

Protecting Montana from Invasive Species







5446671



UGA900019







Feral Swine



Aquatic Invasive Species



Ventenata – invasive annual grass

Montana Noxious Weed Laws

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MSU Extension Invasive Plants

Montana Laws and Rules (noxious weed related)

- County Weed Act (MCA 7-22-101 thru 4101)
- State Lands (MCA 77-1-126 thru 127)
- Seed Act (MCA 80-5-120 thru 144)
- General Noxious Weed Act (MCA 80-7-701 thru 720)
- Noxious Weed Trust Fund (MCA 80-7-801 thru 823)
- Noxious Weed Seed Free Forage Act (MCA 80-7-901 thru 924)
- Aquatic Invasive Species Act (MCA 80-7-1001 thru 1030)
- Invasive Species Council (MCA 80-7-1201, 1203)
- Wildlife Habitat Improvement Act (MCA 87-5-801 thru 808)
- Greater Sage-Grouse Stewardship Act (MCA 87-5-901 thru 918)

MDA Noxious Weed Programs



Early Detection, Rapid Response

- State coordination of EDRR species in MT (Priority 1/2A).
- BMPs & WMPs
- Grants
- Strike teams
- Survey
- Annual Partner Meetings
- Education & Outreach



Noxious Weed Free Materials

- Administration of state product certification program.
- SOPs
- Inspector Certification
- Plant Inspections
- Field Inspections
- Education & Outreach
- Hay, Straw, Mulch, Gravel, Construction Materials, etc.



Noxious Weed Trust Fund

- Annual grant program for noxious weed projects.
- Train and assist grantees
- Conduct site visits (~40/yr)
- Monitoring & Mapping
- Administer grants and funds
- \$2.5M annually



Invasive Species Education

- Statewide noxious weed education coordination and IS ED support.
- Program ED Specialist
 - State ED Coordinator
 - School/Community Education
 - Volunteer Recruitment
 - AATM/Pull Your Share



State Weed Coordination

- Regional and local support of noxious weed efforts.
- Compile, review and update state laws & rules, agency/county management plans, biennial reports, and listing. Serve on boards & councils and manage state programs.

NWTF Funding

- State Special Revenue Fund – 1.5% vehicle revenue fund
- General Fund - \$90,000 pass-thru to NWTF projects
- MDT Pass-thru - \$100,000 between 56 counties
- Reverted project funds
- Federal grants
- Interest from \$10M trust

\$7,500 to each county and tribe with active weed district

Average of \$600,000+ more in requests than available funding (last 6yrs)

Definition

7-22-2101 Definitions

(8)(a) "Noxious weeds" or "weeds" means any exotic plant species established or that may be introduced in the state that **may render land unfit for agriculture, forestry, livestock, wildlife, or other beneficial uses or that may harm native plant communities** and that is designated:

(i) as a statewide noxious weed by rule of the department; or

(ii) as a district noxious weed by a board, following public notice of intent and a public hearing.

Allows state and local entities to use/apply for funding & do enforcement



Criteria for Listing

- Distribution and Spread
 - habitat suitability; other regional, national, or international listings; current regional distribution and density; Montana county distribution and density; known expansion rate
- Invasiveness and Environmental Risk
 - plant characteristics such as growth rate; seed production and life cycle; community types at risk of invasion and the impacts; beneficial uses
- Economics
 - the types of effective control methods available; estimated cost per acre of control; which industries are or will be impacted

General Noxious Weed Laws

MCA; Title 80, Chapter 7

- 80-7-701. Regulation of importation or sale of noxious weeds
 - Authority to regulate or prohibit the importation or sale of grain, plants, seed, tubers, nursery stock, fruit, or other materials containing noxious weed seed or plants
- 80-7-705. Weed management district program enhancement
 - MDT Pass-thru \$100,000
- 80-7-713. Reports
 - Biennial report: State agencies report all noxious weed activities/expenditures in each county
- 80-7-712. Funding of noxious plant management programs
 - Apply and use federal funding for state, county, local weed programs

Municipalities

MCA; Title 7, Chapter 22

7-22-4101. Control of nuisance weeds within municipality.

