

CHAPTER 76 AGRICULTURE

76-7-1. Short title. (1959)

This act [[76-7-1](#) to [76-7-22](#) NMSA 1978] may be cited as the "Noxious Weed Control Act."

History: 1953 Comp., § 45-10-2, enacted by Laws 1959, ch. 243, § 1.

76-7-2. Definitions. (1959)

As used in the Noxious Weed Control Act [[76-7-1](#) to [76-7-22](#) NMSA 1978]:

A. "noxious weed" means any weed or plant which the board of county commissioners acting as the governing body of the district, and with the advice of the county agent, declares to be harmful or to possess noxious characteristics;

B. "landowner" means any natural person who holds title to lands lying within a weed control district organized under the Noxious Weed Control Act who has attained the age of twenty-one years and is a resident of a county situated entirely or in part within a weed control district;

C. "land occupier" means any person, firm or corporation holding title to or being in possession of any lands lying within a district organized under the provisions of the Noxious Weed Control Act, whether as owner, lessee, renter, tenant or otherwise;

D. "resident taxpaying voter" means a qualified voter residing and owning taxable property within a noxious weed control district and who had duly rendered all taxes assessed against his property to the assessor for the district; and

E. "district" means a noxious weed control district organized under the provisions of the Noxious Weed Control Act.

History: 1953 Comp., § 45-10-3, enacted by Laws 1959, ch. 243, § 2.

76-7-3. Noxious weed control districts; territorial limitations. (1959)

A. Noxious weed control districts may be organized under the provisions of the Noxious Weed Control Act [[76-7-1](#) to [76-7-22](#) NMSA 1978] to include the area of any county or counties, or any portion thereof; except that no district shall contain less than one thousand, two hundred and eighty acres nor consist of territory in more than three counties. A district may include any political subdivision of the state or a defined district, or any parts thereof, but no land shall be included in more than one noxious weed control district.

B. The land composing any noxious weed control district need not be in one contiguous body but may consist of separate bodies of land separated by land not embraced in the district. No district provided for in the Noxious Weed Control Act shall embrace territory situated in more than one county except by a majority vote of the resident taxpaying voters residing within the territory in each county sought to be included in the district.

History: 1953 Comp., § 45-10-4, enacted by Laws 1959, ch. 243, § 3.

76-7-4. Petition for organization of noxious weed control district. (1959)

Petitions for the organization of a noxious weed control district shall designate the name of the district and the proposed area and boundaries to be included in the district. If the proposed district lies wholly within one county, the petition shall be presented to the board of county commissioners of the county; if the proposed district lies in more than one county, the petition shall be presented to the board of county commissioners of the county in which the largest area of the proposed district lies.

History: 1953 Comp., § 45-10-5, enacted by Laws 1959, ch. 243, § 4.

76-7-5. Notice of public hearing. (1959)

Upon receipt of a petition for the organization of a noxious weed control district the board of county commissioners wherein the petition is filed shall make an order setting the date for the hearing of the petition. The petition may be considered at a regular or special session of the board of county commissioners of the county wherein the petition is filed. The board shall issue a notice of public hearing to be published in a newspaper or newspapers of general circulation in each county in which the proposed district lies at least once a week for two consecutive weeks, with the last insertion of the notice not less than thirty days prior to the public hearing.

History: 1953 Comp., § 45-10-6, enacted by Laws 1959, ch. 243, § 5.

76-7-6. Public hearing upon petition; consideration by county commissioners. (1959)

A. Any person whose land is included in or would be affected by the creation of a noxious weed control district, may upon the day set for the public hearing appear and contest the creation of the proposed district and may offer testimony to show whether or not the district is necessary or would be of benefit to the land included therein.

B. The board of county commissioners shall approve the petition if, after a public hearing, it finds that the creation of the district would be a public benefit and that a substantial portion of the lands within the proposed district would be benefited by its creation. If the board of county commissioners finds that any lands included within the proposed district would not be benefited by its creation it shall exclude the lands and redefine the boundaries of the district accordingly. If the board of county commissioners

should find that the proposed district would not be a public benefit, or of benefit to a substantial portion of the land sought to be included therein, it shall refuse the petition.

History: 1953 Comp., § 45-10-7, enacted by Laws 1959, ch. 243, § 6.

76-7-7. Order and notice of district election. (1959)

A. Upon determination by the board of county commissioners that the proposed noxious weed control district is necessary for the reclamation or safeguarding of the lands specified in the original or modified petition, they shall order an election for the purpose of submitting to the resident taxpaying voters the issue of whether or not the district shall be created.

B. Notice of the election for the creation of the noxious weed control district shall be published in a newspaper or newspapers of general circulation in the county or counties in which the proposed district lies at least once a week for two consecutive weeks, the last insertion to be not less than thirty days prior to the proposed referendum election.

History: 1953 Comp., § 45-10-8, enacted by Laws 1959, ch. 243, § 7.

76-7-8. Qualified voters in district elections. (1959)

A. At any election for the consideration of a proposed noxious weed control district, only the following persons shall be eligible voters:

(1) all persons who are owners of agricultural land within the district or have evidence of title to the lands or who are purchasers under contract of lands within the district;

(2) all resident entrymen of federal public lands and lessees of state agricultural lands within the district;

(3) any authorized officer or agent of a corporation owning land within the proposed district. He may cast the ballot of the corporation in all weed control district elections;

(4) all minors who are the owners of agricultural land within the district and who are entitled to vote under the provisions of the Noxious Weed Control Act [[76-7-1](#) to [76-7-22](#) NMSA 1978]. Their vote shall be cast by their father, mother or duly appointed guardian in the order named, and if they have no father, mother or duly appointed guardian, the minor may cast his own ballot; and

(5) any owner of agricultural lands in the district voting by proxy. A landowner may have his vote cast at any election by another person entitled to vote in the election, and whom he may appoint as his proxy. Designation of a proxy for the purposes of district voting shall be in writing and signed by the person authorizing the proxy. Every proxy shall be attached to and deposited with the ballot cast by the designated voter, and the

ballot shall be signed in the name of the person authorizing the proxy and the proxy himself. Each proxy shall contain an official acknowledgment duly signed by a person authorized to take acknowledgments in this state.

