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States' Noxious Weed Statutes and Regulations:

Utah



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States' Noxious Weed Statutes: Utah

Utah Code

Chapter 17 Utah Noxious Weed Act

4-17-101 Title

This chapter is known as the "Utah Noxious Weed Act."

4-17-102. Definitions

As used in this chapter:

- (1) "Commission" means the county legislative body of each county of this state.
- (2) "Commissioner" means the commissioner of agriculture and food or the commissioner's representative.
- (3) "County noxious weed" means any plant that is:
 - (a) not on the state noxious weed list;
 - (b) especially troublesome in a particular county; and
 - (c) declared by the county legislative body to be a noxious weed within the county.
- (4) "Noxious weed" means any plant the commissioner determines to be especially injurious to public health, crops, livestock, land, or other property.

4-17-103. Commissioner--Functions, powers, and duties

The commissioner or the commissioner's designee shall:

- (1) investigate and designate noxious weeds on a statewide basis;
- (2) compile and publish annually a list of statewide noxious weeds;
- (3) coordinate and assist in inter-county noxious weed enforcement activities;
- (4) determine whether each county complies with this chapter;

- (5) assist a county that fails to carry out the provisions of this chapter in the county's implementation of a weed control program;
- (6) prescribe the form and general substantive content of notices to the public and to individuals concerning the prevention and control of noxious weeds;
- (7) compile and publish a list of articles capable of disseminating noxious weeds or seeds and designate treatment to prevent dissemination; and
- (8) regulate the flow of contaminated articles into the state and between counties to prevent the dissemination of noxious weeds or seeds.

4-17-104 Creation of State Weed Committee -- Membership -- Powers and duties -- Expenses

(1) There is created a State Weed Committee composed of eight members, with each member

representing one of the following:

- (a) the Department of Agriculture and Food;
- (b) the Department of Natural Resources;
- (c) the Utah State University Agricultural Experiment Station;
- (d) the Utah State University Extension Service;
- (e) the Utah Association of Counties;
- (f) private agricultural industry;
- (g) the Utah Weed Control Association; and
- (h) the Utah Weed Supervisors Association.

(2) The commissioner shall select the members of the committee from those nominated by each

of the respective groups or agencies following approval by the executive committee of the

Agricultural Advisory Board.

(3)

(a) Except as required by Subsection (3)(b), as terms of current committee members expire, the commissioner shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (3)(a), the commissioner shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of

committee members are staggered so that approximately half of the committee is appointed

every two years.

(4)

(a) Members may be removed by the commissioner for cause.

- (b) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.
- (5) The State Weed Committee shall:
 - (a) confer and advise on matters pertaining to the planning, implementation, and administration of the state noxious weed program;
 - (b) recommend names for membership on the committee; and
 - (c) serve as members of the executive committee of the Utah Weed Control Association.
- (6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

4-17-105 County weed control board -- Appointment -- Composition -- Terms -- Removal -- Compensation

- (1) A county executive of a county may, with the advice and consent of the county legislative body, appoint a county weed control board comprised of not less than three nor more than five appointed members.
- (2)
 - (a) If the county legislative body is the county commission, the chair of the county legislative body shall appoint one member of the county legislative body who shall act as a coordinator between the county and the county weed control board.
 - (b) If the county legislative body is a county council:
 - (i) for a county of the first class, the county executive or the county executive's designee shall serve on the county weed control board and act as coordinator between the county and the county weed control board; or
 - (ii) for a county that is not a county of the first class, the county executive shall serve on the county weed control board and act as coordinator between the county and the county weed control board.

- (3) Two members of the board shall be farmers or ranchers whose primary source of income is derived from production agriculture.
- (4) Members are appointed to four year terms of office and serve with or without compensation as determined by each county legislative body.
- (5) Members may be removed for cause and any vacancy that occurs on a county weed control board shall be filled by appointment for the unexpired term of the vacated member.

4-17-106 Commissioner may require county weed control board to justify failure to enforce provisions

If the commissioner determines that the weed control board of any county has failed to perform the board's duties under this chapter, the commissioner may require the board to justify, in writing, the board's failure to enforce these provisions within the board's county.