- City or town councils can determine what vegetation is considered nuisance
- Require landowners to remove them
- Levy special tax against property for control costs

Mining Operations

DEQ Permitting Application

Permittees required to complete Weed Board Notification Form & attach to application

No weed board signature required – only operator, site location and map

Subdivisions, Timber Harvest, Special Projects (Utilities, cell towers, etc.)

County Permitting Requirements

Approved weed plan on file prior to activity (15 days required)

- Activity definition is ambiguous in subdivision law requirements

Revegetation plan

Product sourcing (gravel, seed, etc.)

Treatment records

Environmental Checklist

Inspection Fees

Equipment Cleaning Requirements

- Not consistent between counties or types of development
- Poor communication between state and county agencies
- No consequences for starting construction prior to WMP approval



Other Program Laws

MCA; Title 80, Chapter 7

- Noxious Weed Trust Fund (MCA 80-7-801 thru 823)
 - 80-7-805. Noxious weed management advisory council
- Noxious Weed Seed Free Forage Act (MCA 80-7-901 thru 924)
 - 80-7-911. Stop sale, use, or removal order
 - 80-7-913. Creation of certification programs -- other materials
- Aquatic Invasive Species Act (MCA 80-7-1001 thru 1030)
 - 80-7-1016. Invasive species trust fund
 - 80-7-1018. Invasive species grant program -- criteria – rulemaking
 - 80-7-1031. Exemption from environmental review
- Invasive Species Council (MCA 80-7-1201, 1203)
 - 80-7-1201. Invasive species council -- purpose.
 - Advise the governor on a science-based, comprehensive program to identify, prevent, eliminate, reduce, and mitigate invasive species in Montana and to coordinate with public and private partners to develop and implement statewide invasive species strategic plans.



Seed Act

MCA; Title 80, Chapter 5

- 80-5-123. Label requirements for agricultural, vegetable, flower, and indigenous seeds
- 80-5-134. Prohibitions.
 - (1) A person may not sell or transport for use in planting in this state any seed that:
 - (a) contains prohibited noxious weed seeds;
 - (b) contains restricted weed seeds in excess of the maximum numbers per pound allowed under rules adopted by the department;
 - (c) contains in excess of 2% or more of weed seed;
- 80-5-135. Screenings -- restrictions on movements
- 80-5-136. Administration -- stop sale order -- violation -- cancellation of license -- enforcement

WHIP & MGSG

MCA; Title 87, Chapter 5

Kelly Flynn Montana Wildlife Habitat Improvement Act (MCA 87-5-801 thru 808)

- Changes made during 2025 session thru HB932
 - Pittman Robertson funds to Habitat Legacy Account (20% marijuana state special revenue)
 - Council: 11 member + 7 advisory to 5 member/ no advisory
 - Project Scope: terrestrial weed focus to include aquatic, water enhancement, disease transmission, tribal wildlife program staffing, habitat uplift for species of concern.

Greater Sage-Grouse Stewardship Act (MCA 87-5-901 thru 918)

- Provides competitive grant funding that benefits sage grouse habitat and populations on private lands, and public lands as needed, that lie within core areas, general habitat, or connectivity areas.

State Lands (MCA 77-1-126 thru 127)

MCA; Title 77, Chapter 1

77-1-126. Notice of noncompliance

- Contact lessee, licensee, or permittee & require weed management
- Send certified final letter when weed management is not done
- Two weeks later- Send notice of noncompliance- gives min 15 days to comply
- Can ask for a hearing and/or an extension – dept. has 30 days

77-1-127. Department authorized to control weeds -- billing for weed control

- Use commercial applicator or weed district
- Charge for labor, materials, equipment & penalty of 50% total bill
- If not paid, authority to cancel lease

County Weed Act

MCA; Title 7, Chapter 22

7-22-2101 Definitions

- Exotic plant species established or that may be introduced in the state that may render land unfit for agriculture, forestry, livestock, wildlife, or other beneficial uses or that may harm native plant communities and that is designated:
 - (i) as a statewide noxious weed by rule of the department; or
 - (ii) as a district noxious weed by a board, following public notice of intent and a public hearing.
- (9) "Person" means an individual, partnership, corporation, association, or state or local government agency or subdivision owning, occupying, or controlling any land, easement, or right-of-way, including any county, state, or federally owned and controlled highway, drainage or irrigation ditch, spoil bank, barrow pit, or right-of-way for a canal or lateral.
- (10) "Weed management" or "control" means the planning and implementation of a coordinated program for the containment, suppression, and, where possible, eradication of noxious weeds



7-22-2116. Unlawful to permit noxious weeds to propagate -- notice required in sale.

