

# Missouri Revised Statutes and Rules for Noxious Weeds

## Missouri Revised Statutes Chapter 263 Insect Pests and Weeds

August 28, 2011

### **Owners to control noxious weeds--notice procedure--penalty--sale of noxious weeds prohibited.**

263.190. 1. As used in sections 263.190 to 263.474, "noxious weed" means any weed designated as noxious by rules promulgated by the director of the department of agriculture. The department shall maintain a list of such noxious weeds and shall make such list available to the public. The department of agriculture shall promulgate rules necessary to implement the provisions of this subsection. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this subsection shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This subsection and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2011, shall be invalid and void.

2. It shall be the duty of every owner of lands in this state, including but not limited to any person, association of persons, corporation, partnership, state highways and transportation commission, state department, state agency, county commission, township board, school board, drainage board, governing body of an incorporated city, railroad company or other transportation company and such company's authorized agent, and any person supervising state-owned lands to control all noxious weeds growing thereon so often in each and every year as shall be sufficient to prevent such noxious weeds from going to seed. If any owner of such land shall knowingly allow any noxious weeds to grow thereon, such owner shall forfeit and pay the sum of one hundred dollars to the county commission for every such offense, and such sum forfeited plus court costs may be recovered by civil action instituted by the prosecuting attorney in the name of the county commission before any associate circuit judge of the county in which the offense is committed. All sums recovered by virtue of this section shall be paid to the use of the county control fund.

3. Before initiating any civil action under this section, the prosecuting attorney of the county in which the land, or the greater part thereof, is located shall notify the owner of the land of the requirements of this law, by certified mail, return receipt requested, from a list supplied by the officer who prepares the tax list, and shall allow the owner of the land fifteen days from acknowledgment date of return receipt, or date of refusal of acceptance, as the case may be, to initiate control of all such plants growing upon the owner's land. Failure of the owner to initiate control of such plants within the fifteen-day period shall be prima facie evidence of the owner's

knowledge that the owner is in violation of this law, and each fifteen days the violation continues after the initial fifteen-day period shall, for the purpose of forfeiture and penalty herein, be considered a separate offense.

4. All sales of noxious weed species are prohibited.

(RSMo 1939 § 14260, A.L. 1979 H.B. 259, A.L. 1992 H.B. 1199, A.L. 2011 H.B. 458 merged with S.B. 356)

Prior revisions: 1929 § 12597; 1919 § 12118; 1909 § 742

**County commission duties to control noxious weeds, official immunity, landowner duty of care--special tax for cost, collection--provisions applicable to certain political subdivisions.**

263.200. 1. In addition to the remedies provided in section 263.190, when noxious weeds are discovered growing on any lands in the county, it shall be the duty of the county commission to control such noxious weeds so as to prevent the seed from ripening, and for that purpose the county commission, or its agents, servants, or employees shall have authority to enter on such lands without being liable to an action of trespass therefor, and shall have such official immunity as exists at common law for any misfeasance or damages occurring in connection with the attempt to control noxious weeds. Notwithstanding any provision of law to the contrary, the county shall be liable for any misfeasance or actual damages caused by its agents, servants, or employees in connection with the attempt to control noxious weeds. The landowner shall owe no duty of care to such persons, except that which the landowner owes to trespassers. The county commission shall keep an accurate account of the expenses incurred in controlling the noxious weeds, and shall verify such statement under seal of the county commission, and transmit the same to the officer whose duty it is or may be to extend state and county taxes on tax books or bills against real estate; and such officer shall extend the aggregate expenses so charged against each tract of land as a special tax, which shall then become a lien on the lands, and be collected as state and county taxes are collected by law and paid to the county commission and credited to the county control fund.

2. Before proceeding to control noxious weeds as provided in this section, the county commission of the county in which the land, or the greater part thereof, is located shall notify the owner of the land of the requirements of this law, by certified mail, return receipt requested, from a list supplied by the officer who prepares the tax list, and shall allow the owner of the land fifteen days from acknowledgment date of return receipt, or date of refusal of acceptance of delivery, as the case may be, to control all such noxious weeds growing upon the owner's land.

3. Any land or properties that are owned solely by a political subdivision in a city not within a county shall be subject to all provisions of sections 263.190, 263.200, and 263.240.

