**R68. Agriculture and Food, Plant Industry.**

**R68-9. Utah Noxious Weed Act.**

**R68-9-1. Purpose and Authority.**

(1) Promulgated under authority of Subsections 4-2-103(1)(i), 4-17-115(3), and Section 4-17-103.

(2) This rule establishes the designations for noxious weeds, the designations for noxious weed disseminators, and the prescribed treatment for articles.

**R68-9-2. Definitions.**

(1) "Commission" means the legislative body in each county of the state.

(2) "Commissioner" means the Commissioner of the Utah Department of Agriculture and Food or the commissioner's designee.

(3) "Department" means the Utah Department of Agriculture and Food.

(4) "EDRR" means early detection and rapid response.

**R68-9-3. Designation and Publication of State Noxious Weeds.**

(1) The department designates and publishes noxious weeds into five classes.

(2) Noxious and invasive weeds listed in Table 1 are Class 1A: EDRR Watch List. They are declared to be:

(a) not native to Utah;

(b) not known to exist in the state;

(c) a serious threat to the state; and

(d) a very high priority if identified in the state.

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| TABLE 1  Class 1A (EDRR Watch List) | |
| Weed Name | Binomial Name |
| Common crupina | Crupina vulgaris |
| Mediterranean sage | Salvia aethiopis |
| Plumeless thistle | Carduus acanthoides |
| Small bugloss | Anchusa arvensis |
| Spring millet | Milium vernale |
| Syrian bean caper | Zygophyllum fabago |

(3) Noxious and invasive weeds listed in Table 2 are Class 1B: EDRR. They are declared to be:

(a) not native to Utah;

(b) known to exist in the state in very limited populations;

(c) a serious threat to the state; and a very high priority.

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| TABLE 2  Class 1B (EDRR) | |
| Weed Name | Binomial Name |
| African mustard | Brassica tournefortii |
| African rue | Peganum harmala |
| Blueweed (Vipers bugloss) | Echium vulgare |
| Camelthorn | Alhagi maurorum |
| Common St. Johnswort | Hypericum perforatum |
| Cutleaf vipergrass | Scorzonera laciniata |
| Elongated mustard | Brassicas elongate |
| Eurasian watermilfoil | Myriophyllum spicatum L. |
| Garlic mustard | Alliaria petiolate |
| Giant reed | Arundo donax |
| Goat's rue | Galega officinalis |
| Japanese knotweed | Polygonum cuspidatum |
| Malta starthistle | Centaurea melitensis |
| Oxeye daisy | Leucanthemum vulgare |
| Parrot feather | Myriophyllum aquaticum |
| Purple starthistle | Centaurea calcitrapa |
| Ventenata (North African grass) | Ventenata dubia |

(4) Noxious and invasive weeds listed in Table 3 are Class 2: Control. They are declared to be:

(a) not native to Utah;

(b) a threat to the state; and

(c) a high priority for control.

(i) Weeds listed in the control list are known to exist in varying populations throughout the state.

(ii) The concentration of these weeds is at a level where control or eradication may be possible.

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| TABLE 3  Class 2 (Control) | |
| Weed Name | Binomial Name |
| Black henbane | Hyoscyamus niger |
| Dalmatian toadflax | Linaria dalmatica |
| Diffuse knapweed | Centaurea diffusa |
| Dyer's woad | Isatis tinctoria |
| Leafy spurge | Euphorbia esula |
| Medusahead | Taeniatherum caput-medusae |
| Purple loosestrife | Lythrum salicaria |
| Rush skeleton weed | Chondrilla juncea |
| Spotted knapweed | Centaurea stoebe |
| Squarrose knapweed | Centaurea virgata |
| Yellow starthistle | Centaurea solstitialis |
| Yellow toadflax | Linaria vulgaris |

(5) Noxious and invasive weeds listed in Table 4 are Class 3: Containment. They are declared to be:

(a) not native to Utah; and

(b) widely spread.

(i) Weeds listed in the containment noxious weeds list are known to exist in various populations throughout the state.

(ii) Weed control efforts may be directed at reducing or eliminating new or expanding weed populations.

(iii) A County Weed Control Board may determine known and established weed populations and manage them according to any approved weed control methodology.

(iv) Class 3 weeds threaten the agricultural industry and agricultural products.

(v) The department does not consider Bermudagrass as a noxious and invasive weed in Washington County and it is not subject to Title 4, Chapter 17 Utah Noxious Weed Act within Washington County.

(vi) Triploid hybrid Bermudagrass purchased from a producer certified with the Utah Crop Improvement Association and the Nursery Inspection program is allowed for commercial and private uses throughout Utah.

