Cotton Boll Weevil Control Act

Provides for the establishment of control districts, organic cotton regulations, collection of assessments and abolishment of control districts.

76-6A-1. **Short title.** Chapter 76, article 6A NMSA 1978 may be cited as the “Cotton Boll Weevil Control Act”.

76-6A-2. **New Mexico department of agriculture.** The Cotton Boll Weevil Control Act is to be administered by the New Mexico department of agriculture, under the direction of the board of regents of New Mexico state university.

76-6A-3. **Definitions.** As used in the Cotton Boll Weevil Control Act:

A. “board” means the board of regents of New Mexico state university.

B. “cotton boll weevil” means any life stage of the cotton insect Anthonomus grandis Boheman;

C. “cotton boll weevil control committee” means the persons, not less than three nor more than seven, elected by a majority of the cotton producers voting in a designated cotton boll weevil control district;

D. “cotton boll weevil control district” means a designated area duly established under the Cotton Boll Weevil Control Act wherein a program to suppress or eradicate the cotton boll weevil is administered;

E. “cotton producer” means any person growing five or more acres of cotton plants. For the purposes of the Cotton Boll Weevil Control Act, only one person from any farm, sole proprietorship, corporation, partnership or any other legal business arrangement shall be eligible to vote to establish or dissolve a cotton boll weevil control district;

F. “department” means the New Mexico department of agriculture; and

G. “director” means the director of the New Mexico department of agriculture; and

H. “organic cotton producer” means any person growing cotton who is certified by the organic commodity commission as a producer of organic or transitional cotton.

76-6A-4. **Duties and powers.** The director shall determine any critically infested or threatened agricultural areas within New Mexico, hold public hearings within the proposed cotton boll weevil control district determined to be critically infested or at risk and provide technical support and advice in the formulation of plans for the control or eradication of such infestation.

76-6A-5. **Cotton boll weevil control committee; duties and powers.**

A. A cotton boll weevil control committee shall prescribe control measures for any cotton planted within a cotton boll weevil control district. When prescribing control measures, the cotton boll
weevil control committee shall make every effort to adhere to integrated pest management practices, to allow organic cotton producers to choose organic pest management practices that will allow them to maintain their organic certification and to adhere to the management goals of individual cotton producers consistent with the goal of complete eradication of the cotton boll weevil.

B. A cotton boll weevil control committee may adopt regulations to set the method for determining the yield per acre of cotton lands under the control of a cotton producer for purposes of calculating the assessment amount due.

**76-6A-5.1. Exemption from Procurement Code and Personnel Act.** Cotton boll weevil control committees are exempt from the provisions of the Procurement Code and the Personnel Act. The committee members and committee employees are public employees for the purposes of the Tort Claims and shall be provided all insurance and self-insurance coverage provided by the risk management division of the general services department.

**76-6A-6. Establishment of cotton boll weevil control district.** Any five or more persons producing cotton for which it is proposed to establish a cotton boll weevil control district may file a petition with the department asking that a cotton boll weevil control district be established. The petition shall set forth:

A. a concise statement of the reasons for the establishment of a cotton boll weevil control district.

B. a request that a referendum be held among the cotton producers on the question of the establishment of a cotton boll weevil control district;

C. the name and address of the individual who is authorized to represent the petitioners;

D. the maximum per unit assessment on the cotton acreage or production for which the cotton boll weevil control district is established; and

E. the method of levy and collection of an assessment upon cotton producers for the support of the cotton boll weevil control district.

**76-6A-7. Petition filing fee.** The director shall prepare and deliver to the petitioners an original budget estimate of the cost of the proposed hearings and referendum. The petitioners, within thirty days after receipt of the cost estimate, shall remit to the director the amount of the cost estimate.

**76-6A-8. Hearings.** Within sixty days after a petition has been filed with the director and upon payment of the cost estimate, the director shall cause notices to be given of the proposed hearings in areas of the state where the cotton boll weevil is of economic importance. The notices of hearing shall be published in a newspaper of general circulation in the proposed cotton boll weevil control district, and shall be sent directly to the organic commodity commission, at least fourteen days prior to the date of the hearing.

**76-6A-9. Determination by director.** After the public hearing, the director shall determine, based upon the facts presented and other relevant data available, if there is a need for the creation of a cotton boll weevil control district and if the need is sufficient to justify the holding of a referendum thereon. Subsequent petitions relating to the same locale may not be filed or action taken thereon.
within one year from the date the director has recorded a determination denying the need for the creation of a cotton boll weevil control district.

76-6A-10. Referendum; cotton boll weevil control districts; cotton boll weevil control committees. After public hearing, if the director decides there is justification for creating a cotton boll weevil control district, the department shall hold a referendum. When cotton producers who represent sixty-six percent of the cotton acreage within the area threatened with or infested by the cotton boll weevil vote in favor of the establishment of a cotton boll weevil control district, a cotton boll weevil control district shall be created. The cotton producers within a cotton boll weevil control district shall promptly establish, and shall elect not less than three nor more than seven member to a cotton boll weevil control committee. Cotton boll weevil control committee members shall not receive per diem or compensation for their services. Cotton boll weevil control districts and cotton boll weevil control committees shall cease to exist when the cotton boll weevil control committee and the director determine that all financial and legal obligations have been satisfied.

76-6A-11. Cotton boll weevil control committees; additional duties and powers.