(RSMo 1939 § 14261, A.L. 1979 H.B. 259, A.L. 1992 H.B. 1199, A.L. 2011 H.B. 458 merged with S.B. 356)

Prior revisions: 1929 § 12598; 1919 § 12119; 1909 § 743

### **Duty of prosecuting attorney.**

263.220. It shall be the duty of the prosecuting attorney of the county to prosecute all actions brought under section 263.190.

(RSMo 1939 § 14263, A.L. 2011 H.B. 458 merged with S.B. 356)

Prior revisions: 1929 § 12600; 1919 § 12121; 1909 § 746

### **Penalty for violation.**

263.240. Any person who shall violate any of the provisions of section 263.190 is, upon conviction, guilty of a misdemeanor and a violation of section 263.190 is a misdemeanor.

(RSMo 1939 § 14264, A.L. 1941 p. 302 § 14264a, A.L. 1979 H.B. 259, A.L. 2011 H.B. 458 merged with S.B. 356)

Prior revisions: 1929 § 12601; 1919 § 12122; 1909 § 747

### **State agency purchasing seed from nondomestic source containing noxious weeds, liability.**

263.243. Any state agency purchasing seed from a nondomestic source, which seed contains any weed not native to this state which has been declared a noxious weed by this or any other state, shall be liable for eradication of the noxious weed or shall be liable to a landowner for costs of eradication.

(L. 1989 H.B. 869 § 2)

### **Brush adjacent to county roads, to be removed, certain counties--county commission may remove brush, when, procedures, certain counties.**

263.245. 1. All owners of land in any county with a township form of government, located north of the Missouri River and having no portion of the county located east of U.S. Highway 63 and located in any county of the third classification without a township form of government and with more than four thousand one hundred but fewer than four thousand two hundred inhabitants, or in any county of the third classification without a township form of government and with more than two thousand three hundred but fewer than two thousand four hundred inhabitants shall control all brush growing on such owner's property that is designated as the county right-of-way or county maintenance easement part of such owner's property and which is adjacent to any county road. Such brush shall be cut, burned or otherwise destroyed as often as necessary in order to keep such lands accessible for purposes of maintenance and safety of the county road.

2. The county commission, either upon its own motion or upon receipt of a written notice requesting the action from any residents of the county in which the county road bordering the

lands in question is located or upon written request of any person regularly using the county road, may control such brush so as to allow easy access to the land described in subsection 1 of this section, and for that purpose the county commission, or its agents, servants, or employees shall have authority to enter on such lands without being liable to an action of trespass therefor, and shall keep an accurate account of the expenses incurred in eradicating the brush, and shall verify such statement under seal of the county commission, and transmit the same to the officer whose duty it is or may be to extend state and county taxes on tax books or bills against real estate. Such officer shall extend the aggregate expenses so charged against each tract of land as a special tax, which shall then become a lien on such lands, and be collected as state and county taxes are collected by law and paid to the county commission and credited to the county control fund.

3. Before proceeding to control brush as provided in this section, the county commission of the county in which the land is located shall notify the owner of the land of the requirements of this law by certified mail, return receipt requested, from a list supplied by the officer who prepares the tax list, and shall allow the owner of the land thirty days from acknowledgment date of return receipt, or date of refusal of acceptance of delivery as the case may be, to eradicate all such brush growing on land designated as the county right-of-way or county maintenance easement part of such owner's land and which is adjacent to the county road. In the event that the property owner cannot be located by certified mail, notice shall be placed in a newspaper of general circulation in the county in which the land is located at least thirty days before the county commission removes the brush pursuant to subsection 2 of this section. Such property owner shall be granted an automatic thirty-day extension due to hardship by notifying the county commission that such owner cannot comply with the requirements of this section, due to hardship, within the first thirty-day period. The property owner may be granted a second extension by a majority vote of the county commission. There shall be no further extensions. For the purposes of this subsection, "hardship" may be financial, physical or any other condition that the county commission deems to be a valid reason to allow an extension of time to comply with the requirements of this section.

4. County commissions shall not withhold rock, which is provided from funds from the county aid road trust fund, for maintaining county roads due to the abutting property owner's refusal to remove brush located on land designated as the county right-of-way or county maintenance easement part of such owner's land. County commissions shall use such rock on the county roads, even though the brush is not removed, or county commissions may resort to the procedures in this section to remove the brush.