B. The general election laws of the state, insofar as applicable, except for the requirements for registration under Section 3-2-49 NMSA 1953 [repealed] and residence in state, county and precinct under Section 3-2-51 NMSA 1953 [repealed] and except as otherwise provided in the Noxious Weed Control Act, shall govern all elections under the Noxious Weed Control Act.

History: 1953 Comp., § 45-10-9, enacted by Laws 1959, ch. 243, § 8.

76-7-9. County commissioners to furnish ballots; voting by mail permitted. (1959)

A. The board of county commissioners shall furnish sufficient printed ballots for all voters at each election in the district. The ballots for the election shall contain a place for the elector to vote for or against the formation of the proposed district. Each voter shall sign his name on a line at the bottom of the ballot before voting or casting the ballot.

B. Any qualified voter desiring to vote by mail may do so by preparing his ballot in the manner prescribed in this section, and affixing his signature thereon and mailing or delivering the ballot in a sealed envelope to the judge of the election of the voting district; provided, however, every ballot delivered or mailed to the election judges must reach the election judges not later than 6:00 p.m. on the day of the election.

History: 1953 Comp., § 45-10-10, enacted by Laws 1959, ch. 243, § 9.

76-7-10. Form of ballots. (1959)

The ballots for the creation of a weed control district shall be printed in the following form:

BALLOT
On the Question of Formation of Noxious Weed Control District.
(Place "X" in one of the boxes below)
For Noxious Weed Control District []
Against Noxious Weed Control District []
Signature of voter

History: 1953 Comp., § 45-10-11, enacted by Laws 1959, ch. 243, § 10.

76-7-11. Conduct of election; declaration of results. (1959)

A. The board of county commissioners having jurisdiction over the election shall create and define, by order, the voting precincts in the proposed district, and shall name

the polling places within each district. The board of county commissioners shall also select and appoint the judges and other necessary officers for the conduct of the election.

B. Immediately after the election, the officers holding the election shall make returns of the results to the board of county commissioners having jurisdiction. The board of county commissioners shall canvass the vote and returns and enter an order declaring the results of the election. If it is found that a majority of the votes cast are in favor of the creation of the district, the board of county commissioners shall enter an order declaring the establishment of the district. If the proposed district embraces more than one county, the board of county commissioners having jurisdiction shall enter an order declaring the establishment of the district only in the territory included in each county in which the majority of the votes cast were in favor of its creation. A copy of the order shall be transmitted to the county clerk of each county in which a portion of the district lies and shall be filed by him as a public record.

History: 1953 Comp., § 45-10-12, enacted by Laws 1959, ch. 243, § 11.

76-7-12. District governing body. (1959)

The governing body of the noxious weed control districts shall be governed by [sic] the board of county commissioners of the county wherein the largest area of the proposed district is situated.

History: 1953 Comp., § 45-0-13, enacted by Laws 1959, ch. 243, § 12.

76-7-13. Powers of district governing body. (1959)

The district governing body shall have the following powers:

A. to determine, with the advice of the county agent, which noxious weeds shall be subject to control;

B. to determine the method of control, either by spraying, cutting, burning, tillage or any other appropriate method;

C. to prescribe the specific areas within the district on which the control measures are to be carried out;

D. to prescribe the period within which control measures are to be carried out; and

E. to take necessary action to effect the purposes of the Noxious Weed Control Act [[76-7-1](#) to [76-7-22](#) NMSA 1978].

History: 1953 Comp., § 45-10-14, enacted by Laws 1959, ch. 243, § 13.

76-7-14. Rules and regulations of district; penalty. (1959)

A. The district governing body is specifically authorized to promulgate rules and regulations requiring the cleaning of farm implements and machinery which are brought into the district or which are moved from one location to another within the district and to prescribe the method of disposition of materials taken from farm implements and machinery.

B. Before the rules and regulations of the district shall become effective, a copy of all the rules and regulations shall be filed with the state law librarian and published, at least once a week for four consecutive weeks, in a newspaper or newspapers of general circulation in the county or counties in which the district lies.

C. Any person who violates any provision of the rules and regulations of the district after the rules have been duly filed and published shall be, upon conviction, punished by a fine of not more than two hundred and fifty dollars (\$250).

History: 1953 Comp., § 45-10-15, enacted by Laws 1959, ch. 243, § 14.

76-7-15. Notice to land occupiers of control measures; inspection of property; failure to comply with order. (2003)

A. The chairman of the board of county commissioners governing the noxious weed control district shall give written notice to each land occupier within the district informing him of the control measures that are in effect on his land and all other necessary information to enable the land occupier to carry out the measures.

B. It is the duty of each land occupier to comply with the control measures prescribed by the governing body and the responsibility of the appropriate county officials to comply with the control measures determined by the governing body in order to effectuate noxious weed control measures on rights of way of all public roads and other public lands within the district.

C. The governing body of the district, if it deems advisable, may appoint an inspector to serve as an officer of the governing body. The inspector shall have the right to enter upon any land within the district to determine whether control measures are necessary and to determine whether control measures prescribed by the governing body are being carried out.