4-17-107. County weed control board responsible for control of noxious weeds-- Cooperation with other county boards--Authority to designate noxious weed-- Public hearing before removal of noxious weed from state list

- (1) A county weed control board is responsible, under the general direction of the county executive, for the formulation and implementation of a county-wide coordinated noxious weed control program designed to prevent and control noxious weeds within the board's county.
- (2) A county weed control board is required, under the general direction of the board's commission, to cooperate with other county weed control boards to prevent and control the spread of noxious weeds.
- (3)
 - (a) A county legislative body may declare a particular weed or competitive plant, not appearing on the state noxious weed list, a county noxious weed within the board's county.
 - (b) A county executive, with the approval of the county legislative body, may petition the commissioner for removal of a particular noxious weed from the state noxious weed list.
 - (c) The county legislative body may not approve a petition of the county executive to the commissioner to remove a noxious weed unless the county legislative body has first conducted a public hearing after due notice.

4-17-108. Weed control supervisor--Qualification--Appointment--Duties

(1)(a) Each commission may employ one or more weed control supervisors qualified to:

- (i) detect and treat noxious weeds; and
- (ii) direct the weed control program for the county weed control board.

(b) A person may be a weed control supervisor for more than one county weed control board.

(c) Terms and conditions of employment shall be prescribed by the commission.

(2) A supervisor, under the direction of the local county weed control board, shall:

(a) examine all land under the jurisdiction of the county weed control board to determine whether this chapter and the rules adopted by the department have been met;

(b) compile data on infested areas;

(c) consult and advise upon matters pertaining to the best and most practical method of noxious weed control and prevention;

(d) render assistance and direction for the most effective control and prevention;

(e) investigate violations of this chapter;

(f) enforce noxious weed controls within the county; and

(g) perform any other duties required by the county weed control board.

4-17-109 Notice of noxious weeds to be published annually in county -- Notice to particular property owners to control noxious weeds -- Methods of prevention or control specified --Failure to control noxious weeds considered public nuisance.

(1) Each county weed control board before May 1 of each year shall post a general notice of the noxious weeds within the county in at least three public places within the county and publish the same notice on:

- (a) at least three occasions in a newspaper or other publication of general circulation within the county; and
- (b) as required in Section 45-1-101.

(2)(a) If the county weed control board determines that particular property within the county requires prompt and definite attention to prevent or control noxious weeds, the county weed control board shall serve the owner or the person in possession of the property, personally or by certified mail, a notice specifying when and what action is required to be taken on the property.

(b) Methods of prevention or control may include definite systems of tillage, cropping, use of chemicals, and use of livestock.

(3) An owner or person in possession of property who fails to take action to control or prevent the spread of noxious weeds as specified in the notice is maintaining a public nuisance.

4-17-110. Noxious weeds--Failure to control after notice of nuisance--Notice and hearing--Control at county expense--Owner liable for county costs--Charges lien against property

(1) If the owner or person in possession of the property fails to take action to control or prevent the spread of noxious weeds within five working days after the property is declared a public nuisance, the county may, after reasonable notification, enter the property, without the consent of the owner or the person in possession, and perform any work necessary, consistent with sound weed prevention and control practices, to control the weeds.

(2) (a) If the county controls weeds on a piece of property, as described in Subsection (1), and seeks reimbursement from the property owner of record or the person in possession of the property, the county shall send the property owner or person in possession of the property a documented description of the expense and a demand for payment within 30 days of the day on which the weed control took place.

(b) The property owner of record or the person in possession of the property, as the case may be, shall reimburse the county for the county's expense within 90 days after receipt of the demand for payment, as described in Subsection (2)(a).

(c) If the demand for payment is not paid within 90 days after receipt, the charges become a lien against the property and are collectible by the county treasurer at the time general property taxes are collected.

**4-17-111 Hearing before county weed control board -- Appeal of decision to the
county
legislative body -- Judicial review**

(1) Any person served with notice to control noxious weeds may request a hearing to appeal the terms of the notice before the county weed control board within 10 days of receipt of such notice and may appeal the decision of the county weed control board to the county legislative body.

(2) Any person served with notice to control noxious weeds who has had a hearing before both the county weed control board and the county legislative body may further appeal the decision of the county legislative body by filing written notice of appeal with a court of competent jurisdiction.

4-17-112. Jurisdiction of state and local agencies to control weeds

The departments or agencies of state and local governments shall develop, implement, and pursue an effective program for the control and containment of noxious weeds on all lands under the department's or agency's control or jurisdiction, including highways, roadways, rights-of-way, easements, game management areas, and state parks and recreation areas.