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| TABLE 4  Class 3 (Containment) | |
| Weed Name | Binomial Name |
| Bermudagrass\* | Cynodon dactylon |
| Canada thistle | Cirsium arvense |
| Field bindweed (Wild Morning-glory) | Convolvulus spp. |
| Hoary cress (globe-podded) | Lepidium draba (Cardaria draba) |
| Hoary cress (heart-podded) | Lepidium chalepense (Cardaria chalepensis) |
| Hoary cress (lens-podded) | Lepidium appelianum (Cardaria pubescens) |
| Houndstongue | Cynoglossum officianale |
| Jointed goatgrass | Aegilops cylindrica |
| Musk thistle | Carduus nutans |
| Perennial pepperweed (Tall whitetop) | Lepidium latifolium |
| Perennial Sorghum spp. Including: Johnson grass Columbus grass | Sorghum halepense  Sorghum almum |
| Phragmites (Common reed) | Phragmites australis ssp. |
| Poison hemlock | Conium maculatum |
| Puncturevine (Goathead) | Tribulus terrestris |
| Quackgrass | Elymus repens |
| Russian knapweed | Acroptilon repens |
| Scotch thistle (Cotton thistle) | Onopordum acanthium |
| Tamarisk (Saltcedar) | Tamarix ramosissima |
| \* Bermudagrass (Cynodon dactylon) may not be considered a noxious weed in Washington County.  Triploid Hybrid Bermudagrass is not considered a noxious weed in Utah. |  |

(6) Noxious and invasive weeds listed in Table 5 are Class 4: Prohibited for sale or propagation. They are declared to be:

(a) not native to Utah; and

(b) a threat to the state through retail sales or propagation in the nursery and greenhouse industry.

(i) The department designates annual, biennial, or perennial plants that have the potential or are known to be detrimental to human or animal health, the environment, public roads, crops, or other property as prohibited noxious weeds.

(ii) Section R68-8-2 Prohibited Noxious Weed Seeds and Restricted Weed Seeds are listed.

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| TABLE 5  Class 4 (Prohibited) | |
| Weed Name | Binomial Name |
| Cogongrass (Japanese blood grass) | Imperata cylindrica |
| Dames Rocket | Hesperis matronalis |
| Myrtle spurge | Euphorbia myrsinites |
| Russian olive | Elaeagnus angustifolia |
| Scotch broom | Cytisus scoparius |

(7) Tables 1, 2, 3, 4, and 5 list the weeds officially designated and published as noxious weeds for Utah. Each county may have different priorities regarding specific state designated noxious weeds and may reprioritize these weeds for the county weed list.

**R68-9-4. Designations, Publications, and Prescribed Treatment for Articles Capable of Disseminating Noxious Weeds.**

(1) Any person using articles in a manner that puts the articles at risk of contamination with noxious and invasive weeds shall treat them with the minimum treatment required to prevent the dissemination of noxious weed seeds or parts of noxious weed plants that could cause new growth.

(2) The department designates and publishes the following articles as capable of disseminating noxious and invasive weeds.

(a) Machinery and Equipment.

(i) A person, company, or corporation may not:

(A) bring any harvesting or threshing machinery, portable feed grinders, portable seed cleaners, or other farm vehicles or machinery into the state without cleaning the equipment to ensure it is free from any noxious weed seed or plant parts; or

(B) move any harvesting or threshing machinery, portable feed grinders, or portable seed cleaners from any farm infested with any noxious weed without cleaning the equipment to ensure it is free from any noxious weed seed and plant parts.

(ii) Threshing machinery that is contaminated with noxious weeds shall be cleaned immediately following the threshing of grain or seed by:

(A) removing any loose material from the top and side of the machine by sweeping with a blower;

(B) opening the lower end of the elevator, return and measuring device, and removing infested material from shakers, sieves, and other places of lodgement;

(C) running the machine empty for at least five minutes, alternately increasing and retarding the speed; and

(D) following the manufacturer's detailed suggestions for cleaning the machine.

(b) Farm Trucks and Common Carriers.

(i) A person, company, or corporation may not transport seed, screenings, or feed of any kind containing noxious weed seed over or along a highway in this state or on any railroad unless the seed, screenings, or feed containing noxious weed seed is carried or transported in vehicles or containers that will prevent the leaking or scattering of the seed, screenings, or feed containing noxious weed seed.

(ii) A common carrier shall thoroughly clean cars, trucks, vehicles, or other receptacles after they deliver each load to a consignee and destroy any noxious weed seeds or plant parts before placing the car, truck, vehicle, or receptacle into service.

(c) Seed.

(i) A person, firm, or corporation may not sell, offer or expose for sale, or distribute any agricultural, vegetable, flower, or tree and shrub seeds for seeding purposes that contains any seeds of those weeds declared noxious by the department.

(ii) A department agricultural inspector shall remove any lots of seeds offered for sale that they find to contain noxious weed seeds.