D. If it is found that a land owner or occupier is not complying with the governing body's directions, the governing body shall give him written notice ordering him to comply within a stated time. If he fails to comply with the order, the governing body may file a suit for a mandatory injunction in the district court of the county in which the land is situated to compel him to comply with the order. Any land owner or occupier against whom an injunction is issued shall, upon a finding of the court that the land owner or occupier unreasonably refused to comply with the governing body's order and that the control measures are appropriate, be liable for all costs of the suit and for a reasonable

attorney fee to be fixed by the court. The court shall upon a proper determination issue an injunction ordering compliance with the governing body's directions.

E. Any adjoining land owner to a county or state road situated within the noxious weed control district may petition the governing body of the district to spray or take weed control measures of noxious weed growing upon adjoining rights of way. Upon determination by the governing body that the control measures requested are necessary, the governing body shall order appropriate action to be taken to control noxious weeds. If the lands or rights of way are under the control of the department of transportation, the governing body shall first make formal application to the state transportation commission requesting the department of transportation to perform the necessary control measures. If the department of transportation fails or refuses to take appropriate action, the governing body of the district shall perform the necessary work with district facilities. In the event sufficient funds are not available to finance the control measures by the district, upon the rights of way, the adjoining land owner or occupier shall be authorized by the governing body to take appropriate action, and he shall be reimbursed from funds of the district as soon as sufficient funds become available. The governing body shall petition the department of transportation for reimbursement of necessary and actual expenses of the noxious weed control measures taken upon the state highway rights of way or lands.

History: 1953 Comp., § 45-10-16, enacted by Laws 1959, ch. 243, § 15; 2003, ch. 142, § 96.

76-7-16. Levy of uniform assessments; assessor; collector; annual financial report. (1959)

A. The governing body of the district may levy an annual uniform assessment against the land within the district not to exceed five cents (\$.05) an acre for the purpose of paying the expenses of the district. The county treasurer of each county wherein a weed control district is located shall assess and collect the levy at the same time he collects the ad valorem taxes within the county.

B. The moneys collected for the district shall be deposited in the district depository selected by the board.

C. The chairman of the governing body of the district shall file an annual report with the county clerk of each county in which any part of the district lies, before July 1 of each year, showing the total amount received, and an itemized statement of the amounts expended during the preceding year, together with the balance remaining on hand.

History: 1953 Comp., § 45-10-17, enacted by Laws 1959, ch. 243, § 16.

76-7-17. Enforcement of assessments. (1959)

Assessments by local district assessors shall be subject to the same delinquency period, discounts, penalties and interest as are applied to the collection of ad valorem

taxes. The district governing body shall refer a delinquent assessment to a district attorney in the county of the land occupier's residence. It shall be the duty of the district attorney to sue and obtain judgment and to enforce and satisfy the judgment so obtained. All levies assessed under the provisions of the Noxious Weed Control Act [[76-7-1](#) to [76-7-22](#) NMSA 1978] shall be deemed special levies on specific property and shall not be subject to the limitations of [Section 72-4-11](#) New Mexico Statutes Annotated, 1953 Compilation [repealed] or other statutory limitations.

History: 1953 Comp., § 45-10-18, enacted by Laws 1959, ch. 243, § 17.

76-7-18. District expenses; employees. (1959)

The governing body of the district may incur all necessary expenses, within the limitations of the district assessment collections, which are in keeping with the purposes of the Noxious Weed Control Act [[76-7-1](#) to [76-7-22](#) NMSA 1978]. The board may employ one or more inspectors, if it deems necessary, for the purpose of inspecting the lands within the district to determine in what areas control measures are being carried out. The board may also employ clerical help as may be necessary in the discretion of the board.

History: 1953 Comp., § 45-10-19, enacted by Laws 1959, ch. 243, § 18.

76-7-19. Addition or exclusion of lands of district. (1959)

A. Upon petition to the district governing body, by one or more landowners residing outside the district, asking for inclusion into the district of specified lands, the governing body of the district shall examine the petition, and after appropriate public hearings make a determination upon whether the petition shall be granted. The district governing body shall have the authority to declare the extension of the boundaries of the district to include the area designated in the petition or to accept any portion of the area included in the petition, for inclusion in the district. All lands added to any existing district shall at the next assessment date automatically be subject to any special levy on taxable property approved for the district for the purposes of the Noxious Weed Control Act [[76-7-1](#) to [76-7-22](#) NMSA 1978].

B. Upon petition to the district governing body by ten or more landowners residing within the district and asking for the detaching of a specified area from inclusion in the district, the governing body of the district shall examine the petition, and after appropriate public hearing make a determination upon whether the petition shall be granted. The governing body of the district may order the lands included in the petition to be excluded from the area of the district, provided all current assessments have been paid, and the detaching of the lands will not result in the total area of the district containing less than the prescribed minimum acreage of one thousand, two hundred and eighty acres.

History: 1953 Comp., § 45-10-20, enacted by Laws 1959, ch. 243, § 19.

76-7-20. Petition to dissolve district; notice of election; conduct of election. (1959)

A. Upon petition, presented to the governing body of the noxious weed control district, signed by one-quarter of the landowners or land occupier's [occupiers] residing within the district and asking for an election upon a proposal to dissolve the district, the board of directors shall order an election thereon to be held not more than ninety days from the date the petition is received.

B. Notice by publication of the election shall be given by the chairman of the governing body of the district at least twice, with at least seven days between the two publications, in a newspaper or newspapers of general circulation published in each county in which the district lies. Notice of publication shall contain a statement of the purpose of the election and the time and place of holding the election.