(L. 1987 H.B. 734 § 1, A.L. 1992 H.B. 1199, A.L. 1993 H.B. 536 merged with S.B. 84, A.L. 2005 H.B. 58 merged with S.B. 210)

### **Brush control, county option, certain counties--election to discontinue enforcement of weed control program.**

263.247. 1. Section 263.245 shall become effective only in those counties described in subsection 1 of section 263.245 in which the governing body of the county submits to the voters of the county, at a regularly scheduled countywide election, a proposal to implement the provisions of section 263.245. The governing body of the county shall give notice of the election

by publication in a newspaper of general circulation in the county for two consecutive weeks, the last insert of which shall be within ten days of the election.

2. The ballot of submission shall include, but not be limited to, the following language: Shall the county of..... (county's name) enforce brush control adjacent to county roads?

YES  NO If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

3. If a majority of the votes cast at the election are in favor of such proposal, section 263.245 shall become effective in that county. If a majority of the votes cast at the election are opposed to such proposal, section 263.245 shall not become effective in that county.

4. The governing body of any county in which the provisions of section 263.245 are in effect may, on its own motion, call for an election to repeal the implementation of section 263.245 in that county. The election shall be held at the same time and in the same manner as an election to implement section 263.245 in the county as prescribed in subsections 1 to 3 of this section, except that the ballot of submission shall include, but not be limited to, the following language: Shall the county of..... (county's name) discontinue enforcement of brush control adjacent to county roads?

YES  NO

(L. 1987 H.B. 734 § 2, A.L. 1992 H.B. 1199)

### **Marijuana plant to be destroyed--county commission to destroy, when.**

263.250. 1. The plant "marijuana", botanically known as cannabis sativa, is hereby declared to be a noxious weed and all owners and occupiers of land shall destroy all such plants growing upon their land. Any person who knowingly allows such plants to grow on his land or refuses to destroy such plants after being notified to do so shall allow any sheriff or such other persons as designated by the county commission to enter upon any land in this state and destroy such plants.

2. Entry to such lands shall not be made, by any sheriff or other designated person to destroy such plants, until fifteen days' notice by certified mail shall be given the owner or occupant to destroy such plants or a search warrant shall be issued on probable cause shown. In all such instances, the county commission shall bear the cost of destruction and notification.

(L. 1951 p. 3 § 1, A.L. 1971 H.B. 199, A.L. 1992 H.B. 1199)

### **County election on enforcement of Johnson grass control law, notice, ballot, effect.**

263.255. 1. Upon the petition of one hundred landowners in any county the county commission shall declare that a threat exists to the agricultural economy of the county by reason of the growth and infestation of a species of grass, Sorghum halepense, commonly known as "Johnson

grass". After such declaration there shall be submitted to the qualified voters of the county at the next general election or a special election called for that purpose, the question of enforcing the provisions of sections 263.255 to 263.267. The commission shall give notice of the election by publication in a newspaper published in the county for three weeks consecutively, the last insert of which shall be at least ten days before the day of the election. There shall be written or printed on each ballot voted at said election the following: "For Enforcing the Law Controlling and Eradicating Johnson Grass" "Against Enforcing the Law Controlling and Eradicating Johnson Grass". At any such election, the voting, making returns thereof, and casting up the result shall be governed in all respects by the laws applicable to general elections for state and county purposes.

2. If a majority of the votes cast at the election are in favor of enforcing the law controlling and eradicating Johnson grass, the clerk of the county commission shall enter upon the county commission's records the result of the election and within ten days after the election, shall notify the state director of agriculture of the result of the election. If a majority of the votes cast at the election are not in favor of enforcing such law, the question shall not be resubmitted for at least two years after the election.

(L. 1957 p. 9 §§ 1, 2)

### **Director of agriculture to exterminate Johnson grass, when--county weed control board, appointment, expenses.**

263.257. 1. The state director of agriculture shall within thirty days after receipt of the notice from the clerk of the county commission as provided in subsection 2 of section 263.255 declare such county a "Johnson Grass Extermination Area" and the director of agriculture shall cause suitable notice to be published in a newspaper in the county for three consecutive weeks. The notice shall contain, among other things, that the county has been declared a Johnson grass extermination area and that all property owners in the county shall, not later than April thirtieth of the subsequent year, take steps toward controlling and eradicating Johnson grass on all lands owned by them or under their control.

