

CHAPTER 162

**AGRICULTURE**

**HOUSE BILL 96-1008**

BY REPRESENTATIVES Entz, Acquafresca, Chlouber, George, Taylor, Tupa, and Young;  
also SENATORS Ament, Dennis, and Norton.

**AN ACT**

**CONCERNING THE MANAGEMENT OF NOXIOUS WEEDS, AND, IN CONNECTION THEREWITH,  
ESTABLISHING THE OFFICE OF THE STATE WEED COORDINATOR, AND MAKING AN APPROPRIATION  
IN CONNECTION THEREWITH.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** 33-1-110, Colorado Revised Statutes, 1995 Repl. Vol., is amended  
BY THE ADDITION OF A NEW SUBSECTION to read:

**33-1-110. Duties of the director of the division.** (6.5) THE DIRECTOR,  
FOLLOWING NOTIFICATION OF THE COMMISSION, SHALL AUTHORIZE AN EXPENDITURE  
NECESSARY TO PAY A LOCAL GOVERNING BODY FOR EXPENSES INCURRED PURSUANT  
TO SECTION 35-5.5-110 (3), C.R.S.

**SECTION 2.** 35-1-104 (1), Colorado Revised Statutes, 1995 Repl. Vol., is  
amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**35-1-104. Functions, powers, and duties.** (1) The department has and shall  
exercise the following functions, powers, and duties:

(cc) TO SOLICIT GRANTS, DONATIONS, AND GIFTS FOR THE PURPOSE OF FUNDING  
NOXIOUS WEED MANAGEMENT PROJECTS, AS DESCRIBED IN SECTION 35-5.5-116.  
SUCH MONEYS SHALL BE TRANSFERRED TO THE STATE TREASURER, WHO SHALL  
CREDIT THE SAME TO THE NOXIOUS WEED MANAGEMENT FUND.

**SECTION 3.** 35-5.5-101, Colorado Revised Statutes, 1995 Repl. Vol., is  
amended to read:

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from  
existing statutes and such material not part of act.*

**35-5.5-101. Short title.** This article shall be known and may be cited as the "Colorado NOXIOUS Weed Management Act".

**SECTION 4.** 35-5.5-102, Colorado Revised Statutes, 1995 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to read:

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

**SECTION 5.** 35-5.5-103, Colorado Revised Statutes, 1995 Repl. Vol., is amended to read:

**35-5.5-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) ~~"Advisory commission" means the individuals appointed by the local governing body to advise on matters of undesirable plant management.~~

(2) ~~"Alien plant" means a plant species which THAT is not indigenous to the state of Colorado. nor to the native plant community in which it is found.~~

(3) ~~"Biological management" means the use of an organism to disrupt the growth of undesirable plants.~~

(4) ~~"Chemical management" means the use of herbicides or plant growth regulators to disrupt the growth of undesirable plants.~~ "COMMISSIONER" MEANS THE COMMISSIONER OF THE DEPARTMENT OF AGRICULTURE.

(4.5) "DEPARTMENT" MEANS THE DEPARTMENT OF AGRICULTURE.

(5) ~~"Control" means preventing a plant from forming viable seeds or vegetative propagules.~~ "DISTRICT" MEANS A LOCAL GOVERNING BODY'S GEOGRAPHIC DESCRIPTION OF A LAND AREA WHERE NOXIOUS WEEDS ARE TO BE MANAGED.

(6) ~~"Cultural control" means those methodologies or management practices conducted to favor the growth of desirable plants over undesirable plants, including~~

~~but not limited to 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.~~

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

(8) "Federal landowner 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 ~~management of undesirable plants, which methods~~ 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 ~~control methods.~~ ~~The purpose of integrated management is to achieve healthy and productive plant communities by the least environmentally damaging methods.~~ 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 ~~undesirable plant~~ NOXIOUS WEED management plan developed by any person or the ~~area~~ LOCAL ADVISORY board using integrated management.