C. The board shall designate the polling place or places within the district, taking into consideration the convenience of the voters, and shall also select and appoint the judges and other necessary officers of the election. None but resident taxpaying voters of the district shall be entitled to vote at the election.

History: 1953 Comp., § 45-10-21, enacted by Laws 1959, ch. 243, § 20.

76-7-21. Results of election to dissolve noxious weed control district. (1959)

Returns of the election shall be made to the board of county commissioners acting as governing body of the district, which shall canvass the returns and enter an order declaring the results of the election. If a majority of the votes cast at the election are against dissolution of the district, no further election on the proposition shall be held for a period of two years thereafter. If a majority of the votes cast are in favor of the dissolution of the district, the board shall enter an order declaring the district to be dissolved, and thereafter the board shall not exercise any further powers except to terminate the affairs of the district.

History: 1953 Comp., § 45-10-22, enacted by Laws 1959, ch. 243, § 21.

76-7-22. Termination of the affairs of the district. (1959)

If the results of the election require the dissolution of the district and there is not on hand sufficient money to pay off all claims against the district and if the annual assessments already levied will not provide sufficient funds for the payment of claims, the board shall have the authority to levy and cause to be collected further annual assessments but only in an amount as may be necessary to settle the claims against the district. Any money remaining on hand after all claims have been settled shall be paid over rateably to the county treasurer of each county in which the district lies in the proportion which the territory in each county bears to the total area of the district, and shall be placed by the treasurer in the general fund of the county.

History: 1953 Comp., § 45-10-23, enacted by Laws 1959, ch. 243, § 22.

76-7-23. Short title. (1963)

This act [[76-7-23](#) to [76-7-30](#) NMSA 1978] may be cited as the "Noxious Weed Act of 1963."

History: 1953 Comp., § 45-10-24, enacted by Laws 1963, ch. 203, § 1.

76-7-24. Definitions. (1963)

As used in the Noxious Weed Act of 1963 [[76-7-23](#) to [76-7-30](#) NMSA 1978]:

A. "board" means the board of regents of New Mexico state university;

B. "noxious weed" means any species of plant which is liable to be detrimental or destructive, and difficult to control or eradicate;

C. "seed" means any part of a noxious weed that will propagate; and

D. "agent" means any person employed by the board to carry out the provisions of the Noxious Weed Act of 1963.

History: 1953 Comp., § 45-10-25, enacted by Laws 1963, ch. 203, § 2.

76-7-25. Administration and enforcement. (1963)

The Noxious Weed Act of 1963 [[76-7-23](#) to [76-7-30](#) NMSA 1978] shall be administered and enforced by the board through the state department of agriculture.

History: 1953 Comp., § 45-10-26, enacted by Laws 1963, ch. 203, § 3.

76-7-26. Inspections. (1963)

The board or its agent may inspect any facility or ground where noxious weed seeds are sold, stored, transported or planted.

History: 1953 Comp., § 45-10-27, enacted by Laws 1963, ch. 203, § 4.

76-7-27. Declaration of certain weed seeds as noxious. (1963)

Whenever the board receives a petition signed by twenty-five New Mexico landowners requesting that certain weeds be declared noxious, it shall hold a public hearing. At least ten days prior to the hearing, notice shall be published in at least one newspaper of general circulation in the state listing all the weeds alleged to be noxious which will be considered at the hearing. If the board, as a result of the hearing, determines a weed to be noxious, it shall declare that finding by rule or regulation.

History: 1953 Comp., § 45-10-28, enacted by Laws 1963, ch. 203, § 5.

76-7-28. Unlawful actions. (1963)

After any weed is declared to be noxious by the board, it shall be unlawful to sell, give away or plant any noxious weed seed in this state or in that part of the state designated by the rules and regulations of the board. This section shall not apply to materials not sold as seed, in which noxious weed seed may incidentally be found.

History: 1953 Comp., § 45-10-29, enacted by Laws 1963, ch. 203, § 6.

76-7-29. Rules and regulations. (1963)

The board may prescribe and enforce rules and regulations, pertaining to the sale, transportation or distribution of noxious weed seeds, necessary to carry out the provisions of the Noxious Weed Act of 1963 [[76-7-23](#) to [76-7-30](#) NMSA 1978].

History: 1953 Comp., § 45-10-30, enacted by Laws 1963, ch. 203, § 7.

76-7-30. Penalty. (1963)

Any person, firm or corporation violating the Noxious Weed Act of 1963 [[76-7-23](#) to [76-7-30](#) NMSA 1978] is guilty of a misdemeanor and upon conviction shall be fined not less than twenty-five dollars (\$25.00), nor more than three hundred dollars (\$300).

History: 1953 Comp., § 45-10-31, enacted by Laws 1963, ch. 203, § 8.

76-7A-1. [Short title.] (1978)

This act [[76-7A-1](#) to [76-7A-11](#) NMSA 1978] may be cited as the "Harmful Plant Act."

History: 1978 Comp., § 76-7A-1, enacted by Laws 1978, ch. 125, § 1.

76-7A-2. Definitions. (1978)

As used in the Harmful Plant Act [[76-7A-1](#) to [76-7A-11](#) NMSA 1978]:

A. "article" means soil, seeds, unprocessed feeds, packaging materials, nursery stock, machinery or anything capable of transporting or harboring a harmful plant;

B. "board" means the board of regents of New Mexico state university;

C. "department" means the New Mexico department of agriculture;

D. "move" means to ship, offer for shipment, receive for transportation, carry or otherwise transport or allow to be transported;

E. "harmful plant" means any plant, seeds or other parts of a plant the board declares by regulation to be a harmful plant;

F. "permit" means a document issued by the department to provide for the movement of a harmful plant in accordance with regulations adopted by the board;

G. "person" means any individual, firm, association or corporation; and

H. "plant" means any living stage of a plant, including but not limited to seeds and reproductive parts of a plant.

History: 1978 Comp., § 76-7A-2, enacted by Laws 1978, ch. 125, § 2.

