

MONTANA NOXIOUS WEED MANAGEMENT FUNDING AND ADMINISTRATIVE RULES

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MONTANA DEPARTMENT OF AGRICULTURE

AGRICULTURAL SCIENCES DIVISION

HELENA, MONTANA

STATUTE

TITLE 80, CHAPTER 7

SECTIONS 80-7-801 THROUGH 80-7-823

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Disclaimer-

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The Montana Code and Constitution is at: http://leg.mt.gov/BILLS/MCA_toc/index.htm

TITLE 80. AGRICULTURE
 CHAPTER 7. DISEASE, PEST, AND WEED CONTROL
Part 8. Noxious Weed Management Funding

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80-7-801. Definitions.

As used in this part, the following definitions apply:

- (1) "Crop weed" means any plant commonly accepted as a weed and for which grants for management research, evaluation, and education under **80-7-814(5)(g)** may be given.
- (2) "Department" means the department of agriculture established in **2-15-3001**.
- (3) "Noxious weed" means any weed defined in **7-22-2101(8)(a)**.

History: En. Sec. 1, Ch. 577, L. 1985; amd. Sec. 1, Ch. 15, L. 1987; amd. Sec. 1, Ch. 220, L. 1995; amd. Sec. 22, Ch. 407, L. 2001; amd. Sec. 3, Ch. 472, L. 2005.

80-7-802. Rules.

The department may adopt rules necessary to implement this part.

History: En. Sec. 8, Ch. 577, L. 1985.

80-7-803 and 80-7-804 reserved.

80-7-805. Noxious weed management advisory council.

- (1) The director of the department shall appoint a noxious weed management advisory council to provide advice to the department concerning the administration of this part.
- (2) If appointed, the council must be composed of 11 members, as follows:
 - (a) the director of the department of agriculture, who shall serve as presiding officer;
 - (b) one member representing livestock production;
 - (c) one member representing agriculture crop production;
 - (d) one member from a recreationist/wildlife group;
 - (e) one member who is a herbicide dealer or applicator;
 - (f) one member from a consumer group;
 - (g) one member representing biological research and control interests;

- (h) one member from the Montana weed control association;
- (i) two members representing counties, one each from the western and eastern parts of the state, which may include a county commissioner, district weed board member, or weed district supervisor; and
- (j) one at-large member from the agricultural community.

History: En. Sec. 9, Ch. 577, L. 1985; amd. Sec. 1, Ch. 493, L. 1999.

80-7-806 through 80-7-809 reserved.

80-7-810. Repealed. Sec. 253, Ch. 574, L. 2001.

History: En. Sec. 2, Ch. 639, L. 1987; amd. Sec. 7, Ch. 588, L. 1991; amd. Sec. 2, Ch. 493, L. 1999.

80-7-811. Noxious weed management trust fund.

- (1) As required by Article IX, section 6, of the Montana constitution, there is a noxious weed management trust fund of \$10 million. The department shall administer the trust fund in accordance with this part.
- (2) Deposits to the principal of the noxious weed management trust fund may include but are not limited to:
 - (a) federal contributions;
 - (b) private donations; and
 - (c) state contributions.

History: En. Sec. 2, Ch. 577, L. 1985; amd. Sec. 2, Ch. 220, L. 1995; amd. Sec. 3, Ch. 493, L. 1999; amd. Sec. 4, Ch. 472, L. 2005.

80-7-812. Repealed. Sec. 10, Ch. 220, L. 1995.

History: En. Sec. 3, Ch. 577, L. 1985; amd. Sec. 2, Ch. 15, L. 1987; amd. Sec. 6, Ch. 588, L. 1991.

80-7-813. Acceptance and expenditure of gifts and other funds.

The department may accept gifts, grants, contracts, or other funds designated for noxious weed management. The funds must be deposited in the noxious weed management trust fund or in the account established in **80-7-816** and may be expended to support a noxious weed management project.