(A) The seed may be recleaned under the supervision of the inspector, and if found to be free from noxious weed seeds, released for sale or distribution; otherwise, the seed shall be:

(I) returned to the point of origin;

(II) shipped to another state where the weed shall be returned to the point of origin;

(III) shipped to another state where the weed seed is not noxious; or

(IV) destroyed or processed in a manner as to destroy the viability of the weed seeds.

(d) Screenings Sold for Livestock Feed.

(i) A person that uses screenings in commercial feed or sells them to an ultimate consumer shall ensure that, any screenings or by-products of cleaning grains or other seeds containing noxious weed seeds are ground fine enough or otherwise treated to destroy the weed seeds so that the finished product contains at most six whole noxious weed seeds per pound.

(ii) The operator of a mill and plant that cleans or processes any grains or other seeds shall grind or otherwise treat any screenings containing noxious weed seeds to destroy the weed seeds to the extent that the tolerance in this rule is not exceeded before allowing the grains or other seeds to be removed from the mill or plant.

(A) 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.

(e) Livestock Feed Material.

(i) A person, company, or corporation may not sell or offer for sale, barter, or give away to the ultimate consumer any livestock feed material, including whole grains, that contain more than six whole noxious weed seeds per pound.

(A) Whole feed grain that exceeds this tolerance of noxious weed seeds may be sold to commercial processors or commercial feed mixers if the manner of processing will reduce the number of whole noxious weed seeds to no more than six per pound.

(f) Hay, Straw, or Other Material of Similar Nature.

(i) A person, company, or corporation may not:

(A) sell or offer for sale, barter, or give away any hay, straw, or other material of similar nature that is contaminated with mature noxious weed seeds or parts of noxious weed plants that could cause new growth; or

(B) alter, change, or falsify the information contained on a phytosanitary certificate.

(ii) Manure produced from grain, hay, or other forage infested with noxious weeds may only be dumped on the premises of the owner of the manure.

(g) Soil, Sod, and Nursery Stock.

(i) A person, company, or corporation may not remove soil, sod, or nursery stock that contains or is contaminated with noxious weed seeds or parts of the plant that could cause new growth from the premises where it is located until it is cleaned of weed seed or plant parts.

(ii) Contaminated soil may be used for restrictive non-planting purposes with permission and under the direction of the County Weed Supervisor or a department representative.

(h) Livestock.

(i) A person, company, or corporation may not allow livestock that has been fed with grain, hay, or other forage containing noxious weed seeds to range or graze upon fields other than those upon which they have been so fed for 72 hours following the feeding. During this period, the livestock shall be fed materials not contaminated with noxious weed seeds.

(2) Any person, company, or corporation may not sell, barter, or give away any noxious weed plants or seeds for any purpose.

**R68-9-5. Reports from Counties.**

(1) The commission of each county, with the aid of their County Weed Control Board and their County Weed Supervisor, shall submit an "Annual Progress Report of County Noxious Weed Control Program" to the commissioner by January 15 of each year, covering the activities of the previous calendar year.

(2) The department shall provide a form for this report.

**R68-9-6. Notices.**

(1) On or before May 1 of each year, each County Weed Control Board shall publish a general notice of the noxious weeds in the county on the Utah Public Notice Website. The general notice shall meet the applicable requirements listed in Section 63G-30-102.

(2) The County Weed Control Board may determine and publish the general notice at any time and shall include:

(a) a requirement that property owners control and prevent the spread of noxious weeds on land in their possession, or under their control;

(b) a warning that if they fail to comply with Subsection R68-9-6(2)(a), then county authorities may impose weed control measures;

(c) the state list of noxious and invasive weeds as listed in tables 1-5 in this rule.

(3)(a) Following publication of a general notice, if a County Weed Control Board determines that definite weed control measures are required to control noxious weeds on a particular property, they may serve notice on an owner or the person in possession of the property.

(b) The notice will give specific instructions concerning when and how the owner or the person in possession of the property shall control noxious weeds within a named period.

(4) 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.

(5) After five working days have passed from when a commission declares a property a public nuisance, the commission may take action to control or prevent the spread of noxious weeds on a particular property and the owner of record or person in possession of the property shall pay any expenses incurred by the county.

(6) Following the action taken, a final notice shall:

(a) be provided to the person in possession of the property;

(b) show an itemized cost statement of the labor and materials used in the control measures consistent with Section 4-17-110;

(c) include a demand for payment within 90 days; and

(d) a statement that the incurred expense constitutes a lien against the property and may be added to the general property taxes collectible by the county treasurer if payment is not made on time.

**KEY: noxious weeds, weed classifications, weed control**

**Date of Last Change: June 28, 2024**

**Notice of Continuation: April 25, 2023**

**Authorizing, and Implemented or Interpreted Law: 4-2-103(1)(i); 4-17-115(3); 4-17-103; 63G-30-102**