76-7A-3. General powers and duties of the board. (1978)

A. The board, through the department, shall administer and enforce the provisions of the Harmful Plant Act [[76-7A-1](#) to [76-7A-11](#) NMSA 1978].

B. The board may:

(1) adopt such regulations as it deems necessary to administer and enforce the provisions of the Harmful Plant Act;

(2) accept grants of money from any state or federal agency, producer [,] organization or private individual for the purposes of administering and enforcing the provisions of the Harmful Plant Act; and

(3) cooperate with the authorities of another state or the federal government in carrying out the purposes of the Harmful Plant Act.

History: 1978 Comp., § 76-7A-3, enacted by Laws 1978, ch. 125, § 3.

76-7A-4. Quarantine powers of the board. (1978)

The board may quarantine the state or any portion thereof whenever the department determines that a harmful plant exists therein and that such action is necessary to prevent the introduction of a harmful plant into the state or to retard the spread or dissemination of a harmful plant that has become established in the state. Before establishing a quarantine, the board shall hold a public hearing. Notice of the hearing shall be given to all interested parties and shall be published at least once in a newspaper of general circulation in the state. At the hearing all interested parties may appear and be heard.

History: 1978 Comp., § 76-7A-4, enacted by Laws 1978, ch. 125, § 4.

76-7A-5. Temporary quarantine powers of the department. (1978)

If it has reasonable cause to believe that a harmful plant exists and there is an immediate need to prevent its introduction, spread or dissemination in New Mexico, the department may impose a temporary quarantine on the state or any portion of the state to prevent the introduction, spread or dissemination of the harmful plant. The period for such temporary quarantine shall not exceed ninety days during which time a public hearing shall be held by the board as provided in Section 4 [[76-7A-4](#) NMSA 1978] of the Harmful Plant Act. If the board finds after such hearing that it appears the quarantine should be extended for more than the temporary ninety-day period, it may enter an order for such extension as provided in Section 4 of the Harmful Plant Act.

History: 1978 Comp., § 76-7A-5, enacted by Laws 1978, ch. 125, § 5.

76-7A-6. Temporary quarantine powers of the department with respect to livestock. (1978)

The department may quarantine any domestic livestock, captive wildlife or captive stray animals suspected [of exposure] or knowingly [known to be] exposed to a harmful plant. The quarantine shall not exceed a period of ninety-six hours or for such lesser period when the animal's digestive system can reasonably be expected to be purged of carrying any reproductive part of the harmful plant. The department's inspector shall examine each exposed animal's hide or wool for the presence of a harmful plant. At the end of the ninety-six hour period or at the end of such lesser period as provided in this section, the quarantined animals shall be released under conditions established by the department.

History: 1978 Comp., § 76-7A-6, enacted by Laws 1978, ch. 125, § 6.

76-7A-7. Effect of a quarantine. (1978)

When a quarantine is in effect, no person shall move any harmful plant described in the order from the quarantined area in this state into or through other parts of this state or from the quarantined area in other states into or through this state contrary to the provisions of the Harmful Plant Act [[76-7A-1](#) to [76-7A-11](#) NMSA 1978] or the regulations made pursuant thereto.

History: 1978 Comp., § 76-7A-7, enacted by Laws 1978, ch. 125, § 7.

76-7A-8. Harmful plants; designation. (1978)

A. After a hearing the board may, by regulation, designate a plant to be a harmful plant when it finds that the plant is not known to occur in or is new to or not widely distributed in the state and may:

- (1) directly or indirectly injure crops or other useful plants;
- (2) be poisonous or detrimental to domestic or wild animals, birds or fish;

- (3) cause adverse effects to other interests of agriculture, such as irrigation; or
- (4) cause adverse effects to streams, ponds, lakes or aquatic fauna.

B. Notice of the hearing shall be published at least once in a newspaper of general circulation in the state and shall be given to interested parties. The notice shall state the plants alleged to be harmful which will be considered at the hearing. At the hearing, all interested parties may appear and be heard.

C. The department may designate a plant to be a harmful plant if it finds that the plant is not known to occur in, is new to or not widely distributed in the state, without a public hearing, for a period not to exceed ninety days, if it appears that such emergency action is necessary to prevent or control the introduction, spread or dissemination of the harmful plant. Within that ninety-day period the board shall hold a public hearing, after reasonable notice, to determine whether the designated plant is a harmful plant as provided in the Harmful Plant Act [[76-7A-1](#) to [76-7A-11](#) NMSA 1978].

History: 1978 Comp., § 76-7A-8, enacted by Laws 1978, ch. 125, § 8.

76-7A-9. Prohibited acts; permits. (1978)

No person shall knowingly move a harmful plant or article that is capable of harboring a harmful plant into or within New Mexico unless such person is granted a permit for such purpose by the department in accordance with regulations of the board. The department may refuse to issue a permit for the movement of harmful plants when in the opinion of the department such movement would involve a danger of dissemination of the harmful plant within the state. No person, unless granted a permit for such purpose by the department, shall sell, purchase, barter, exchange, give or receive a plant that has been declared to be a harmful plant by the board.

History: 1978 Comp., § 76-7A-9, enacted by Laws 1978, ch. 125, § 9.

