

Weed Control Act

In applying the Weed Control Act to issues in local municipalities, you will:

- ✓ *Define “prohibited noxious” and “noxious” weeds*
- ✓ *Describe the powers of the inspector,*
- ✓ *describe possible extension components for managing designated weeds;*
- ✓ *describe an effective enforcement component of a program for managing designated weeds;*
- ✓ *describe the intent of bylaws under the Weed Control Act;*
- ✓ *describe the powers of the inspector;*
- ✓ *describe the procedure for issuance and delivery of notices;*
- ✓ *describe factors for establishing deadline for compliance;*
- ✓ *describe options for dealing with non-compliance;*
- ✓ *describe options and process for appeals; and*
- ✓ *describe how seed cleaning facilities relate to weed control.*

The *Weed Control Act* is enabling legislation that allows the local authority to manage introduced plant species that affect agricultural production. The variety of weeds within your municipality will influence the development of an effective weed control program that complies with the *Weed Control Act*. You will use risk assessment tools in Module 6 to assist you with assessing the potential for the presence of designated weeds in your municipality and to help you to focus your weed programs.

The *Weed Control Act* was enacted in 1907 and was designed to prevent the introduction and unchecked spread of plants that are considered serious weed problems due to their ability to spread and thrive at the expense of agricultural crops or native vegetation. In the *Weed Control Act* of Alberta, weeds have been classified into two categories based on the above characteristics and the information from other provinces and countries that have experienced the severity of the problems that the weeds cause. These categories are: prohibited noxious weeds, which shall be destroyed and noxious weeds, which shall be controlled.

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Inspectors should be careful to check bylaws within their working areas to see whether or not certain weeds have been elevated to a noxious or prohibited noxious designation.

Under the *Weed Control Act*, a person can be forced to destroy or control prohibited noxious or noxious weeds even if they are on private property. Where land is leased, the leaseholder or the landowner may be held responsible for weed control, depending on the lease agreement.

1. Prohibited noxious Weed Category

The rationale for the prohibited noxious category is to prevent the establishment and/or entry of new weed species into Alberta. Weeds that are in the prohibited noxious category are generally not found in Alberta, or found in small numbers. Prohibited noxious weeds can become economically devastating and have a high potential threat of invasion.

Example: Diffuse and spotted knapweed have devastated > 60,000 acres in the interior of British Columbia. They were first identified in Alberta in 1974, and since then infestations have grown to occupy < 400 acres. Approximately 2,500,000 acres in Alberta are susceptible to invasion by diffuse and spotted knapweed.

Enforcement of the *Weed Control Act* with respect to weeds in the prohibited noxious category requires the weed inspector to issue a weed notice. Eradication measures shall be undertaken as often as is necessary to destroy these weeds. With reference to prohibited noxious weeds, destroy means:

- To kill all growing parts of the weed
- To render the reproductive mechanisms of the weed non-viable

2. Noxious Weed Category

The rationale for the noxious category is to control and prevent the further spread of these weeds in Alberta. Generally, weeds designated as noxious are present across the province, but not necessarily widespread. For example, they may be present in many municipalities, but not abundant, or they may be abundant in a few municipalities, but scarce or even non-existent in other municipalities. Control measures for noxious weeds are limited and therefore, further spread has the potential to cause significant yield losses.

Example: Economic impact studies of perennial sow thistle on crop production indicates that 10 plants/m² has the potential to reduce Canola yield by 40%.

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Enforcement of the *Weed Control Act* with respect to the weeds in the noxious category indicates that a notice may be issued, and that control measures shall be taken as often as is necessary. With reference to noxious weeds, control means:

- to inhibit the growth or spread, or
- to destroy; “destroy” means
 - to kill all growing parts, or
 - to render reproductive mechanisms non-viable

 Test your knowledge

Learning Exercise 4.1

The following is a list of weeds (common name) named under the *Weed Control Act*. To become more familiar with this list, refer to Alberta *Regulation 19/2010* of the *Weed Control Act* to determine their current classification. While going through the list also identify (with a ✓) which species you have within your municipality.

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Table 4.1 Weed Designation *Regulation* under the *Weed Control Act* of Alberta.