2. The state director of agriculture shall within ten days after receipt of the notice provided in subsection 1 appoint a three-man county weed control board, composed of citizens of the county, to serve as advisers and to assist in the administration of sections 263.255 to 263.267, and to perform such other duties as prescribed by the director of agriculture. Members of the board shall receive no salary but shall be fairly reimbursed by the county commission for necessary expenses incurred in performance of their duties.

(L. 1957 p. 9 §§ 3, 4)

### **Duties of state director of agriculture--inspection by county weed control board.**

263.259. 1. The state director of agriculture shall have the following duties:

(1) He shall supervise the control and eradication of Johnson grass;

(2) He shall inspect lands and places for compliance with the provisions of sections 263.255 to 263.267;

(3) He shall inform himself of the origin, nature and appearance of Johnson grass and the manner in which it is disseminated and shall follow recommendations of the Missouri college of agriculture as to the best and approved method to control, eradicate and prevent the dissemination of Johnson grass;

(4) He shall cooperate with and have authority to enter into cooperative agreements with state and federal agencies and departments for the furtherance of the control and eradication of Johnson grass. The state director shall make all rules and regulations for carrying out the provisions and requirements of sections 263.255 to 263.267.

2. The county weed control board under the supervision of the director of agriculture shall inspect or cause to be inspected all lands of the county between the dates of August fifteenth and October thirty-first of each year during which the county is classed as a Johnson grass extermination area. The director or his designated representative, as well as the county weed control board or the designated representative of the board shall have the right of ingress or egress upon all lands in the county in making an inspection or performing any other duties imposed by sections 263.255 to 263.267. All failures to comply with the provisions of sections 263.255 to 263.267 shall be reported to the prosecuting attorney of the county and it shall be his duty to prosecute all violations of sections 263.255 to 263.267 in the manner provided in section 263.262.

(L. 1957 p. 9 §§ 6, 8, A.L. 1959 H.B. 486)

### **Duties of public utilities and government agencies as to Johnson grass.**

263.261. It shall be the duty of public utilities, the state transportation department, the county commission, railroads, drainage districts, township boards, special road districts and other public and quasi-public corporations and every land owner in Johnson grass extermination areas:

(1) To control and eradicate Johnson grass and to prevent its regrowth and reinfestation on all lands, rights-of-way and easements owned, occupied or controlled by them;

(2) To employ methods of control and eradication and for the prevention of the regrowth and reinfestation of Johnson grass as directed by the director of agriculture of the county weed control board;

(3) To comply with all orders, rules and regulations promulgated by the director of agriculture pursuant to the provisions of sections 263.255 to 263.267.

(L. 1957 p. 9 § 11)

### **Johnson grass declared nuisance, where--abatement.**

263.262. The existence or growth of Johnson grass in an electing county is hereby declared to be a public and common nuisance and the prosecuting attorney for each county shall have the duty to bring an action in the circuit court of the county to enjoin such nuisance. The action shall be in the name of the state of Missouri and shall be tried as a suit in equity before the court, and shall be against all persons permitting or maintaining such nuisance. The complaint in said action shall recite that thirty days' advance notice of the action has been served upon the defendants thereto, and that said defendants have taken no suitable action to comply with the provisions of the law prior to the filing of the complaint. Any landowner whose land is adjacent to or within one hundred feet of land on which such nuisance is permitted or maintained and who is undertaking a Johnson grass control program may bring a civil action for injunction against any person permitting or maintaining such nuisance and shall, in addition to injunctive relief, be entitled to recover as a penalty the sum of five hundred dollars as well as a reasonable attorney fee and any actual damages sustained as a result of such nuisance.