4-17-113 County noxious weed control fund authorized

A commission may establish and maintain a noxious weed control fund in each county for use in the administration of this chapter.

Utah Administrative Code
Agriculture and Food, Plant Industry
Rule 68-9. Utah Noxious Weed Act

R68-9-1. Authority

Promulgated under authority of 4-2-2 and 4-17-3.

R68-9-2. Designation and Publication of State Noxious Weeds

A. The following weeds are hereby officially designated and published as noxious for the State of Utah, as per the authority vested in the Commissioner of Agriculture and Food under Section 4-17-3:

There are hereby designated five classes of noxious weeds in the state: Class 1A (EDRR Watch List), Class 1 (EDRR), Class 2 (Control), Class 3 (Containment), and Class 4 (Prohibited for sale or propagation).

Class 1A: Early Detection Rapid Response (EDRR) Watch List

Declared noxious and invasive weeds not native to the state of Utah and not known to exist in the State that pose a serious threat to the state and should be considered as a very high priority.

Common crupina *Crupina vulgaris*
African rue *Peganum harmala*
Small bugloss *Anchusa arvensis*
Mediterranean sage *Salvia aethiopis*
Spring millet *Milium vernale*
Syrian beancaper *Zygophyllum fabago*
Ventenata (North Africa grass) *Ventenata dubia*
Plumeless thistle *Carduus acanthoides*
Malta starthistle *Centaurea melitensis*

Class 1B: Early Detection Rapid Response (EDRR)

Declared noxious and invasive weeds not native to the State of Utah that are known to exist in the state in very limited populations and pose a serious threat to the state and should be considered as a very high priority.

Camelthorn *Alhagi maurorum*
Garlic mustard *Alliaria petiolata*

Purple starthistle *Centaurea calcitrapa*
Goatsrue *Galega officinalis*
African mustard *Brassica tournefortii*
Giant reed *Arundo donax*
Japanese knotweed *Polygonum cuspidatum*
Blueweed (Vipers bugloss) *Echium vulgare*
Elongated mustard *Brassica elongata*
Common St. Johnswort *Hypericum perforatum*
Oxeye daisy *Leucanthemum vulgare*
Cutleaf vipergrass *Scorzonera laciniata*

Class 2: Control

Declared noxious and invasive weeds not native to the state of Utah, that pose a threat to the state and should be considered a high priority for control. Weeds listed in the control list are known to exist in varying populations throughout the state. The concentration of these weeds is at a level where control or eradication may be possible.

Leafy spurge *Euphorbia esula*
Medusahead *Taeniatherum caput-medusae*
Rush skeletonweed *Chondrilla juncea*
Spotted knapweed *Centaurea stoebe*
Purple loosestrife *Lythrum salicaria*
Squarrose knapweed *Centaurea virgata*
Dyers woad *Isatis tinctoria*
Yellow starthistle *Centaurea solstitialis*
Yellow toadflax *Linaria vulgaris*
Diffuse knapweed *Centaurea diffusa*
Black henbane *Hyoscyamus niger*
Dalmation toadflax *Linaria dalmatica*

Class 3: Containment

Declared noxious and invasive weeds not native to the State of Utah that are widely spread. Weeds listed in the containment noxious weeds list are known to exist in various populations throughout the state. Weed control efforts may be directed at reducing or eliminating new or expanding weed populations. Known and established weed populations, as determined by the weed control authority, may be managed by any approved weed control methodology, as determined by the weed control authority. These weeds pose a threat to the agricultural industry and agricultural products.

Russian knapweed *Acroptilon repens*
Houndstounge *Cynoglossum officinale*
Perennial pepperweed *Lepidium latifolium*
(Tall whitetop)
Phragmites (Common reed) *Phragmites australis* ssp.

Tamarisk(Saltcedar) *Tamarix ramosissima*
Hoary cress *Cardaria* spp.
Canada thistle *Cirsium arvense*
Poison hemlock *Conium maculatum*
Musk thistle *Carduus nutans*
Quackgrass *Elymus repens*
Jointed goatgrass *Aegilops cylindrica*
Bermudagrass* *Cynodon dactylon*
Perennial Sorghum spp. including but not limited
to Johnson Grass (*Sorghum*
halepense)and *Sorghum*
almum (*Sorghum almum*).
Scotch thistle (Cotton thistle) *Onopordum acanthium*
Field bindweed *Convolvulus* spp.
(Wild Morning-glory)
Puncturevine(Goathead) *Tribulus terrestris*

* Bermudagrass (*Cynodon dactylon*) shall not be a noxious weed in Washington County and shall not be subject to provisions of the Utah Noxious Weed Law within the boundaries of that county. It shall be a noxious weed throughout all other areas of the State of Utah and shall be subject to the laws therein.