Prohibited Noxious Weeds in Alberta (46)					
autumn olive	(✓)	hogweed, giant	(✓)	medusahead	(✓)
balsam, Himalayan		iris, pale yellow		nutsedge, yellow	
barberry, common		knapweed, bighead		puncturevine	
bartsia, red		knapweed, black		ragwort, tansy	
buckthorn, common		knapweed, brown		rush skeletonweed	
cinquefoil, sulphur		knapweed, diffuse		saltcedar	
crupina, common		knapweed, hybrid		saltlover	
dyer's woad		knapweed, meadow		St John's-wort, common	
Eurasian water milfoil		knapweed, Russian		starthistle, yellow	
flowering rush		knapweed, spotted		tamarisk, Chinese	
garlic mustard		knapweed, squarrose		tamarisk, smallflower	
goatgrass, jointed		knapweed, Tyrol		thistle, marsh	
hawkweed, meadow		knotweed, giant		thistle, nodding	
hawkweed, mouse-ear		knotweed, hybrid Japanese		thistle, plumeless	
hawkweed, orange		knotweed, Japanese			
hoary alyssum		loosestrife, purple			
Noxious Weeds in Alberta (29)					
baby's breath, common		chamomile, scentless		mullein, common	
bellflower, creeping		clematis, yellow		pepper grass, broad-leaved	
bindweed, field		cockle, white		scabious, field	
blueweed		daisy, oxeye		sow thistle, perennial	
brome, downy		dame's rocket		spurge, leafy	
brome, Japanese		henbane, black		tansy, common	
burdock, great		hoary cress, globe-podded		thistle, Canada	
burdock, lesser		hoary cress, heart-podded		toadflax, Dalmatian	
burdock, woolly		hoary cress, lens-podded		toadflax, yellow	
buttercup, tall		hound's-tongue			

Powers of the Inspector, Individuals and Government

* Describe the powers of the inspector and distinguish between the duties of the individual and local authorities.

In the application of the *Weed Control Act*, all parties involved have specific powers and responsibilities. Although these powers and responsibilities differ between the inspector, the landowner, the municipality, Alberta Agriculture and Forestry (AAF), and the Minister of Agriculture and Forestry, the goal is the same – to protect the land and farmer’s livelihood from the invasion of weeds.

An inspector may be appointed by a local authority or by the Minister. An Agricultural Fieldman under the *Agricultural Service Board Act* is by virtue of that office an inspector under the *Weed Control Act*. The local authority can also appoint additional inspectors under the *Weed Control Act*. Appointment of all

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municipal weed inspectors must be done by passing a bylaw. The **INSPECTOR** has the following powers and responsibilities under the *Weed Control Act*:

- Responsibility to enforce the *Weed Control Act* and *Regulation*.
- Responsibility to conduct field inspections and serve the appropriate notices for prohibited noxious and noxious weeds.
- Responsibility to investigate weed complaints.
- Responsibility to invoke action where justified to control and/or destroy weeds in compliance with the *Weed Control Act*.
- Responsibility to treat people fairly.
- Power to enter land without permission of landowner. An inspector can enter on any land at any reasonable hour to inspect for violations.
- Power to enter buildings with consent. If consent is not granted a notice can be issued indicating a reasonable time of entry, and allowing 24-hour notice. Consent is not required for seed cleaning facilities, elevators, or auction marts. Building does not include a dwelling house. If entry is still prevented following notification, the local RCMP can be called for assistance.
- Power to issue notices.
- Power to invoke control and/or destroy weeds. In the case of an appeal, an inspector may control and/or destroy weeds as outlined in the notice if the violator fails to comply. For a weed infestations, an inspector may not authorize the destruction of more than 20 acres of a growing crop without written consent of the local authority (s14(4)). The inspector may also authorize the destruction of any crop growing on land where the use of the land has been restricted or prohibited under section 14 of the *Weed Control Act*.
- Power to lay charges on any violator who does not comply with a notice.

The role of the landowner/occupant is to protect the productivity of land through prevention and control of weeds. As a land steward, the **LANDOWNER/OCCUPANT** has the following powers and responsibilities under the *Weed Control Act*.

- Responsibility to destroy prohibited noxious weeds.
- Responsibility to control noxious weeds.
- Responsibility to comply with notices given.
- Power to request an inspector produce identification.
- Power to appeal a notice.

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- Right to appeal the amount owing
- Right to refuse entry to buildings at an unreasonable hour.
- Right to have courts decide on his/her innocence or guilt.

The municipality has been empowered by the Minister of Agriculture and Forestry to administer the *Weed Control Act* on all non-exempt land within its boundaries. In carrying out this role, the **MUNICIPALITY** has the following powers and responsibilities under the *Weed Control Act*.