(L. 1957 p. 9 § 12, A.L. 1977 H.B. 297)

CROSS REFERENCE:

Nuisance abatement ordinances authorized for debris or noxious weeds on property, effect of failure to remove nuisance, penalty, 67.398

### **Tax for control of Johnson grass--state transportation department to pay costs.**

263.265. The county commission, township board and special road district of any county declared a Johnson grass extermination area, in addition to any and all taxing powers which it may possess shall be authorized to levy upon all property subject to its authority a tax in an amount not to exceed five cents on each one hundred dollars assessed valuation, for the purpose of paying the expenses of the county weed control board or the agent of the board in making the inspection required under the provisions of section 263.259, and for the expense of controlling and eradicating Johnson grass on county roads and rights-of-way, provided that not more than twenty-five percent of the taxes so levied and collected shall be used for administrative purposes. The cost of control and eradication of Johnson grass on all lands and highways owned or supervised by the state transportation department shall be paid by the transportation department out of funds appropriated for its use.

(L. 1957 p. 9 § 7, A.L. 1959 H.B. 486)

### **Approved eradication methods to be followed.**

263.266. It shall be the duty of public utilities, the state transportation department, the county commission, railroads, drainage districts, township boards, special road districts and other public and quasi-public corporations to follow recommendations of the Missouri college of agriculture as to the best and approved method to control, eradicate and prevent the dissemination of Johnson grass.

(L. 1957 p. 9 § 5)



**County's classification as Johnson grass extermination area terminated, how.**

263.267. Classification of a county as a Johnson grass extermination area shall be terminated by an order of the county commission of such county and an election conducted in the manner and form prescribed for classifying such county as a Johnson grass extermination area. Elections covered under this section may not be presented to the qualified voters more often than once every two years.

(L. 1957 p. 9 § 9, A.L. 1977 H.B. 297)

**Declaration of commission, when--election, procedure.**

263.452. 1. Upon motion of the county commission, or upon the petition of one hundred landowners in any county, the county commission shall declare that a threat exists to the agricultural economy of the county by reason of the growth and infestation of noxious weeds. After such declaration there shall be submitted to the qualified voters of the county at the next general election, the question of enforcing the provisions of sections 263.450 to 263.474. The question shall be submitted substantially as follows: Shall the county of ..... become a "Noxious Weed Control Area" by adopting the provisions of sections 263.450 to 263.474, RSMo, providing for the control of noxious weeds, and authorizing the county commission to levy a tax of up to fifteen cents on each one hundred dollars of assessed valuation to provide funds for the control of noxious weeds?

[ ] YES [ ] NO (Place an X in the square opposite the one for which you wish to vote.)

2. The election thereon shall be conducted, votes canvassed, and the results declared in the manner provided in chapter 115 for county general elections. If a majority of the votes cast at the election are in favor of enforcing the law controlling noxious weeds, the clerk of the county commission shall enter upon the commission records the result of the election and, within ten days after the election, shall notify the state director of agriculture of the result of the election. If a majority of the votes cast at the election are not in favor of enforcing such law, the question shall not be resubmitted for at least two years after the election.

(L. 1992 H.B. 1199 § 2)

**Declaration as noxious weed control area, notice, duties of property owners-- county weed control board, appointment, members, duties, compensation, terms.**

263.454. 1. The state director of agriculture shall within thirty days after receipt of the notice from the clerk of the county commission as provided in subsection 2 of section 263.452 declare such county a "Noxious Weed Control Area" and the county commission shall cause suitable notice to be published in a newspaper of general circulation in the county for three consecutive weeks. The notice shall contain the fact that the county has been declared a noxious weed control area, a list of all noxious weeds and a statement that all property owners in the county shall, not

later than the April thirtieth immediately following the publication of the notice, take steps toward controlling noxious weeds on all lands owned by them or under their control.

2. The county commission of any county declared a noxious weed control area shall, within ten days after such declaration, appoint a county weed control board, composed of three citizens of the county, to serve as advisors and to assist in the administration of sections 263.450 to 263.474, and to perform such other duties related to the control of noxious weeds as prescribed by the county commission. Members of the board shall receive no salary but shall be fairly reimbursed by the county commission for actual and necessary expenses incurred in performance of their duties. Appointments to the county weed control board shall be for terms of three years, except that of the initial appointments, one person shall be appointed for one year, one person shall be appointed for two years and one person shall be appointed for three years. Each year thereafter, one person shall be appointed to fill the expired term.