History: En. Sec. 4, Ch. 577, L. 1985; amd. Sec. 3, Ch. 220, L. 1995.

80-7-814. Administration and expenditure of funds.

- (1) The provisions of this section constitute the noxious weed management program.
- (2)
 - (a) Except as provided in subsection (2)(b), money deposited in the noxious weed management trust fund may not be committed or expended until the principal reaches \$10 million.
 - (b) In the case of a noxious weed emergency, as provided in **80-7-815**, a vote of three-fourths of the members of each house of the legislature may appropriate principal from the trust fund.
 - (c) Interest or revenue generated by the trust fund, excluding unrealized gains and losses, must be deposited in the noxious weed management special revenue fund and may be expended for noxious weed management projects before the principal of the noxious weed management trust reaches \$10 million with a majority vote of each house of the legislature.
 - (d) Any grant funds, regardless of the time at which the grant was awarded, that are not fully expended upon termination of the contract or an extension of the contract, not to exceed 1 year, must revert to the department. The department shall use any reverted funds for future grant awards, provided the noxious weed management trust fund principal exceeds \$10 million as provided in subsection (2)(a).
 - (e) The department may not apply for or receive grant awards from the noxious weed management special revenue fund.
- (3) The principal of the noxious weed management trust fund in excess of \$10 million may be appropriated by a majority vote of each house of the legislature. Appropriations of the principal in excess of \$10 million may be used only to fund the noxious weed management program.
- (4) The department may expend funds under this section through grants or contracts to communities, weed management districts, or other entities that it considers appropriate for noxious weed management projects. A project is eligible to receive funds only if the county in which the project occurs has funded its own weed management program using one of the following methods, whichever is less:
 - (a) levying an amount of not less than 1.6 mills or an equivalent amount from another source; or
 - (b) appropriating an amount of not less than \$100,000 from any source.
- (5) The department may expend funds without the restrictions specified in subsection (4) for the following:

- (a) employment of a new and innovative noxious weed management project or the development, implementation, or demonstration of any noxious weed management project that may be proposed, implemented, or established by local, state, or national organizations, whether public or private. The expenditures must be on a cost-share basis with the organizations.
 - (b) cost-share noxious weed management programs with local weed management districts;
 - (c) special grants to local weed management districts to eradicate or contain significant noxious weeds newly introduced into the county. These grants may be issued without matching funds from the district.
 - (d) costs incurred by the department for administering the noxious weed management program as follows:
 - (i) In fiscal year 2014, the funds used by the department for administering the program, including but not limited to personal services costs, operating costs, and other administrative and program costs attributable to the program, may not exceed 16% of the total amount expended through grants and contracts made under subsection (4). No additional administrative or other costs may be taken by the department on reverted funds used for future grant awards.
 - (ii) In fiscal year 2015 and in each succeeding fiscal year, the funds used by the department for administering the program, including but not limited to personal services costs, operating costs, and other administrative and program costs attributable to the program, may not exceed 12% of the total amount of grants and contracts awarded from the noxious weed management special revenue fund under subsection (4) in the previous fiscal year. No additional administrative or other costs may be taken by the department on reverted funds used for future grant awards.
 - (e) administrative expenses incurred by the noxious weed management advisory council;
 - (f) a project recommended by the noxious weed management advisory council, if the department determines that the project will significantly contribute to the management of noxious weeds within the state; and
 - (g) grants to the agricultural experiment station and the cooperative extension service for crop weed management research, evaluation, and education.
- (6) The agricultural experiment station and cooperative extension service shall submit annual reports on current projects and future plans to the noxious weed management advisory council.
 - (7) In making expenditures under subsections (3) through (5), the department shall give preference to weed management districts and community groups.
 - (8) If the noxious weed management trust fund is terminated by constitutional amendment, the money in the fund must be divided between all counties according to rules adopted by the department for that purpose.