- (1) It is unlawful for any person to permit any noxious weed to propagate or go to seed on the person's land, except that any person who adheres to the noxious weed management program of the person's weed management district or who has entered into and is in compliance with a noxious weed management agreement is considered to be in compliance with this section.
- (2) When property is offered for sale, the person who owns the property shall notify the owner's agent and the purchaser of:
 - (a) the existence of noxious weed infestations on the property offered for sale; and
 - (b) the existence of a noxious weed management program or a noxious weed management agreement as provided in subsection (1).

7-22-2102 Weed Management Districts Established

A weed management district shall be formed in every county of this state and shall include all the land within the boundaries of the county, except that a weed management district may include more than one county through agreement of the commissioners of the affected counties.

7-22-2103 District Weed Board -- Appointment -- Commissioner Powers

(1) The commissioners shall appoint a district weed board subject to the provisions of 7-1-201 through 7-1-203.

(2) Upon a recommendation from the weed board, the commissioners may appoint a weed coordinator.

7-1-203. County commissioners to assume duties of administrative boards, districts, and commissions

If the minimum number of board members are not available; the commission may assume all responsibilities of the board by resolution and public meeting.

- 9-10 Counties have ½ time or less coordinators
- 2 Coordinators oversee two counties each
- 2 Counties are both MSU Extension and County Coordinator
- ~40 County Weed Districts have only 1 employee
- A few boards under Public Works- adds additional hoops and challenges
- Inconsistent duties and meetings- Advisory, Supervisory, etc.

7-22-2109 Powers And Duties Of Board

The board may:

- Supervise a coordinator and other employees
- Purchase herbicide, materials, and equipment and pay other operational costs necessary
- Sell herbicides to private landowners
- Work with MDA to control and eradicate new invaders
- Have cost-share agreements
- Contract with commercial applicators
- Request legal advice and services from the county attorney
- Anything else related to noxious weed management

The board shall:

- Administer the noxious weed program
- Prioritize noxious weeds and management strategies
- Develop and implement management program for all federal lands



Role of County Coordinator

Local Expert

- Weed Identification
- Laws/Regs
- Herbicide/application recommendations
- On-site inventories
- Weed control safety
- Research & new techniques

Grants and Cooperative Agreements

- RAC, RMEF, NWTF, WHIP, Mini ED

Weed Management

- county lands/roads, municipalities, highways, fishing access, utilities, federal lands, private lands
- Mapping and monitoring sites

Education & Outreach

- CEU classes for applicator, training for seasonal employees, fair, schools, realtors

Approving/creating plans for:

- Open pit mining
- Subdivisions
- Utility installs
- Private landowners
- County

Seasonal Staff & Contractors

- Interviews, hiring, training, management
- Coordinating projects

Enforcement

Weed Free Material Inspectors

7-22-2142 Sources of money for noxious weed fund

(1) The commissioners **may provide sufficient money** in the noxious weed fund for the board to fulfill its duties, as specified in 7-22-2109, by:

- (a) appropriating money from any source in an amount not less than \$100,000 or an amount equivalent to 1.6 mills levied on the taxable value of all property; and
- (b) subject to 15-10-420 and at any time fixed by law for levy and assessment of taxes, levying a tax of not less than 1.6 mills on the taxable value of all taxable property in the county. The tax levied under this subsection must be identified on the assessment as the tax that will be used for noxious weed control.

Plus...

- Proceeds of noxious weed control tax
- special management zone tax
- labor and herbicide costs
- herbicide sales
- Gifts
- Grants
- Contracts, etc.