(13) "~~Mechanical control~~" means ~~those methodologies or management practices that physically disrupt plant growth, including but not limited to tilling, mowing, burning, flooding, mulching, hand-pulling, and hoeing.~~

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

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

(16) "Noxious ~~plant~~ WEED" means an alien plant or parts ~~thereof, which~~ OF AN ALIEN PLANT THAT HAS 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 ~~additional~~ criteria:

(a) ~~It~~ Aggressively invades or is detrimental to economic crops or native plant communities;

(b) ~~It~~ Is poisonous to livestock;

(c) ~~It~~ 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) ~~"Undesirable plant" means a noxious plant species that is designated as undesirable by this article or by the advisory commission.~~

(20) ~~"Undesirable plant management" means the planning of an integrated program to manage undesirable plant species.~~

(21) "Weed" means any ~~noxious~~ UNDESIRABLE plant.

**SECTION 6.** 35-5.5-104, Colorado Revised Statutes, 1995 Repl. Vol., is amended to read:

**35-5.5-104. Duty to manage noxious weeds.** It is the duty of all persons to use integrated methods to manage ~~undesirable plants~~ NOXIOUS WEEDS if the same are likely to be materially damaging to the land of neighboring landowners.

**SECTION 7.** 35-5.5-105 (1) and (2), Colorado Revised Statutes, 1995 Repl. Vol., are amended to read:

**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 ~~an undesirable plant~~ A NOXIOUS WEED management plan for all of the unincorporated lands within the county. ~~to take effect no later than January 1, 1992.~~ 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 ~~undesirable plants~~ 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 ~~pursuant to~~ article 20 of title 29, C.R.S.

(2) The board of county commissioners shall provide for the administration of the ~~undesirable plant~~ 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 ~~control~~ MANAGEMENT methods shall be certified by the department of agriculture for such application or recommendation. Costs associated with the ~~undesirable plant~~ ADMINISTRATION OF THE NOXIOUS WEED management plan shall be paid from the ~~undesirable plant~~ NOXIOUS WEED management fund of each county.

**SECTION 8.** 35-5.5-106 (1), (2), and (4), Colorado Revised Statutes, 1995 Repl. Vol., are amended to read:

**35-5.5-106. Noxious weed management - municipal authority.** (1) The governing body of each municipality in the state shall adopt ~~an undesirable plant~~ A NOXIOUS WEED management plan for all lands within the territorial limits of the municipality. ~~to take effect no later than January 1, 1992.~~ 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 ~~undesirable plants~~ 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 ~~undesirable plant~~ 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 ~~undesirable plant~~ NOXIOUS WEED management plan through outside contract. Any agent, delegate, employee, staff, or contractor applying or recommending the use of chemical ~~control~~ MANAGEMENT methods shall be certified by the department of agriculture for such application or recommendation.

(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 ~~control~~ MANAGEMENT of ~~undesirable plants~~, NOXIOUS WEEDS, the adoption of such an ordinance or ordinances shall be deemed to satisfy the requirement for the adoption of ~~an undesirable plant~~ A NOXIOUS WEED management plan imposed by this article.

**SECTION 9.** 35-5.5-107, Colorado Revised Statutes, 1995 Repl. Vol., is amended to read:

**35-5.5-107. Local advisory board - formation - duties.** (1) The governing body of each county and municipality shall appoint ~~an undesirable plant management~~ A LOCAL advisory BOARD. ~~commission.~~ The local governing body, at its sole option, may appoint itself, or a commission of landowners, to act as the ~~undesirable plant management~~ LOCAL advisory ~~commission~~ BOARD for that jurisdiction. The members of ~~the commission~~ 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 ~~commission~~ BOARD shall be landowners of over forty acres.

(2) In the event ~~that~~ 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 ~~commission~~ BOARD shall be determined by the governing bodies of such cooperating local governments.

(3) ~~The~~ EACH LOCAL advisory ~~commission~~ BOARD shall annually elect a chairman and secretary. A majority of the members of the ~~commission~~ BOARD shall constitute a quorum for the conduct of business.