History: En. Sec. 5, Ch. 577, L. 1985; amd. Sec. 3, Ch. 639, L. 1987; amd. Sec. 76, Ch. 83, L. 1989; amd. Sec. 1, Ch. 440, L. 1991; amd. Sec. 4, Ch. 220, L. 1995; amd. Sec. 4, Ch. 493, L. 1999; amd. Sec. 221, Ch. 574, L. 2001; amd. Sec. 1, Ch. 106, L. 2003; amd. Sec. 125, Ch. 114, L. 2003; amd. Sec. 5, Ch. 472, L. 2005; amd. Sec. 12, Ch. 244, L. 2011; amd. Sec. 1, Ch. 326, L. 2013; amd. Sec. 1, Ch. 32, L. 2015.

80-7-815. Noxious weed emergency.

- (1) The governor may declare a noxious weed emergency if:
 - (a) a new and potentially harmful noxious weed is discovered growing in the state and is verified by the department; or
 - (b) the state is facing a potential influx of noxious weeds as the result of a natural disaster.
- (2) In the absence of necessary funding from other sources, the principal of the noxious weed management trust fund may be appropriated as provided in **80-7-814** to government agencies for emergency relief to eradicate or confine the new noxious weed species or to protect the state from an influx of noxious weeds due to a natural disaster.

History: En. Sec. 6, Ch. 577, L. 1985; amd. Sec. 8, Ch. 588, L. 1991; amd. Sec. 5, Ch. 220, L. 1995; amd. Sec. 23, Ch. 407, L. 2001; amd. Sec. 222, Ch. 574, L. 2001; amd. Sec. 6, Ch. 472, L. 2005.

80-7-816. Account -- deposit -- investment.

- (1) There is a noxious weed account in the state special revenue fund established in **17-2-102**. The interest from the noxious weed management trust fund and the funds directed to be deposited as provided in **80-7-823**, excluding unrealized gains and losses, must be deposited in the account and must be expended as provided in **80-7-705** and **80-7-814**.
- (2) The department may direct the board of investments to invest the funds collected under subsection (1) pursuant to the provisions of **17-6-201**. The income from the investments must be credited to the account in the state special revenue fund.

History: En. Sec. 6, Ch. 220, L. 1995; amd. Sec. 73, Ch. 7, L. 2001; amd. Sec. 24, Ch. 407, L. 2001; amd. Sec. 223, Ch. 574, L. 2001; amd. Sec. 2, Ch. 106, L. 2003.

80-7-817 through 80-7-820 reserved.

80-7-821. Repealed. Sec. 10, Ch. 220, L. 1995.

History: En. Sec. 7, Ch. 577, L. 1985.

80-7-822. Terminated. Sec. 7, Ch. 493, L. 1999.

History: En. Sec. 5, Ch. 493, L. 1999.

80-7-823. Transfer of funds.

There is transferred \$100,000 annually from the highway nonrestricted account, provided for in **15-70-125**, to the noxious weed state special revenue account, provided for in **80-7-816**, for the purposes provided in **80-7-705**.

History: En. Sec. 2, Ch. 407, L. 2001; amd. Sec. 8, Ch. 20, Sp. L. August 2002; amd. Sec. 13, Ch. 432, L. 2007.

**MONTANA DEPARTMENT OF AGRICULTURE
AGRICULTURAL SCIENCES DIVISION
HELENA, MONTANA**

ADMINISTRATIVE RULES OF MONTANA

**CHAPTER 5
SUBCHAPTER 1 & 2**

NOXIOUS WEED MANAGEMENT FUNDING

**GREGORY H. AMES
ADMINISTRATOR**

REVISED FEBRUARY 2017

Disclaimer

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The Administrative Rules of Montana may be found online through the internet at: <http://arm.sos.state.mt.us>

Administrative Rule

4.5.101 Definitions

When used in these rules, unless a different meaning clearly appears from the context:

- (1) "Department" means the department of agriculture provided for in [2-15-3001](#) , MCA.
- (2) "Weed management" or "control" means the planning and implementation of a coordinated program for the containment, suppression, and where possible, eradication of noxious weeds.
- (3) "Advisory council" means the noxious weed management advisory council provided for in [80-7-805](#) , MCA.
- (4) "Project" means a planned undertaking which involves one or more renewable resources at an identified site or geographic location in Montana.
- (5) "Project sponsor" means the local state or national organization, either public or private, supporting a project.
- (6) "Renewable resource" means all land used for domestic livestock grazing, timber, or crop production, recreation, or wildlife and all water resources.
- (7) "Public benefits" means those benefits that accrue to persons other than the grant recipient and enhance the common well-being of the people of Montana.
- (8) "Tangible returns" means either monetary or non-monetary returns that will accrue to the state.
- (9) "Community group" means three or more private landowners or federal, state, or local entities working together to control noxious weeds.
- (10) "Noxious weed emergency" means a new and potentially harmful noxious weed growing in the state that has been verified by the department and declared an emergency as provided for in [80-7-815](#) , MCA.

History: Sec. [80-7-802](#), MCA; IMP, Sec. [80-7-801](#) & [80-7-811](#), MCA; NEW, 1986 MAR p. 651, Eff. 4/25/86.

4.5.102 Application Procedure

- (1) The department will specify funding cycles and application deadlines as necessary.
- (2) The department may return an insufficient or incomplete proposal for correction or completion. The department may provide the applicant with reasons for the proposal's return and a brief description of the information required in order to make the proposal correct or complete, or both. If these corrections or completions, or both, are not made, the proposal will not be evaluated.
- (3) Proposals which more closely fit the legislative authority of another loan or grant program within state government will be referred to that program for review.

- (4) The applicant may request assistance from the department in completing the application. The department will provide such assistance, the level of which will be determined by availability of staff and funds.
- (5) Advisory council will review, rank and recommend proposed projects and funding according to the guidelines and criteria described in ARM [4.5.108](#). Advisory council recommendations will be submitted to the department for final review and determination of funding. The applicant will receive written notification from the department of the action taken on the proposal.

History: Sec. [80-7-802](#) MCA; **IMP**, Sec. [80-7-814](#) MCA; **NEW**, 1986 MAR p. 651, Eff. 4/25/86; **AMD**, 1998 MAR p. 2472, Eff. 9/11/98.

4.5.103 Application Content for Grants

All applications for grants shall contain:

- (1) Name, address, and telephone number of the project sponsor, project manager and liaison (if different than manager).
- (2) Title or name of the proposed project.
- (3) Location of proposed project.
- (4) A brief description of the history and background of the project.
- (5) A discussion of the need and urgency for the project and why it is best means to achieve the desired results.
- (6) Objectives of the project and desired accomplishments.
- (7) Discussion of the projects technical feasibility.
- (8) Amount of money to be requested for a grant. A statement indicating the amount of funding available from other sources. If no other funding is available, the applicant must give the reasons.
- (9) Proof, where appropriate, the applicant has the cooperation of all landholders within the project area including federal, state, and private entities.
- (10) A statement indicating both public and tangible benefits which would accrue as a result of the proposed project.
- (11) An evaluation of the project as required in ARM [4.5.105](#) and [4.5.106](#).
- (12) A statement that the project sponsor, if the grant receives department approval, is willing to enter into a contract with the department for utilization of grant funds.

History: Sec. [80-7-802](#) MCA; **IMP**, Sec. [80-7-814](#) MCA; **NEW**, 1986 MAR p. 651, Eff. 4/25/86.

4.5.104 Technical Feasibility of Projects

Technical data and information to be provided in the proposal shall include but is not limited to the following.

- (1) A thorough discussion of the work plan including the purpose, location and schedule of major project phases.
- (2) A listing of herbicides, biological control agents, or cultural methods used for weed control within the project area, where appropriate. This description may include prior field investigations and research information to support the proposal.
- (3) Educational programs that will be conducted in conjunction with the project to increase weed awareness and improve weed control techniques of county residents.
- (4) Maps, drawings, charts, tables, etc., used as a basis for project planning and implementation.
- (5) A map showing land ownership associated with the project; and
- (6) Description of other management alternatives and applicants consideration of those alternatives.
- (7) The department may request any additional information deemed necessary to document technical feasibility.