Before a district can apply for state or federal funding:


- Must have an approved plan on file at the state
- Must submit an updated plan every two years

County Weed District Funding (2025 reported totals)

- Highest Funded Programs
 - Missoula County
 - \$1,528,076 2 Mills + other funding (grants, etc.)
 - Ravalli County
 - \$1,421,264 1.17 Mills + general fund, contracts, other funding
- Average Funded Programs
 - Between \$300,000-\$400,000 2.2 Mills
- Lowest Funded Programs
 - Treasure County
 - \$7,805 1.6 Mills
 - Golden Valley
 - \$2,192 .29 Mills – was combined with Musselshell Co.

7-22-2131. Noncompliance with weed control requirements -- general notice.

- (1)(a) If a complaint is made against a landowner or if the board has reason to believe that noxious weeds are present on a landowner's property, the board shall notify the landowner by certified mail of the complaint and shall request permission for the board's agent to enter the property to conduct an inspection.
- (c) The landowner or the landowner's representative shall respond within 10 days of receipt of the notice.
- (2)(b) The board or the board's agent may seek a court order to enter and inspect the land to determine if noxious weeds are present on the property if:
 - (i) within 10 days... the board is unable to determine the owner of the property; or
 - (ii) the letter cannot be delivered because the landowner or the landowner's representative refuses to sign the receipt or does not reside on the property.
- (3) If the board finds noxious weeds on the property during the inspection, the board shall:
 - (a) seek the landowner's or representative's voluntary compliance with the district weed management program in accordance with 7-22-2132; or
 - (b) if voluntary compliance is not obtained, notify the landowner or the landowner's representative by certified mail that noxious weeds were found on the property.

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- (4) The notice must contain the language specified in this section.
- (6) (a) list the noxious weeds found on the property;
- (b) provide the legal description of the property;
- (c) provide the address of the property, if available;
- (d) state the fact that the presence of the weeds violates state law and that the landowner has 10 days after receiving the notice to contact the board or its agent;
- (e) provide the address and phone number for the board;
- (f) notify the landowner of the landowner's:
- (i) responsibility to submit a weed management proposal; and
- (ii) right to request a hearing to contest the finding of noncompliance, including the timeframe for making the request; and
- (g) specify the actions the board may take if the landowner fails to remove the weeds, including but not limited to the anticipated costs of destroying the weeds and the 25% penalty allowed under 7-22-2134.

7-22-2132. Procedures for compliance.

- (1) A landowner is in **compliance** with this part if the landowner **submits and the board accepts** a written weed management proposal to undertake specific control measures, and the landowner remains in compliance if the terms of the proposal are met. The proposal **must require** that the landowner or the landowner's representative notify the board as measures in the proposal are taken.

7-22-2133. Noncompliance -- actions for landowners.

- (1) If the board is unable to obtain the landowner's voluntary compliance with the weed management program within 10 days of the landowner's receipt of the notification, the **landowner is considered to be in noncompliance** and is subject to appropriate control measures pursuant to **7-22-2134**.
- (2)(a) Within 10 days after receiving notice to comply with the weed management program, the **landowner may request a hearing before the commissioners** if the landowner disagrees with the weed control measures proposed by the board.
- (b) If the landowner's objection to the board's action remains after the hearing, the **landowner has 10 days to appeal the commissioners' decision to the district court** with jurisdiction in the county in which the property is located.

7-22-2134. Noncompliance -- actions by board.

- (1) The board may seek a court order to enter upon the infested parcels of the landowner's property if attempts to achieve voluntary compliance have been exhausted. The board may institute appropriate noxious weed control measures, including but not limited to:
 - (a) allowing the local weed district coordinator to implement the appropriate noxious weed control measures if the actions taken are valued at the current rate paid for commercial management operations in the district and are reflected in the bill sent to the landowner and the clerk and recorder; or
 - (b) contracting with a commercial applicator as defined in 80-8-102 if the issues of compliance are not resolved under an agreement proposed and accepted pursuant to 7-22-2132 and:
- (4) After instituting appropriate noxious weed control measures, the board shall submit a copy of the bill, including the penalty provided for in subsection (4)(b), to the county clerk and recorder and, by certified mail, to the landowner that:
 - (a) covers the costs of the weed control measures;
 - (b) contains a penalty of 25% of the total cost incurred;
 - (c) itemizes the hours of labor, cost of material, equipment time, legal fees, and court costs or includes an invoice from a commercial applicator if the board contracted for weed control pursuant to subsection (1); and
 - (d) specifies that payment is due 30 days from the date the bill is received.