(L. 1992 H.B. 1199 § 3)

**Duties of county weed control board--director of agriculture to cooperate with governmental agencies--inspection of lands, notice, immunity, liability, indemnification, landowner duty of care--expenses of control, special tax, lien--notice to prosecutor.**

263.456. 1. Each county weed control board shall have the following duties:

(1) To control noxious weeds and to prevent their regrowth and reinfestation, by means of appropriate chemical control or biological control or both, on all lands in the county other than lands owned by a public utility and lands, rights-of-way, and easements appurtenant or incidental to lands controlled by any railroad, the department of transportation, the department of natural resources or the department of conservation;

(2) To employ methods of control and for the prevention of the regrowth and reinfestation of noxious weeds as directed by the county commission;

(3) To comply with all orders promulgated by the county commission pursuant to the provisions of sections 263.450 to 263.474;

(4) To inspect all lands in the county for compliance with the provisions of sections 263.450 to 263.474;

(5) To inform itself of the origin, nature and appearance of noxious weeds and the manner in which they are spread, and shall follow recommendations of the University of Missouri college of agriculture as to the best and approved method to control and prevent the spread of noxious weeds.

2. The director of agriculture may cooperate with and may enter into cooperative agreements with state and federal agencies and departments for the furtherance of the control of noxious weeds. The county commission shall make orders following a public hearing for carrying out the

provisions and requirements of sections 263.450 to 263.474, including orders which designate a weed as noxious.

3. The county weed control board, under the supervision of the county commission, shall inspect or cause to be inspected all lands of the county each year during which the county is classed as a noxious weed control area. The board shall publish notice of such inspection at least once and at least one week prior to such inspection in a newspaper of general circulation within the county. The county weed control board or the designated representative of the board may enter or exit all lands in the county in making an inspection or performing any other duties imposed by sections 263.450 to 263.474, and for these purposes the county weed control board, or its agents, servants, or employees may enter on such lands without being liable to an action of trespass, and shall have such official immunity as exists at common law for any misfeasance or damages occurring in connection with the execution of the duties imposed by sections 263.450 to 263.474. Notwithstanding any provision of law to the contrary, the county weed control board shall be liable for any misfeasance or damages caused by its agents, servants, or employees in connection with the execution of the duties imposed by sections 263.450 to 263.474; and the agents, servants, or employees of\* the weed control board shall be entitled to indemnification from the noxious weed fund for any misfeasance or damages occurring in connection with the execution of the duties imposed by sections 263.450 to 263.474. The landowner shall owe no duty of care to such persons, except that which the landowner owes to trespassers. If the landowner will not control the noxious weeds, the county commission may enter the land and control such weeds, and the county commission shall keep an accurate record of the expenses incurred in controlling noxious weeds, and shall verify such statement under seal of the county commission, and transmit the same to the officer whose duty it is or may be to extend state and county taxes on tax books or bills against real estate and such officer shall extend the aggregate expenses so charged against each tract of land as a special tax, which shall then become a lien on the lands and be collected as state and county taxes are collected by law and paid to the county commission and credited to the county control fund. All failures to comply with the provisions of sections 263.450 to 263.474 shall be reported to the prosecuting attorney of the county and it shall be his duty to prosecute all violations of sections 263.450 to 263.474 in the manner provided in section 263.460.

(L. 1992 H.B. 1199 § 4)

\*Word "or" appears in original rolls.

**Public utilities, department of transportation, department of natural resources, department of conservation, United States government, and railroads duties in noxious weed control areas.**

263.458. It shall be the duty of public utilities on all land they own, and the department of transportation, the department of natural resources, the department of conservation, and the United States government and any agency thereof, and railroads on all lands, rights-of-way and easements owned, occupied or controlled by them, in noxious weed control areas:

(1) To control noxious weeds and to prevent their regrowth and reinfestation;

(2) To employ methods of control and for the prevention of the regrowth and reinfestation of noxious weeds as directed by the county weed control board;

(3) To comply with all orders, rules and regulations promulgated by the county commission pursuant to the provisions of sections 263.450 to 263.474.