History: Sec. [80-7-802](#) MCA; **IMP**, Sec. [80-7-814](#) MCA; **NEW**, 1986 MAR p. 651, Eff. 4/25/86.

4.5.105 Project Evaluation

- (1) All project sponsors shall document the results of the project and the impact on the state and/or renewable resource. The amount of information required for evaluation of the technical, economic, environmental, financial and other factors may vary depending on the size and complexity of the project. The department may advise the applicant of the amount of documentation and evaluation necessary.

History: Sec. [80-7-802](#) MCA; **IMP**, Sec. [80-7-814](#) MCA; **NEW**, 1986 MAR p. 651, Eff. 4/25/86.

4.5.106 Economic Assessment of Projects

- (1) The projects which receive funding shall demonstrate tangible return to the state of Montana or its citizens.
- (2) The applicant shall document current benefit and cost data.

History: Sec. [80-7-802](#) MCA; **IMP**, Sec. [80-7-814](#) MCA; **NEW**, 1986 MAR p. 651, Eff. 4/25/86.

4.5.107 Legal Requirements

(1) The applicant is required to follow all statutory and regulatory standards.

History: Sec. [80-7-802](#) MCA; IMP, Sec. [80-7-814](#) MCA; NEW, 1986 MAR p. 651, Eff. 4/25/86.

4.5.108 Evaluation of Projects

(1) The advisory council shall review and rank all projects as high, medium or low and by majority vote recommend to the department those projects which meet appropriate criteria for the project and the program.

(2) The advisory council shall consider the following criteria in recommending projects for funding:

(a) Projects which meet requirements specified in [80-7-814](#) , MCA, of the Noxious Weed Trust Fund Act.

(b) Projects that involve community groups, weed districts, reservations or conservation districts.

(c) Projects which can be utilized statewide and will provide the most tangible returns to the county or state.

(d) Projects in areas where county weed district funding sources for noxious weed control are limited.

(e) Projects which include educational programs to increase weed awareness and improve weed control techniques.

(f) Projects which involve an integrated weed management plan including biological, cultural, and chemical control.

(g) Projects which will enhance the renewable resources.

(h) Projects which include matching funds (including in-kind services) from private, state, and/or federal entities.

(i) Projects which have not previously received funds from the program.

(j) Projects whose results will provide public benefits.

(k) Projects with a long term effect on natural resources.

(l) Projects which involve noxious weed emergencies.

(3) The advisory council evaluations and recommendations will be submitted to the department for final review and determination of funding for grant requests.

History: Sec. [80-7-802](#) MCA; **IMP**, Sec. [80-7-814](#) MCA; **NEW**, 1986 MAR p. 651, Eff. 4/25/86; **AMD**, 1998 MAR p. 2472, Eff. 9/11/98.

4.5.109 Reporting and Monitoring Procedures

(1) The project sponsor or project manager shall monitor the progress and results of the project and evaluate its overall effectiveness. The project sponsor shall submit to the department fiscal reports and written progress reports as determined by contract. If the department determines through field or office evaluations that improper progress or fiscal reports have been filed, the project sponsor shall initiate necessary corrective action.

History: Sec. [80-7-802](#) MCA; **IMP**, Sec. [80-7-814](#) MCA; **NEW**, 1986 MAR p. 651, Eff. 4/25/86; **AMD**, 1992 MAR p. 1861, Eff. 8/28/92; **AMD**, 1997 MAR p. 974, Eff. 7/22/97.

4.5.110 Noxious Weed List (Repealed)

History: Sec. [80-7-802](#) MCA; **IMP**, Sec. [80-7-801\(3\)](#) and [80-7-812](#) MCA; **NEW**, 1986 MAR p. 651, Eff. 4/25/86; **REP**, 1988 MAR p. 268, Eff. 2/12/88.

