

Policy Review – Weeds Department

Purpose:

The purpose of this document is to outline proposed changes to the invasive weed enforcement policy and a review of the fee scale.

Current Enforcement Policy

The Teton County Noxious Weed Superintendent (NWS) currently emphasizes advisement and collaboration over strict enforcement. When a member of the public reports a property with invasive weeds, the NWS responds by issuing a series of advisory letters to the property owner in question. These letters encourage property owners to manage noxious weeds and provide education on State Statute 22-2407.

The NWS offers support by advising on weed control methods, recommending private contractors, and helping with herbicide purchases. They may also meet landowners on-site to provide personalized guidance.

This approach has been largely effective—approximately 75% of landowners respond positively and agree to treat the weeds. However, about 25% do not respond.

Escalation to Enforcement

If advisory letters are ignored, the issue moves into the enforcement phase. A formal notice to control is sent via certified mail. These notices give property owners five days to begin weed control, as required by state statute.

If the landowner fails to comply, the county has the authority to access the property, perform weed control, and bill the landowner “accordingly”.

The NWS believes that collaboration and education are more effective than strict enforcement. Neighboring counties have adopted similar approaches with strong results—Fremont County, for example, has issued just one enforcement letter in the past decade.

In the case that enforcement is necessary the NWS would propose an updated fee scale. In the Past, other Teton County weed superintendents have charged a \$150 administrative fee, \$95 an hour for labor and the cost of chemical.

From the Teton County Weeds Department Handbook, written by A. Williams and D. Wadsworth;

*“Failure to initiate control then obligates you, as the weed superintendent, to have “proper control methods” used, including “necessary destruction of crops” and bill the landowner for the work done. **We have been charging a \$150 administrative fee, plus \$95/hour labor, plus cost of chemical.** I do not know how this compares to local company’s fees, so that may be something to look into. **In my opinion, enforcement of weeds should not be cheaper than hiring someone, and it should be painful enough that it discourages further non-compliance without being unreasonable.** If the landowner fails to pay the bill within 60 days (or file a protest with the ISDA director within 30 days) the outstanding bill can then become a lien on the property; a template is available in the “W:\Enforcement\Forms” folder. Ask the clerk’s office about the appropriate steps to take for issuing liens, since they must be signed by the Chair of the BoCC and notarized. “*

Proposed Policy Changes

The goal is to cut down the delay from complaint to resolution in enforcement actions. The NWS has come to the belief that one advisory letter and a phone call or email is sufficient. If the property owner in question has not responded to one letter and a form of electronic communication, the chance of them responding to a second letter is minimal. The NWS will begin to send letters (Advisory and Enforcement) priority mail in order to cut down the time line of enforcement actions. The timeline is as follow;

Advisory letter sent priority mail. Two-day delivery time and five days to respond.

A curtesy phone call or email will be sent once the advisory deadline has passed with a two-day grace period to respond.

An enforcement letter will be sent priority and certified mail. Two-day transit time. Five-day deadline per state statute.

Purposed Fee

Administrative fee of \$150

This is to recoup the cost from administrative work load in sending letters, finding emails and phone numbers, record keeping and documentation as well as the cost of sending letters. Sending a letter priority and certified mail cost around \$19.

Labor fee to remain \$95

This is in line with what private companies charge in the valley. Tree People (Joshua Chase) charges \$95 and Rustic Mountain (Logan Peterson) charges \$105.

Chemical Cost

Chemicals will be provided at cost. Although other counties in the regions charge cost plus a percentage. Madison up charges 18%

22-2405. County duties. (1) The county control authority shall:

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

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

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

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

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

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

(3) Whenever any county finds it necessary to secure more prompt or definite control of noxious weeds than is accomplished by the general notice, it shall cause individual notices on a form prescribed by the director to be served upon the landowner and where possible on the operator of the land giving specific instructions when and how certain named noxious weeds are to be controlled. The individual notice shall also contain information concerning the right to appeal pursuant to section 22-2408, Idaho Code. Individual notices shall be applicable only to the current growing season.

(4) Whenever the landowner of any nonfederal land or nonfederally administered land on which noxious weeds are present has neglected or failed to initiate control as required pursuant to this chapter within five (5) working days from receipt of an individual notice given pursuant to this section, the county having jurisdiction shall have proper control methods used on such land, including necessary destruction of crops, and shall advise the landowner of the cost incurred in connection with such operation. If the landowner is not known or readily available, notice shall be deemed satisfied after eight (8) days from the notice's postmark or certified registered receipt to the address as shown on the assessment roll of the county. The cost of any such control shall be at the expense of the landowner. If the costs have not been paid to the control authority within

sixty (60) days, the control authority may direct that suit be brought in a court of competent jurisdiction for the unpaid charges. On private lands, if unpaid for sixty (60) days or longer, the amount of such expense shall become a lien upon the property; and thereafter the lien shall be subject to collection by the county by sale of the property in the same manner as for delinquent taxes. Nothing contained in this section shall be construed to require satisfaction of the imposed obligation by the sale of property or to bar the application of any other available remedy.

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

(6) The county weed superintendent shall:

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

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

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

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

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

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

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

22-2406. County powers.

(1) The county control authority is authorized to:

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

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

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

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

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

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

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

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

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

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

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

(2) The county weed superintendent is authorized to:

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

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

22-2407. Landowner and citizen duties.

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

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

(3) Noxious weed control must be for prevention, eradication, rehabilitation, control or containment efforts. However, areas may be modified from the eradication requirement if the landowner is a participant in a county-approved weed management plan or county-approved cooperative weed management area.

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

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

22-2408. Landowner and citizen powers.

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

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

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

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

22-2409. Penalties for violations. (1) Any person who violates any provision of this chapter, or any rules promulgated hereunder for carrying out the provisions of this chapter, or who fails or refuses to comply with any requirements herein specified, or who interferes with the control authority as defined in section [22-2402](#), Idaho Code, its agents or employees, in the execution, or on account of the execution of their duties under this chapter or rules promulgated hereunder, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than three thousand dollars (\$3,000) or be imprisoned in a county jail for not more than twelve (12) months or be subject to both such fine and imprisonment.

(2) Any person who violates or fails to comply with any provision of this chapter or any rules promulgated hereunder may be assessed a civil penalty by the control authority of not more than ten thousand dollars (\$10,000) for each offense and shall be liable for reasonable attorney's fees.

(a) Assessment of a civil penalty may be made in conjunction with any other administrative action.

(b) No civil penalty may be assessed unless the person charged was given notice and opportunity for a hearing pursuant to the Idaho administrative procedure act.

(c) If the control authority is unable to collect such penalty or if any person fails to pay all or a set portion of the civil penalty as determined by the control authority, it may recover such amount by action in the appropriate district court.

(d) Any person against whom the control authority has assessed a civil penalty under the provisions of this section may, within thirty (30) days of the final action by the control authority making the assessment, appeal the assessment to the district court of the county in which the violation is alleged by the control authority to have occurred.

(e) All civil penalties collected pursuant to this section shall be remitted to the applicable fund or account as defined in section [22-2402](#), Idaho Code.

(3) Nothing in this chapter shall be construed as requiring the control authority to report minor violations for prosecution when the control authority believes that the public interest will be best served by suitable warnings or other administrative action.

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