(L. 1992 H.B. 1199 § 5)

**Noxious weeds as public nuisance--action to enjoin nuisance, venue, parties, notice.**

263.460. The existence or growth of noxious weeds in a noxious weed control area is hereby declared to be a public and common nuisance and the prosecuting attorney for each county declared a noxious weed control area may bring an action in the circuit court of the county to enjoin such nuisance. The action shall be in the name of the state of Missouri and shall be tried as a suit in equity before the court, and shall be against all persons permitting or maintaining such nuisance. The complaint in the action shall recite that fifteen days' advance notice of the action has been served upon the defendants thereto, and that the defendants have taken no suitable action to comply with the provisions of the law prior to the filing of the complaint.

(L. 1992 H.B. 1199 § 6)

CROSS REFERENCE:

Nuisance abatement ordinances authorized for debris or noxious weeds on property, effect of failure to remove nuisance, penalty, 67.398

**Tax may be assessed by county commission, township board and special road district--transportation department property, costs--county commission may share costs with landowners.**

263.462. The county commission, township board and special road district of any county declared a noxious weed control area, in addition to any and all taxing powers which it may possess, may levy upon all property subject to its authority a tax in an amount not to exceed fifteen cents on each one hundred dollars assessed valuation, for the purpose of paying the expenses of the county weed control board or the agent of the board in making the inspection required under the provisions of section 263.456, and for the expense of controlling noxious weeds on county roads, rights-of-way, and at other places where noxious weeds may be found. All of the cost of control of noxious weeds on all lands and highways owned or supervised by the department of transportation shall be paid by the department of transportation out of funds appropriated for its use, and the county commission may share costs pursuant to contract with the landowners of property where noxious weeds may be found.

(L. 1992 H.B. 1199 § 7)

**Chemicals and biological agents, approval of required.**

263.464. All public utilities, the department of transportation, the department of conservation, the county commission, railroads, drainage districts, township boards, special road districts and other public and quasi-public corporations shall use only EPA approved chemicals or biological agents labeled to control the targeted noxious weeds. The University of Missouri college of agriculture may serve as an advisor if expertise is required by the applicator.

(L. 1992 H.B. 1199 § 8)

### **Termination of classification as noxious weed control area.**

263.466. Classification of a county as a noxious weed control area shall be terminated by an order of the county commission of such county and an election conducted in the manner and form prescribed for classifying such county as a noxious weed control area. Elections covered under this section may not be presented to the qualified voters more often than once every two years.

(L. 1992 H.B. 1199 § 9)

### **County noxious weed fund may be established--program required--funding--orders.**

263.468. 1. The governing body of any county of this state not declared a noxious weed control area may opt to establish a "County Noxious Weed Fund" for the purpose of making grants on a cost share basis for the control of any noxious weed.

2. Any eligible county opting to establish a county noxious weed fund shall establish a noxious weed control program. No resident or owner of land of any county shall be required to participate in such a county noxious weed control program. Any resident or landowner making application for cost share grants under this section shall participate in such program.

3. For the purpose of administering the county noxious weed fund, the county governing body shall have sole discretion of awarding cost share grants under this section.

4. For the purpose of funding the county noxious weed fund, the county governing body may appropriate county funds, or solicit municipality, state agency, and federal agency funds. All such funds shall be deposited in the county noxious weed fund to be expended for the sole purpose of controlling noxious weeds.

5. Any county opting to establish a county noxious weed control program under this section may make orders governing the program, and any county opting to establish a county noxious weed fund under this section may establish a cost share ratio on an annual basis beginning with the creation of the fund for all landowners, other than railroads, public utilities, the department of transportation, the department of conservation, and all other state agencies.

(L. 1992 H.B. 1199 § 10)

**Prohibition, Johnson grass extermination area.**

263.470. No county may elect to declare itself a Johnson grass extermination area pursuant to sections 263.255 to 263.267, after August 28, 1992.

(L. 1992 H.B. 1199 § 11)

**Conversion of Johnson grass extermination area to noxious weed control program--election, procedure.**

263.472. 1. Upon the motion of the county commission or upon the petition of one hundred landowners in any county which has elected to declare itself a Johnson grass extermination area pursuant to sections 263.255 to 263.267, there shall be submitted to the qualified voters of the county at the next general election the question of converting a Johnson grass extermination program, established pursuant to sections 263.255 to 263.267, to a noxious weed control program pursuant to sections 263.450 to 263.474. The question shall be submitted substantially as follows: Shall the county of ..... convert its Johnson grass extermination program to a noxious weed control program pursuant to sections 263.450 to 263.474, RSMo, and authorize the county commission to levy a tax of up to fifteen cents on each one hundred dollars of assessed valuation to provide funds for the control of noxious weeds, and to use taxes already collected under the Johnson grass extermination law for these purposes?