(4) ~~The LOCAL advisory commission~~ BOARDS shall have the following powers and duties POWER AND DUTY TO:

(a) ~~Upon appointment, the advisory commission shall~~ Develop a recommended management plan for the integrated management of designated ~~undesirable plants~~ NOXIOUS WEEDS and recommended management criteria for ~~undesirable plants~~ NOXIOUS WEEDS within the area governed by the local government or governments appointing the ~~commission~~ LOCAL ADVISORY BOARD. The management plan shall be reviewed at regular intervals but not less often ~~then~~ THAN once every three years by the ~~commission~~ 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) ~~The advisory commission shall designate undesirable plants which are recommended~~ DECLARE NOXIOUS WEEDS AND ANY STATE NOXIOUS WEEDS DESIGNATED BY RULE to be subject to integrated management. ~~in addition to those plants listed in section 35-5.5-108.~~

(c) ~~The advisory commission shall~~ Recommend to the local governing body that identified landowners be required to submit an individual integrated management plan to ~~control undesirable plants upon such persons'~~ 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 ~~commission~~ BOARD.

(6) ~~The advisory commission~~ STATE WEED COORDINATOR shall review any recommendations of ~~any~~ A LOCAL advisory ~~committee~~ BOARD appointed pursuant to article 5 of this title and note any inconsistencies between the recommendations of the ~~commission and any such committee~~ STATE WEED COORDINATOR OR THE COMMISSIONER AND ANY SUCH LOCAL ADVISORY BOARD.

**SECTION 10.** 35-5.5-108, Colorado Revised Statutes, 1995 Repl. Vol., is amended to read:

**35-5.5-108. Designated noxious weeds.** (1) The general assembly hereby finds and declares that the ~~undesirable plants~~ NOXIOUS WEEDS designated ~~in this section~~ 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 ~~concern~~ IMPORTANCE that the governing bodies of counties and municipalities include plans to manage ~~these undesirable plants and~~ SUCH weeds as part of their duties pursuant to this article.

(2) ~~The following~~ STATE LIST OF plant species THAT are designated as ~~undesirable plants which must~~ NOXIOUS WEEDS SHALL BE DESIGNATED BY RULE AND SHALL be managed under the provisions of this article. ~~The plant commonly known as leafy spurge, also known by the scientific name Euphorbia esula; and the knapweed plants commonly known as diffuse, Russian, and spotted knapweeds, also known by the scientific names of Centaurea diffusa, Centaurea repens, and Centaurea maculosa.~~

(3) The board of county commissioners or governing body of a municipality may

~~designate~~ DECLARE additional ~~undesirable plants, for purposes of this article~~ NOXIOUS WEEDS, within its ~~respective~~ jurisdictional boundaries, after a public hearing with thirty days prior notice to the public.

**SECTION 11.** 35-5.5-109 (1), (2) (a), (3), (5), and (6), Colorado Revised Statutes, 1995 Repl. Vol., are amended to read:

**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 ~~an~~ 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 ~~either orally or~~ by certified mail that such inspection is pending. Where possible, inspections shall be scheduled and conducted with the concurrence of the landowner or occupant.

(3) The local governing body of the county or municipality having jurisdiction over private lands upon which ~~undesirable plants~~ 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 ~~undesirable plants~~ NOXIOUS WEEDS. Said notice shall name the ~~undesirable plants~~ NOXIOUS WEEDS, advise the landowner or occupant to ~~control the undesirable plants~~ MANAGE THE NOXIOUS WEEDS, and specify the best available control methods of integrated management. ~~including but not limited to biological management, chemical management, mechanical control, or cultural control.~~ Where possible, the local governing body shall consult with the affected landowner or occupant in the development of a ~~management~~ plan for the ~~control~~ MANAGEMENT of ~~the~~ NOXIOUS weeds on the premises or lands.