7-22-2148 Payment of weed control expenses -- tax liability

- (1) The expenses incurred by the board for noxious weed control undertaken pursuant to 7-22-2134 **must be paid by the county out of the noxious weed fund.**
- (2) If the sum to be repaid by the landowner billed under 7-22-2134 is not repaid on or before the date due, the county clerk shall certify the amount due, with the description of the land to be charged, and **shall enter the amount on the assessment list of the county as a special tax on the land.** If the land is exempt from general taxation for any reason, the amount due and to be repaid may be recovered by direct claim against the landowner and collected in the same manner as personal taxes.



Timeline

- Complaint or Concern
 - Certified Letter, 10 days to reply
- Inspection
 - Certified Letter, 10 days to reply
- Non-Compliance
 - Certified Letter, 10 days to reply
 - Request Hearing with Commissioners, 10 days to reply
 - Appeal to District Court, 10 days to reply
- Weed Management
 - Certified Itemized Bill, 30 days to pay



Could be 50 days after first letter is received before any weed control can be done on the property
Inconsistent interpretation, implementation, and support for doing full non-compliance

History

- 2006-2009
 - Sent out 39 notices
 - 31 Voluntary Compliance 80%
 - 8 Non-Compliance 20%
 - 2009 non-compliance case went to court
- 2011-2017
 - Sent out 148 notices
 - 148 Voluntary Compliance
 - 0 Non-Compliance
- 2018-2020
 - Sent out 17 notices
 - 15 Voluntary Compliance 88%
 - 2 Non-Compliance 12%

Non-Compliance in Beaverhead County





Highlights...

- Complaints
 - Cannot be anonymous
 - County complaints
- Research Ownership
 - Local Contact – Contact by phone first if possible
- Send “Friendly” Letter - Voluntary Compliance
 - Asking for Inspection
 - Offer Assistance
 - Provide template for weed management plan
- Board Action
 - Approve Management Plan
 - Authorize Non-Compliance Notice
- County Attorney & Commissioner Support
- All notices are recorded/filed with Clerk and Recorder

Challenges...

- It's not always about the weeds
- Absentee landowners
- Time it takes during the busy season
- Potential for budget implications

Non-Compliance in Gallatin County

How it's done...

- County does not make complaints – citizen driven
- Require written, signed complaint form, and consultation with Weed District staff
- Weed District can opt for either an educational approach or regular enforcement
- Weed District attempts informal/educational approaches first
 - Sent 100+ brochures to landowners that had ventenata or owned land near known ventenata infestations
 - At least 11 landowners treated ventenata, there were likely more
- Require subdivisions with active HOA's and covenants to pursue compliance
- Court orders allow for 3 years of consecutive treatment

Challenges

- Growth 25%+ since 2010 and growth has not slowed down
- Fairness – 50,000+ private parcels in the county, most have noxious weeds
- Communication with County Attorney is difficult
- Process is slow –initial complaint to court order averages 2 months
- Concern that we become land managers for landowners
- A lot of administrative time is spent during busy field season
 - 2019 – 3 court orders, 45 hours staff time + 25 hours Attorney time
 - One complaint may take several hours to prepare - inspections, notices, compiling notes, downloading photos

7-22-2126 Embargo

The board may establish embargo programs to reduce the spread of noxious weeds within the district or the introduction of noxious weeds into the district.

- (2) The board shall establish a special embargo program for the movement of forage, as defined in 80-7-903, into or out of the county. The board may implement an embargo upon confirmation of a violation, based upon complaint investigations, requests for investigation by the department, or through county investigations, if the forage has not been certified by the state and is being sold as noxious weed seed free, as defined in 80-7-903.



Stakeholders

- Montana Weed Control Association
- Montana Invasive Species Council
- Noxious Weed Management Advisory Council
- District Weed Boards
- Commercial Applicators
- Montana State University Extension
- Fish, Wildlife and Parks
- Department of Agriculture
- Department of Natural Resource and Conservation
- Department of Transportation
- Tribes
- Federal Agencies





Thank You

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