A. Cotton boll weevil control committees may:
(1) conduct program to suppress or eradicate cotton boll weevils within their cotton boll weevil control districts;
(2) cooperate in the administration of the Cotton Boll Weevil Control Act through the use of state or federal personnel and facilities or both;
(3) contract for services or enter into cooperative agreements;
(4) publish information and conduct seminars on the distribution and control of the cotton boll weevil;
(5) levy and collect a special assessment, based on cotton acreage or cotton yield per acre within the cotton boll weevil control districts; and
(6) borrow money or accept grants, donations or contributions for any purpose consistent with the powers and duties of the cotton boll weevil control committee.

B. Cotton boll weevil control committees shall provide a complete accounting of the funds collected through the special assessment to all participating cotton producers in the cotton boll weevil control districts.

C. The cotton boll weevil control committee shall send notice of the establishment of a cotton boll weevil control district and its defined boundaries to the organic commodity commission within fourteen days of its establishment.

D. If the cotton boll weevil control district includes certified organic acreage, the cotton boll weevil control committee shall select an organic farmer operating within the district, who shall have all the powers of a committee member, to serve on the cotton boll weevil control committee.


A. Each organic cotton producer within an established cotton boll weevil control district shall notify the cotton boll weevil control committee in writing of the number of acres on which the organic cotton producer intends to plant organic cotton at least thirty days prior to planting.
B. The cotton boll weevil committee shall require all organic producers to pay the assessment established for the cotton boll weevil control district in the same manner as producers of conventionally grown cotton in the cotton boll weevil control district.

C. After crop planting, the cotton boll weevil control committee shall notify an organic cotton producer as to the boll weevil status of his cotton acres, as well as the boll weevil status of surrounding acres, as documented by the committee’s normal boll weevil trapping program.

D. The cotton boll weevil control committee shall confer with the organic cotton producer to determine measures that might be taken to attempt to keep all or a portion of the organic cotton producer’s cotton acreage below trigger levels for required treatment. If the organic cotton producer chooses to use a nonconventional method, the cotton boll weevil control committee shall pay the costs of the nonconventional method used by the organic cotton producer, provided the costs do not exceed the equivalent costs of conventional control methods. If boll weevil trigger levels are reached on the organic cotton producer’s acres and boll weevil migration from outside these acres has been eliminated as a cause of these levels, then the organic cotton producer shall be allowed to harvest these acres, but shall not be allowed to grow cotton on the acreage for one year. If the organic cotton producer chooses to use conventional methods of treatment, the cotton boll weevil committee shall proceed accordingly.

76-6A-12. Agricultural land assessment; enforced collection. Payment of the special assessment levied by a local cotton boll weevil control committee against a cotton producer shall be due and payable upon the cotton producer’s receipt of an assessment statement from the local cotton boll weevil control committee. The committee’s statement shall indicate:

A. the total number of acres treated within the cotton boll weevil control district during the control program;

B. the total acres treated, if any, that are under the control of the land user assessed;

C. the total amount of funds expended, or estimated to be spent, in the cotton boll weevil control district for the control program;

D. the total acres and yield per acre of lands under the control of the land user assessed; and

E. the amount assessed against the land user.

76-6A-13. Petition for abolishment of a cotton boll weevil control district. Any five or more persons producing cotton within a cotton boll weevil control district may file a petition with the department asking that a cotton boll weevil control district be abolished. The petition shall set forth:

A. the name and description of the cotton boll weevil control district to be abolished;

B. a concise statement of the reasons for the abolishment of the cotton boll weevil control district;

C. a request that a referendum be held among the producers of the crop on the question of the abolishment of the cotton boll weevil control district; and

D. the name and address of the individual who is authorized to represent the petitioners.
76-6A-14. Petition filing fee. The director shall prepare and deliver to the petitioners an original budget estimate of the cost of the proposed hearings and referendum. The petitioners, within thirty days after receipt of the cost estimate, shall remit to the director the amount of the cost estimate.

76-6A-15. Hearings regarding abolishment of a cotton boll weevil control district; notice of hearings. Within thirty days after the petition has been filed with the director and upon payment of the cost estimate, the director shall cause notices to be given of the hearing in the affected cotton boll weevil control district. The notice of hearing shall be published at least fourteen days prior to the date of hearing in a newspaper of general circulation in the affected cotton boll weevil control district. After public hearing, if the director decides there is justification for abolishing a cotton boll weevil control district, the department shall hold a referendum. When cotton producers who represent sixty-six percent of the cotton acreage within a cotton boll weevil control district vote in favor of the abolishment of the cotton boll weevil control district, such a cotton boll weevil control district shall be abolished. The local cotton boll weevil control committee shall promptly move to cease expenditures of cotton boll weevil control district funds and make an accounting of funds spent and return remaining funds in accordance with Section 165 of the Cotton Boll Weevil Control Act.

76-6A-16. Disposition of assessment proceeds. Funds collected by the local cotton boll weevil control committee are not state funds and are no required to be deposited in the state treasury. A local cotton boll weevil control committee shall deposit all money collected in a state chartered bank or other insured depository. Funds collected by one local cotton boll weevil control committee shall be held separate from funds collected by another local cotton boll weevil control committee. Funds remaining at the termination of a cotton boll weevil control district shall be distributed to cotton producers in proportion to the percentage they contributed during the life of the cotton boll weevil control district.