Class 4: Prohibited

Declared noxious and invasive weeds, not native to the state of Utah, that pose a threat to the state through the retail sale or propagation in the nursery and greenhouse industry. Prohibited noxious weeds are annual, biennial, or perennial plants that the commissioner designates as having the potential or are known to be detrimental to human or animal health, the environment, public roads, crops, or other property.

Cogongrass *Imperata cylindrica*
(Japanese blood grass)
Myrtle spurge *Euphorbia myrsinites*
Dames Rocket *Hesperis matronalis*
Scotch broom *Cytisus scoparius*
Russian olive *Elaeagnus angustifolia*

Each county in Utah may have different priorities regarding specific State designated Noxious Weeds and is therefore able to reprioritize these weeds for their own needs.

R68-9-3. Designations and Publication of Articles Capable of Disseminating Noxious Weeds

A. As provided in Section 4-17-3, the following articles are designated and published by the Commissioner as capable of disseminating noxious weeds:

1. Machinery and equipment, particularly combines and hay balers.

2. Farm trucks and common carriers.
3. Seed.
4. Screenings sold for livestock feed.
5. Livestock feed material.
6. Hay, straw, or other material of similar nature.
7. Manure.
8. Soil, sod and nursery stock.
9. Noxious weeds distributed or sold for any purpose.
10. Livestock.

R68-9-4. Prescribed Treatment for Articles

A. As provided in Section 4-17-3, the Commissioner has determined that the following treatments shall be considered minimum to prevent dissemination of noxious weed seeds or such parts of noxious weed plants that could cause new growth by contaminated articles:

1. Machinery and Equipment.

- a. It shall be unlawful for any person, company or corporation to
 - (1) bring any harvesting or threshing machinery, portable feed grinders, portable seed cleaners or other farm vehicles or machinery into the state without first cleaning such equipment free from all noxious weed seed and plant parts; or
 - (2) move any harvesting or threshing machinery, portable feed grinders or portable seed cleaners from any farm infested with any noxious weed without first cleaning such equipment free from all noxious weed seed and plant parts.
- (a) Immediately after completing the threshing of grain or seed which is contaminated with noxious weeds, such machine is to be cleaned by:
 - (1) removing all loose material from the top and side of the machine by sweeping with a blower
 - (2) opening the lower end of elevator, return and measuring device and removing infested material from shakers, sieves, and other places of lodgement;
 - (3) running the machine empty for not less than five minutes, alternately increasing and retarding the speed; and
 - (4) following the manufacturer's detailed suggestions for cleaning the machine.

2. Farm Trucks and Common Carriers.

It shall be unlawful for any person, company or corporation to transport seed, screenings or feed of any kind containing noxious weed seed over or along any highway in this State or on any railroad operating in this State unless the same is carried or transported in such vehicles or containers which will prevent the leaking or scattering thereof. All common carriers shall thoroughly clean and destroy any noxious weed seeds or plant parts in cars, trucks, vehicles or other receptacles used by them after each load shall have been delivered to consignee before again placing such car, truck, vehicle or receptacle into service.

3. Seed.

a. It shall be unlawful for any person, firm or corporation to sell, offer or expose for sale or distribute in Utah any agricultural, vegetable, flower or tree and shrub seeds for seeding purposes which contain any seeds of those weeds declared noxious by the Commissioner of Agriculture and Food.

b. It shall be the duty of the State Agricultural Inspector to remove from sale any lots of seeds offered for sale which are found to contain noxious weed seeds.

Such seed may be recleaned under the supervision of the inspector and, if found to be free from noxious weed seeds, the same may be released for sale or distribution; otherwise, such seed shall be returned to point of origin, shipped to another state where such weed shall be returned to point of origin, shipped to another state where such weed seed is not noxious, or destroyed or processed in such a manner as to destroy viability of the weed seeds.