[ ] YES [ ] NO (Place an X in the square opposite the one for which you wish to vote.)

2. The election thereon shall be conducted, votes canvassed, and the results declared in the manner provided in chapter 115 for county general elections.

(L. 1992 H.B. 1199 § 12)

**Public and private standards of control.**

263.474. No local governing body shall provide for or compel the control of undesirable plants on private property pursuant to sections 263.450 to 263.474 without first applying the same or greater control measures to any land or rights-of-way owned or controlled by the local governing body that are adjacent to the private property.

(L. 1992 H.B. 1199 § 13)

# MISSOURI NOXIOUS WEED RULES

## Title 2—DEPARTMENT OF AGRICULTURE

### Division 70—Plant Industries Chapter 45—Noxious Weed Rules

#### 2 CSR 70-45.005 Noxious Weed List

*PURPOSE: This rule specifies the plants considered to be noxious weeds.*

(1) The director of the Department of Agriculture has the authority to designate, or remove, a weed species identified as a noxious weed.

(A) The noxious weed list includes the following plants:

1. Canada thistle (*Cirsium arvense* L. Scop.);
2. Common teasel (*Dipsacus fullonum* L.);
3. Cutleaf teasel (*Dipsacus laciniatus* L.);
4. Field bindweed (*Convolvulus arvensis* L.);
5. Johnson grass (*Sorghum halepense* L.);
6. Kudzu (*Pueraria montana* [Lour.] Merr.);
7. Marijuana (*Cannabis sativa* L.);
8. Multiflora rose (*Rosa multiflora* Thunb. ex Murr.);
9. Musk thistle (*Carduus nutans* L.);
10. Purple loosestrife (*Lythrum salicaria* L. and any hybrids thereof);
11. Scotch thistle (*Onopordum acanthium* L.); and
12. Spotted knapweed (*Centaurea stoebe* L., including all subspecies).

(B) The director will establish an advisory group to provide input on other plant species to consider for designation as noxious weeds that can directly or indirectly injure or cause injury to crops (including agricultural and horticultural), livestock, poultry, or other interests of agriculture. The advisory group may include representation from those entities responsible for noxious weed management on their lands or rights-of-way including, but not be limited to, federal, state, county, municipal, university, horticulture, and agriculture groups or agencies.

(C) The department will maintain a list of noxious weeds and make it available to the public.

*AUTHORITY: section 263.190, RSMo Supp. 2011.\* Emergency rule filed Aug. 18, 2011, effective Aug. 28, 2011, expired Feb. 23, 2012. Original rule filed Sept. 12, 2011, effective March 30, 2012. \*Original authority: 263.190, RSMo 1939, amended 1979, 1992, 2011.*

## 2 CSR 70-45.010 Terms and Duties of County Weed Control Boards

*PURPOSE: To establish terms and duties of weed control board members.*

(1) Appointments of county weed control boards will be for a term of three (3) years with, the initial appointment being made as follows: one (1) man for one (1) year, one (1) man for two (2) years and one (1) man for three (3) years and each year thereafter one (1) man will be appointed to fill the expired term.

(2) Duties of Weed Control Board.

(A) To be fully informed of the requirements of the Johnson grass control and eradication law and to be informed on the control measures recommended by the Missouri College of Agriculture.

(B) Select such personnel as deemed necessary to expedite the county weed control program.

(C) Notify public utilities, the state highway department, county courts, railroads, drainage districts, township boards, special road districts and other public and quasi public corporations of the act and requirements for compliance.

(D) Review the farm maps and reports of farm inspectors to determine progress of eradication and control and report to the director of agriculture the names of those landowners not complying with the requirements of the law.

(E) Field Inspectors—not less than one (1) inspector per township should be employed for field inspection. If in the judgement of the county weed control committee, more are necessary to complete the inspection within the required time, they may be employed.

*AUTHORITY: section 263.259, RSMo 1986.\* Original rule filed Dec. 1, 1966, effective Dec. 10, 1966. \*Original authority: 263.259, RSMo 1957, amended 1959.*