76-7A-10. Inspections authorized. (1978)

In order to prevent the introduction, spread or dissemination of a harmful plant, the department, after written notice to the owner or his agent, may detect, take possession [of], stop movement [of], eradicate, suppress, control, treat, prevent or retard the spread of or destroy any harmful plant, or stop movement [of] or treat any article that is capable of harboring or moving a harmful plant. The department may, with the consent of the owner or by order of the district court, inspect any premises in this state for the presence of a harmful plant.

History: 1978 Comp., § 76-7A-10, enacted by Laws 1978, ch. 125, § 10.

76-7A-11. Penalties. (1978)

A. Any person who knowingly violates any provision of the Harmful Plant Act [[76-7A-1](#) to [76-7A-11](#) NMSA 1978] or any regulation adopted by the board pursuant thereto is guilty of a petty misdemeanor and, upon conviction, shall be punished by a fine of one hundred dollar (\$100). Each day of violation shall constitute a separate and punishable offense.

B. The department shall not be required to give bond or security in any legal proceeding brought under the provisions of the Harmful Plant Act in which the department is a party.

History: 1978 Comp., § 76-7A-11, enacted by Laws 1978, ch. 125, § 11.

76-7B-1. Short title. (1985)

This act [[76-7B-1](#) to [76-7B-7](#) NMSA 1978] may be cited as the "Rangeland Protection Act".

History: Laws 1985, ch. 53, § 1.

76-7B-2. Purpose of act. (1985)

The legislature finds and declares that:

A. vast rangeland areas are producing less than their potential for the grazing of livestock, wildlife habitat, forage and water and soil conservation benefits; and

B. it is essential to the general welfare of this state to apply methods to enhance the multiple-use management, development and conservation of rangeland in New Mexico so as to restore rangeland capacity to carry livestock and wildlife, conserve valuable soil and water resources and restore environmental quality.

History: Laws 1985, ch. 53, § 2.

76-7B-3. Definitions. (1985)

As used in the Rangeland Protection Act [[76-7B-1](#) to [76-7B-7](#) NMSA 1978]

A. "committee" means the rangeland protection advisory committee;

B. "department" means the New Mexico department of agriculture;

C. "protection" means the control or management of undesirable brush or other weed species and any associated management program or activity necessary to enhance successful restoration of the treated rangeland intended to restore production of forage, change vegetative composition, conserve the soil by stabilizing soil and water conditions

or provide habitat for livestock and wildlife. The term shall be so interpreted as to emphasize an integrated management approach to rangeland protection; and

D. "rangeland" means land that is not cultivated and is used primarily for grazing of domestic livestock and wildlife in addition to being a source of wood products and water.

History: Laws 1985, ch. 53, § 3.

76-7B-4. Department; powers and duties. (1985)

The department shall coordinate rangeland protection projects developed under the Rangeland Protection Act [[76-7B-1](#) to [76-7B-7](#) NMSA 1978]. In the performance of its function, the department shall:

A. establish contact with ranchers, Indian tribes and pueblos, local soil and water conservation district boards and appropriate state and federal agencies to determine desire for participation in brush and weed management programs;

B. coordinate field inspections on participating ranches with ranchers, local soil and water conservation district boards, appropriate state and federal agencies and other persons with needed expertise to evaluate the extent of the problem;

C. obtain a written recommendation from persons participating in the field inspections relative to need for and feasibility of control;

D. closely coordinate project activities with local soil and water conservation district boards;

E. under guidelines established by the committee, prepare and implement a plan for each project to receive brush and weed control. Each plan shall include such information as extent of the problem, number of acres by species and land status, recommended method and season of control, estimated cost of control for each participating individual or agency and necessary follow-up management practices required to enhance successful restoration and conservation of the treated area;

F. conduct the contract process to obtain services for control;

G. supervise and administer the actual contracted control or management projects in the field to assure compliance with the contract;

H. maintain an information repository on current technology for brush and weed control; and

I. cooperate and coordinate with any individual or county, state or federal governmental agency or its subdivisions to carry out its duties under this section.

History: Laws 1985, ch. 53, § 4.

76-7B-5. Committee created. (1985)

A. There is created the "rangeland protection advisory committee". The following persons or their designees shall be members: the director of the New Mexico department of agriculture, the chairman of the range improvement task force, college of agriculture of New Mexico state university, the commissioner of public lands, the director of the department of game and fish, the secretary of natural resources, the dean of the college of agriculture at New Mexico state university and the director of the environmental improvement division of the health and environment department [department of environment]. The committee shall coordinate its activities and insofar as possible involve the state director of the United States bureau of land management, the regional forester of the United States forest service, the bureau of Indian affairs and the state conservationist of the United States soil conservation service. The chairman will appoint one additional member for a one-year term to be selected from the ranching industry. The director of the New Mexico department of agriculture shall serve as chairman.

B. The chairman shall call meetings of the committee and prescribe the time and place of each meeting.

C. To facilitate cooperation and coordination, the committee shall:

(1) meet upon the call of the chairman to develop mutually acceptable general guidelines to be followed for all rangeland protection projects conducted by the department under the Rangeland Protection Act [[76-7B-1](#) to [76-7B-7](#) NMSA 1978]; and

(2) be convened at least once annually to discuss rangeland protection projects conducted during the preceding year and to provide updated recommendations and guidance for future projects as necessitated by, but not limited to, changes in available funding, laws or technology.

D. The department shall provide the administrative staff and facilities needed by the rangeland protection advisory committee.

History: Laws 1985, ch. 53, § 5.