4. Screenings Sold for Livestock Feed.

a. All screenings or by-products of cleaning grains or other seeds containing noxious weed seeds, when used in commercial feed or sold as such to the ultimate consumer, shall be ground fine enough or otherwise treated to destroy such weed seeds so that the finished product contains not more than six whole noxious weed seeds per pound.

b. All mills and plants cleaning or processing any grains or other seeds shall be required to grind or otherwise treat all screenings containing noxious weed seeds so as to destroy such weed seeds to the extent that the above stated tolerance is not exceeded before allowing the same to be removed from the mill or plant.

Such screenings may be moved to another plant for grinding and treatment; provided that: each container or shipment is labeled with the words "screenings for processing - not for seeding or feeding" and with the name and address of the consignor and the consignee.

5. Livestock Feed Material.

a. It shall be unlawful for any person, company or corporation to sell or offer for sale, barter or give away to the ultimate consumer any livestock feed material, including whole grains, which contain more than six whole noxious weed seeds per pound. Whole feed grain which exceeds this tolerance of noxious weed seeds may be sold to commercial processors or commercial feed mixers where the manner of processing will reduce the number of whole noxious weed seed to no more than six per pound.

6. Hay, Straw or Other Material of Similar Nature.

a. It shall be unlawful for any person, company or corporation to sell or offer for sale, barter or give away any hay, straw, or other material of similar nature, which is contaminated with mature noxious weed seeds or such parts of noxious weed plants which could cause new growth, or to alter, change or falsify in anyway information contained on a phytosanitary certificate.

7. Manure.

a. Manure produced from grain, hay, or other forage infested with noxious weeds shall not be applied or dumped elsewhere than upon the premises of the owner thereof.

8. Soil, Sod and Nursery Stock.

a. No soil, sod or nursery stock which contains or is contaminated with noxious weed seeds, or such parts of the plant that could cause new growth, shall be removed from the premises upon which it is located until cleaned of such weed seed or plant parts, except that such contaminated soil may be used for restrictive non-planting purposes upon permission and under direction of the county weed supervisor or a representative of the Utah Department of Agriculture and Food.

9. Noxious Weeds Distributed or Sold for Any Purpose.

a. It shall be unlawful for any person, company or corporation to sell, barter or give away any noxious weed plants or seeds for any purpose.

10. Livestock.

a. No livestock to which grain, hay, or other forage containing noxious weed seeds has been fed shall be permitted to range or graze upon fields other than those upon which they have been so fed for a period of 72 hours following such feeding. During such period, they shall be fed materials which are not contaminated with noxious weed seeds.

R68-9-5. Reports From Counties

A. The Board of County Commissioners of each county, with the aid of their county Weed Board and their County Weed Supervisor, shall submit an "Annual Progress Report of County Noxious Weed Control Program" to the Commissioner of Agriculture and Food by January 15 of each year, covering the activities of the previous calendar year. A prescribed form for this report shall be supplied by the Commissioner.

R68-9-6. Notices

A. General and individual notices pertaining to the control and prevention of noxious and invasive weeds shall be substantially of the types prescribed herein; namely, General Notice to Control Noxious Weeds, Individual Notice to Control Noxious Weeds, and Notification of Noxious Weed Lien Assessment.

1. General Notice To Control Noxious Weeds.

A general public notice shall be posted by the County Weed Board in at least three public places within the county and be published in one or more newspapers of general circulation throughout the county, on or before May 1 of each year and at any other times the County Weed Board determines. Such public notice shall state that it is the duty of every property owner to control and prevent the spread of noxious weeds on any land in his possession, or under his control, and shall serve as a warning that if he fails to comply with this notice, enforced weed control measures may be imposed at the direction of county authorities. Such general notice shall also include a list of weeds declared noxious for the State of Utah and for said county, if any.

2. Individual Notice to Control Noxious Weeds.

Following publication of a general notice, if a County Weed Board determines that definite weed control measures are required to control noxious weeds on a particular property, the Board shall cause an individual notice to be served upon the owner or the person in possession of said property, giving specific instructions concerning when and how the noxious weeds are to be controlled within a specified period of time. The individual notice shall also inform the property owner or operator of legal action which may be taken against him if he fails to comply with said notice.

3. Notification of Noxious Weed Lien Assessment.

If it is deemed advisable, the Board of County Commissioners may cause noxious weeds to be controlled on a particular property and any expenses incurred by the county shall be paid by the owner of record or the person in possession of the property. A notice shall be provided such person, showing an itemized cost statement of the labor and materials necessarily used in the work of said control measures. This notice shall also state that the expense constitutes a lien against the property and shall be added to the general taxes unless payment is made to the County Treasurer within 90 days.