4.5.111 Noxious Weed Identification and Verification

(1) The department will identify new and potentially harmful noxious weeds based on characteristics which make the plant undesirable, troublesome, and/or difficult to control in cropland, rangeland, forestry, industrial, recreational or non-crop sites.

(2) The department shall verify the existence of a noxious weed in Montana using any one or a combination of methods set forth below:

(a) Verification of location of the infestation based on herbarium records.

(b) Scientific identification of the plant by a botanist or weed scientist and by the concurrence of another botanist or weed scientist, or

(c) Submission of a plant by any person which is scientifically identified by the scientists of the Montana state university or university of Montana herbarium.

History: Sec. [80-7-802](#) MCA; **IMP**, [80-7-815](#) MCA; **NEW**, 1986 MAR p. 651, Eff. 4/25/86; **AMD**, 1998 MAR p. 2472, Eff. 9/11/98.

4.5.112 Noxious Weed Management Council

(1) The members of the Noxious Weed Management Advisory Council appointed by the director serve two-year terms.

History: [80-7-802](#), MCA; [IMP](#), [80-7-805](#), MCA; [NEW](#), 1986 MAR p. 651, Eff. 4/25/86; [AMD](#), 1992 MAR p. 1861, Eff. 8/28/92; [AMD](#), 1997 MAR p. 974, Eff. 7/22/97; [AMD](#), 2013 MAR p.1176, Eff. 7/12/13.

4.5.113 Dealer Record Requirements (Repealed)

History: Sec. [80-8-105](#) and [80-7-802](#) MCA; [IMP](#), Sec. [80-7-812](#) MCA; [NEW](#), Eff. 7/5/76; [TRANS](#) from ARM [4.10.504](#)(5) (b), Eff. 12/31/88; [REP](#), 1997 MAR p. 974, Eff. 7/22/97.

4.5.202 Category 1 (Repealed)

History: [7-22-2101](#), MCA; [IMP](#), [7-22-2101](#), [80-7-802](#), MCA; [NEW](#), 1986 MAR p. 337, Eff. 3/14/86; [AMD](#), 1991 MAR p. 511, Eff. 4/26/91; [AMD](#), 1994 MAR p. 563, Eff. 3/18/94; [AMD](#), 2000 MAR p. 451, Eff. 2/11/00; [AMD](#), 2003 MAR p. 1272, Eff. 6/27/03; [AMD](#), 2008 MAR p. 563, Eff. 3/28/08; [REP](#), 2010 MAR p. 217, Eff. 1/29/10.

4.5.203 Category 2 (Repealed)

History: [7-22-2101](#), [80-7-802](#), MCA; [IMP](#), [7-22-2101](#), MCA; [NEW](#), 1986 MAR p. 337, Eff. 3/14/86; [AMD](#), 1989 MAR p. 899, Eff. 7/14/89; [AMD](#), 1991 MAR p. 511, Eff. 4/26/91; [AMD](#), 1994 MAR p. 563, Eff. 3/18/94; [AMD](#), 1998 MAR p. 1912, Eff. 7/17/98; [AMD](#), 2000 MAR p. 451, Eff. 2/11/00; [AMD](#), 2003 MAR p. 1272, Eff. 6/27/03; [AMD](#), 2008 MAR p. 563, Eff. 3/28/08; [REP](#), 2010 MAR p. 217, Eff. 1/29/10.

4.5.204 Category 3 (Repealed)

History: [80-7-802](#), MCA; [IMP](#), [7-22-2101](#), MCA; [NEW](#), 1991 MAR p. 511, Eff. 4/26/91; [AMD](#), 2003 MAR p. 1272, Eff. 6/27/03; [AMD](#), 2008 MAR p. 563, Eff. 3/28/08; [REP](#), 2010 MAR p. 217, Eff. 1/29/10.