76-7B-6. Funding of projects. (1985)

Rangeland protection projects covering federal, state, Indian-owned and privately owned rangeland shall be funded as follows:

A. the appropriate federal department, bureau, agency or committee with authority for allocating funds, in cases where they participate, shall provide funding for projects embracing federal and Indian land;

B. owners and operators of deeded lands, in cases where they participate, shall provide funding for projects embracing privately owned land;

C. the state, in cases where it participates, shall provide funding for projects embracing state trust rangeland; and

D. project funding by each type of rangeland ownership shall be upon a proportional acreage participation basis.

History: Laws 1985, ch. 53, § 6.

76-7B-7. Rangeland information collection and dissemination. (1985)

The department shall insure the implementation of programs to collect and disseminate information relating to the purposes of the Rangeland Protection Act [[76-7B-1](#) to [76-7B-7](#) NMSA 1978]. Such programs shall include but not be limited to:

A. collecting results from all possible sources on research about rangeland protection methods;

B. assembling and correlating information on rangeland protection research and other applicable data so as to make it easily accessible to all;

C. cataloging those methods, techniques and tools for rangeland protection projects which may have application for New Mexico; and

D. preparing and publishing in a timely fashion a complete report of each rangeland protection project carried out under the Rangeland Protection Act to include the amount and ownership of lands treated, target plant species, methods used and an assessment of the results and furnishing a copy of the complete report to the first session of the thirty-eighth legislature prior to that session.

History: Laws 1985, ch. 53, § 7.

76-7C-1. Grazing permits; management plans. (1991)

A. In all areas of New Mexico where the production of livestock is managed upon intermingled private, state and federal land, landowners, lessees and permittees may provide for the development and implementation of a management plan. If a landowner, permittee or lessee elects to develop a management plan for any given area, he shall do so in consultation, cooperation and coordination with other lessees, permittees and landowners involved. In addition, the permittee, lessee or landowner shall consult with the range improvement task force located at New Mexico state university and the New Mexico department of agriculture.

B. Management plans shall be tailored to the specific range condition of the area to be covered by these plans and shall be reviewed on a periodic basis to determine whether they have been effective in improving the range condition of the lands involved. The management plans may be revised or terminated or new plans developed from time to time after such review and careful and considered consultation, cooperation and coordination with all permittees, lessees and landowners involved and, if appropriate, with the New Mexico department of agriculture and the range improvement task force staff of New Mexico state university.

History: Laws 1991, ch. 42, § 1.

76-7D-1. Short title. (1998)

This act [[76-7D-1](#) to [76-7D-6](#) NMSA 1978] may be cited as the "Noxious Weed Management Act".

History: Laws 1998, ch. 78, § 1.

76-7D-2. Findings and purpose. (1998)

A. The legislature finds that noxious weeds have caused extensive economic damage in New Mexico. Specifically, the presence and spread of noxious weeds:

(1) decreases land values and productivity, forces out nutritious forage for livestock and often causes the death of livestock and crops;

(2) harms the environment by crowding out native vegetation and endangered species, increasing fire danger and increasing water usage; and

(3) increases government and industrial costs by increasing highway cleanup costs, decreasing the lease value of state and federal public lands and curtailing the hunting, fishing and recreational use of the land.

B. It is the purpose of the Noxious Weed Management Act [[76-7D-1](#) to [76-7D-6](#) NMSA 1978] to improve the state economy and environment by managing noxious weeds in New Mexico.

History: Laws 1998, ch. 78, § 2.

76-7D-3. Definitions. (1998)

As used in the Noxious Weed Management Act [[76-7D-1](#) to [76-7D-6](#) NMSA 1978]:

A. "director" means the director of the New Mexico department of agriculture;

B. "landowner" means a person who holds title to real property, is the holder of a right-of-way easement or is a designated land manager;

C. "noxious weed" means a plant species that is not indigenous to New Mexico and that has been targeted pursuant to the Noxious Weed Management Act for management or control because of its negative impact on the economy or the environment; and

D. "public land" means land controlled or supervised by an agency of government.

History: Laws 1998, ch. 78, § 3.

76-7D-4. Duties of director; noxious weed management program. (1998)

A. The director shall coordinate integrated noxious weed management programs. To carry out such programs, the director shall:

(1) select the species of weeds to be targeted as noxious weeds for control or eradication pursuant to the Noxious Weed Management Act [[76-7D-1](#) to [76-7D-6](#) NMSA 1978];

(2) identify the methods to be used to control noxious weeds; and

(3) develop publications to educate the public on the problem and prevention of noxious weeds.

B. The director may use and cooperate with any existing noxious weed control program that is available and appropriate for the purposes of the Noxious Weed Management Act.

History: Laws 1998, ch. 78, § 4.

76-7D-5. Administration of program. (1998)

The director shall administer the provisions of the Noxious Weed Management Act [[76-7D-1](#) to [76-7D-6](#) NMSA 1978] subject to the directives, policies and regulations of the board of regents of New Mexico state university.

History: Laws 1998, ch. 78, § 5.

76-7D-6. Landowners; rights; agreements. (1998)

A. If the director or his designee becomes aware of the presence of noxious weeds on nonpublic land, the director shall notify the landowner of the noxious weeds and the methods for controlling them. However, nothing in the Noxious Weed Management Act [[76-7D-1](#) to [76-7D-6](#) NMSA 1978] shall be construed to permit the director or his designee to enter nonpublic land except at the invitation of the landowner.

B. Upon the request of a landowner, the director shall develop a noxious weed control program in cooperation with the landowner.

C. Whenever the director becomes aware of the presence of noxious weeds on public land, he shall inform the governmental entity of the species found on land under the entity's jurisdiction. When possible and practicable, the director shall consult with the governmental entity in developing a management plan for the control of the noxious weeds.

D. The director may develop and implement cooperative agreements with appropriate federal and state agencies, the commissioner of public lands and Indian nations, tribes and pueblos to carry out the provisions of the Noxious Weed Management Act.