(5) (a) In the event the landowner or occupant fails to comply with the notice to ~~control~~ MANAGE the identified ~~undesirable plants or the management~~ 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 ~~control~~ MANAGEMENT of such ~~plants~~ 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) ~~to~~ Assess the whole cost thereof, including up to ~~fifteen~~ TWENTY percent for inspection and other incidental costs in connection therewith, upon the lot or tract of



land where the ~~undesirable plants~~ NOXIOUS WEEDS are located; except that no local governing body shall levy a tax lien against land it ~~controls~~ 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. ~~However, any such assessment shall not be more than twenty percent of the assessed valuation of the entire contiguous tract of land in any one year. Any amount in excess of the twenty percent limitation remaining unpaid may be carried over and charged on the tax roll of the succeeding year, and any unpaid balance so carried over shall bear interest at the rate established by the commissioner of banking pursuant to section 39-21-110.5, C.R.S., until paid.~~ 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 ~~control of undesirable plants~~ MANAGEMENT OF NOXIOUS WEEDS on private property pursuant to this subsection (5) without first applying the same or greater ~~control~~ MANAGEMENT measures to any land or rights-of-way owned or ~~controlled~~ 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 ~~control of undesirable plants~~ MANAGEMENT OF NOXIOUS WEEDS on private property until ~~such control has successfully achieved~~ the level of ~~control~~ MANAGEMENT called for in the notice ~~to control the identified undesirable plants~~ 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 ~~undesirable plant~~ NOXIOUS WEED management and any other local requirements.

**SECTION 12.** 35-5.5-110 (1) and (3), Colorado Revised Statutes, 1995 Repl. Vol., are amended to read:

**35-5.5-110. Public lands - management of noxious weeds - charges.** (1) It is the duty of each state board, department, or agency ~~which controls~~ THAT ADMINISTERS or supervises state lands to manage ~~undesirable plants~~ 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 ~~undesirable plants~~ NOXIOUS WEEDS and naming them. Such notice shall specify the best available ~~control~~ methods of integrated management ~~which shall include but not be limited to biological management, chemical management, mechanical management, or cultural control, which~~ 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 ~~management~~ plan for the ~~control~~ MANAGEMENT of ~~the~~ NOXIOUS weeds on the

premises or lands.

(3) In the event the state board, department, or agency fails to comply with the notice to ~~control~~ MANAGE the identified ~~undesirable plants~~ NOXIOUS WEEDS or IMPLEMENT the ~~management~~ 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 ~~undesirable plants~~ 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. If not 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 ~~undesirable plants~~ NOXIOUS WEEDS on ~~state-controlled~~ STATE-ADMINISTERED land on terms and conditions satisfactory to both parties.

**SECTION 13.** 35-5.5-111, Colorado Revised Statutes, 1995 Repl. Vol., is amended to read:

**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 ~~agencies~~ and state agencies for the integrated management of ~~undesirable plants~~ NOXIOUS WEEDS within their respective territorial jurisdictions.

**SECTION 14.** 35-5.5-112, Colorado Revised Statutes, 1995 Repl. Vol., is amended to read:

**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 ~~assure~~ 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.

**SECTION 15.** 35-5.5-113, Colorado Revised Statutes, 1995 Repl. Vol., is amended to read:

**35-5.5-113. Public nuisance - abatement.** All ~~undesirable plants~~ NOXIOUS WEEDS, at any and all stages, ~~thereof~~, 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 ~~plants~~ 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.

**SECTION 16.** Article 5.5 of title 35, Colorado Revised Statutes, 1995 Repl. Vol., is amended BY THE ADDITION OF A NEW SECTION to read:

**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.

**SECTION 17.** Article 5.5 of title 35, Colorado Revised Statutes, 1995 Repl. Vol., is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

**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), C.R.S.; 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.

**SECTION 18. Appropriation.** In addition to any other appropriation, there is hereby appropriated, out of any moneys in the noxious weed management fund not otherwise appropriated, to the department of agriculture, for the fiscal year beginning July 1, 1996, the sum of forty thousand dollars (\$40,000) and 0.7 FTE, or so much thereof as may be necessary, for the implementation of this act.

**SECTION 19. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 23, 1996