTIFIED FORAGE

- a. The producer shall inform the inspector of the bale count and estimated total weight of the forage harvested from each inspected field.
- b. As forage is sold, the producer shall record on an inventory sheet for each cutting when the sale occurred and what quantities were sold. When the inventory sheets are completed, or at least annually, the original documents shall be sent to the Department.
- c. If required by the purchaser or the producer, or if the forage is destined to be processed into cubes or pellets, a transit document, whether the original or a photocopy thereof, shall accompany all inspected forage offered for sale or sold. The transit document shall contain the inspection certificate number, the producer's name, and the quantity purchased in number of bales and estimated weight. If the forage is to be processed into cubes or pellets, the transit certificate shall also contain the name, address, and phone number of the processor. The purchaser, or processor of cubes or pellets, shall complete the transit document and return it to the Department.
- d. All inspected forage bales shall be identified by a marking system, whether colored twine or marked wire.

- e. Processors of bagged and bulk pellets and cubes shall comply with the following:
1. All bags of pellets or cubes from certified forage shall have sewn into the bag a tag which is provided by the Department, identifying it as being made from certified forage. The processor may obtain the tags by delivering to the Department transit certificates, as required in Subsection 2.02 c above.
  2. All bulk sales of pellets or cubes from certified forage shall be accompanied by the transit certificate(s). As bulk sales of pellets or cubes are made, the processor shall record on an inventory sheet when the sale occurred and what quantities were sold. When inventory sheets are completed, or at least annually, the original documents shall be sent to the Department.
  3. The processor shall collect and maintain all twine or marked wire, as described in Subsection 2.02 d above, from all certified forage utilized to process cubes or pellets. The twine and wire shall be maintained by the processor for a maximum of one year from the date of processing, or such lesser time as directed by the Department. At the end of one year from the date of processing, if there is no outstanding request by the Department to inspect the twine or wire, the processor may dispose of the collected twine and wire.

### 3.00 QUALIFICATION STANDARDS FOR PERSONS SEEKING DESIGNATION AS AUTHORIZED INSPECTORS OR QUALIFIED EMPLOYEES

Only qualified inspectors may certify forage as being weed free. Each person seeking designation as an authorized inspector or a qualified employee by the Commissioner shall first attend a seminar given by Colorado State University Cooperative Extension specifically designed to educate and train inspectors about the law, the principles associated with utilizing weed free forage, and the standardized procedures used during the inspection process. Proof of attendance at said seminar shall be submitted to the Commissioner along with a written request for designation as an authorized inspector or qualified employee.

### 4.00 DELEGATION OF THE COMMISSIONER'S POWERS

- a. All authorized inspectors and qualified employees shall inspect forage in compliance with the provisions of these rules and regulations.
- b. Forage inspections may be conducted by authorized inspectors or qualified employees.
- c. Investigations of suspected violations of the Weed Free Forage Crop Certification Act or of these rules and regulations shall be conducted by Department employees only.

### 5.00 VIOLATIONS

It shall be a violation of these rules and regulations to:

- a. Refuse or fail to comply with any provisions of the Weed Free Forage Crop Certification Act (the "Act");
- b. Refuse or fail to comply with any rules and regulations adopted pursuant to the Act or with any lawful order issued by the Commissioner;
- c. Make false or misleading representations or statements in any document required by the Act or these rules and regulations;
- d. Fail to maintain or submit documents required by the Act or these rules and regulations;
- e. Alter or deface in any manner any document or marking system produced as the result of a crop inspection pursuant to the Act or these rules and regulations;
- f. Reproduce, produce a facsimile of, or utilize in any fashion any documentation or marking system pertaining to certification of any crop, except as provided by the Act and these rules and regulations;
- g. Impersonate any state, county, city, or municipal official or inspector; and
- h. Make false, misleading, deceptive, or fraudulent representations regarding certification of any crop.

#### 6.00 FEES

The maximum the producer will be charged for inspections is as follows:

- a. Inspection time, including travel, at a rate not to exceed \$25.00 per hour;
- b. Mileage for the inspector's travel not to exceed \$0.26 per mile;
- c. Per diem expenses, if travel and the inspection cannot be reasonably accomplished within one day, not to exceed \$86.00 per day;
- d. A per inspection fee not to exceed \$100.00 plus an acreage fee not to exceed \$4.00 per acre.
- e. The actual cost of the twine or marked wire, including shipping and handling.

Effective October 30, 1998