History: Laws 1998, ch. 78, § 6.

76-8-1. [Enumeration of protected plants.] (1933)

The following plants shall constitute the protected group in New Mexico and the botanical names shall govern in all cases:

A. fern family (Polypodiaceae):

gymnogramme (*Gymnopteris hispida*)

common maidenhair fern (*Adiantum capillus-veneris*)

chain fern (*Woodwardia plummerae*)

spleenwort (*Asplenium septentrionalis*)

spleenwort (*Asplenium resiliens*)

spleenwort (*Asplenium trichomanes*)

B. lily family (Liliaceae):

two-flowered milla (*Milla byflora*)

purplish-brown fritillary (*Fritillaria atropurpurea*)

uvularia, twisted stalk (*Uvularia amplexifolia*)

white mountain lily (*Leucocrinum montanum*)

wood lily (*Lilium montanum*)

mariposa lily (*Calochortus* - all species)

C. iris family (*Iridaceae*):

wild iris (*Oreolirion arizonicum*). This is not the common blue iris of our mountains, but is yellow in color.

D. amaryllis family (*Amaryllidaceae*):

century plant (*Agave schottii*)

lechuguilla (*Agave lechuguilla*)

century plant (*Agave palmeri*)

century plant (*Agave parryi*)

century plant (*Agave neomexicana*)

atamosco lily (*Atamosco longifolia*)

E. crowfoot family (*Ranunculaceae*):

red, yellow, and blue columbine (*Aguilegia* - all species)

monkshood (*Aconitum* - all species)

pasque flower (*Pulsatilla hirsutissima*)

leather flower (*Viorna* - all species)

virgin's bower (*Clematis pseudoalpina*)

F. lobelia family (*Lobeliaceae*):

cardinal flower or red lobelia (*Lobelia splendens*)

blue lobelia (*Lobelia gruna*)

G. primrose family (*Primulaceae*):

shooting star (*Dodecatheon* - all species)

primrose (*Primula* - all species)

H. heath family (*Ericaceae*):

bearberry, kinnickinick [kinnikinick] (*Artostaphylos uva-urse*)

I. gentian family (*Gentianaceae*):

fringed gentian (*Gentiana elegans*)

fringed gentian (*Gentiana barbellata*)

closed gentian (*Gentiana affinis*)

J. violet family (*Violaceae*):

blue violet (*Viola adunca*)

blue violet (*Viola nephrophylla*)

blue violet (*Viola pedatifida*)

yellow violet (*Viola pinetorum*)

blue violet (*Viola missouriensis*)

K. purslane family (*Portulacaceae*):

spring beauty (*Claytonia lanceolata*)

L. apple family (*Malaceae*):

mountain ash (*Sorbus scopulina*)

M. phlox family (*Polemoniaceae*):

jilly flower (*Gilia aggregata*)

N. orchid family (*Orchidaceae*):

orchids - all species

O. orpine family (*Crassulaceae*):

sedum - all species (commonly known as stonecrop)

P. saxifrage family (Saxifragaceae):

all species

Q. evening primrose family (Epilobiaceae):

firewood (*Chamaenerion anugstifolium*)

R. dogwood family (Cornaceae):

cornel (*Cornus instolonea*)

S. ivy family (Hederaceae):

aralia (*Aralia bicrenata*)

T. butterfly weed (*Asclepias tuberosa*)

U. figwort family (Scrophulariaceae):

Indian paint brush, painted cup (*Castilleja integra*)

V. cactus family (Cactaceae):

night blooming cereus (*Peniocereus greggii*)

porcupine cactus (*Echinocereus* - all species)

barrel, niggerhead, bisnaga or visnaga cactus (*Ferocactus* - all species)

hedgehog cactus (*Echinocactus* - all species)

hedgehog cactus (*Scherocactus* - all species)

pincushion cactus (*Coryphantha* or *Mammillaria* - all species)

fishhook cactus (*Phellosperma* or *Mammillaria* - all species)

fishhook cactus (*Neomammillaria* or *Mammillaria* - all species)

stanly's cholla (*Opuntia stanlyi*)

W. all plants growing within four hundred yards of any highway, except noxious weeds.

History: Laws 1933, ch. 116, § 1; 1941 Comp., § 48-1001; 1953 Comp., § 45-11-1.

76-8-2. [Removal of plants from state or private lands without permission prohibited.] (1933)

No person shall destroy, mutilate or remove any living plant, except seeds, of the protected group from any state or private [privately] owned lands without a written permit from the owner, provided that nothing in this act [[76-8-1](#) to [76-8-4](#) NMSA 1978] shall be construed to prevent the cleaning, clearing or removal of plants from any canal, lateral, ditch, survey line, public road or railroad right-of-way or highway, when necessary to the full and proper use thereof, and provided further that the provisions of this act shall not apply when plants enumerated herein are more than four hundred yards from any public highway.

History: Laws 1933, ch. 116, § 2; 1941 Comp., § 48-1002; 1953 Comp., § 45-11-2.

76-8-3. [Exception.] (1933)

Nothing herein shall prevent the use of down or dead cacti for business or other purposes.

History: Laws 1933, ch. 116, § 3; 1941 Comp., § 48-1003; 1953 Comp., § 45-11-3.

76-8-4. [Penalty for violation.] (1933)

Any person violating the provisions of this act [[76-8-1](#) to [76-8-4](#) NMSA 1978] shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than fifty [(\$50.00)] nor more than three hundred dollars [(\$300)], and each violation shall constitute a separate offense.

History: Laws 1933, ch. 116, § 4; 1941 Comp., § 48-1004; 1953 Comp., § 45-11-4.