- Responsibility to destroy prohibited noxious weeds and control noxious weeds on land the municipality owns.
- Responsibility and power to appoint sufficient weed inspectors.
- Responsibility to appoint an independent appeal committee annually.
- Responsibility to provide proper identification to the weed inspectors.
- Responsibility to make provision to hear appeals by aggrieved landowners.
- Responsibility to set municipal policy by which the fieldman/weed inspector should approach problems and identify problem areas.
- Power to pass bylaws dealing with weed designation and landowner responsibility to middle of road.

The role of Alberta Agriculture and Forestry is to provide the overall administration of the Act. This includes providing interpretative and consultative advice regarding the administration of the Act and providing training of weed inspectors. In carrying out this role, **ALBERTA AGRICULTURE AND FORESTRY** has the following powers and responsibilities under the *Weed Control Act*:

- Powers and responsibilities of a government department.
- Power to suggest amendments to the Act.
- Responsibility to ensure that administrators of the Act are trained.
- Responsibility to ensure Act is enforced fairly.

The role of the Minister of Agriculture and Forestry is to provide the overall authority of the Act. In carrying out this role, the **MINISTER OF AGRICULTURE AND FORESTRY** has the following powers and responsibilities under the *Weed Control Act*:

- Powers granted to the Minister by the Crown.
- Power to introduce Legislation and amendments.

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- Power to appoint inspectors should local authority not do so, or if local authority is not carrying out responsibilities under the Act.
- Power of final authority of appeal.
- Responsibility to ensure Act is enforced fairly.

📖 Test your knowledge

Learning Exercise 4.2

Can a weed inspector be in violation of the *Weed Control Act* during the conduct of his duties? Use examples to explain your answer.

Failure to Appoint Inspectors or Properly Enforce the Act

The Weed Control Act requires that the local authority of a municipality appoint a sufficient number of inspectors to carry out the responsibilities of the Act and Regulation. The Minister may appoint inspectors in situations where the local authority does not appoint an inspector, or the Minister is of the opinion that an inspector is not properly enforcing and monitoring compliance with this Act. Salary and expenses incurred by the Minister for an inspector appointed to enforce and monitor compliance of the Act on behalf of a municipality are a debt due to the Minister by the municipality. The Minister may recover these expenses by withholding money from a grant or other money payable to the municipality by the Crown or by bringing an action in debt.

Issuance and Delivery of Notices, Orders or Other Documents

The intent of the weed notice is to achieve weed control. A weed notice is not to be used as a measure to inflict punishment or set an example. As the duties under Part 1, Section 2 and 3 of the *Weed Control Act* states the landowner or occupant of the land shall destroy all prohibited noxious weeds and control all noxious weeds. Failure to uphold these duties is a violation of the *Weed Control Act* and allows the weed inspector the right to issue a notice. There are two different notices that an inspector can serve depending on the section within the *Weed Control Act* that requires enforcement. They are found in Part 3, Inspector's Powers and Notices

1. Inspector's Notice Section 13
2. Local Authorities Notice Section 15

Regardless of the type of notice to be issued, all notices shall set out the following information:

* Describe the procedure for issuance and delivery of notices, order or other documents.

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- Methods to be used for control such as tillage, chemical or other management practices.
- Time period within which the weeds or crops are to be destroyed or controlled.

Inspectors Notice

1. If an inspector finds non-compliance with this Act, an inspector may give an inspector's notice in writing requiring compliance:

- in respect of land, to the occupant of the land and to the owner of the land, and
- in respect of personal property, to the owner of the personal property.

2. If an inspector finds prohibited noxious weeds that have not been destroyed, the inspector shall give an inspector's notice requiring the prohibited noxious weeds to be destroyed. (S13 (1,2))

Points to keep in mind when completing this form (Appendix) are as follows:

- Make sure you have the correct legal land description.
- Refer to the Weed Designation *Regulation* and local bylaws for listing of prohibited noxious and noxious weeds.
- Complete the diagram to indicate the location of the weeds.
- Recommend how the weeds should be controlled or destroyed. This may include directions for how the land should be managed for the current and following year.
- The notice should not require the destruction of crops unless:
 - The inspector's opinion is that destruction of crops is necessary to destroy or control the prohibited noxious or noxious weeds.
 - An inspector requires authorization from the local authority in writing to destroy more than 20 acres of growing crops.
 - If the crop does not have significant commercial value or is a crop of noxious or prohibited noxious weeds an inspector does not require written consent from the local authority to destroy the crop.
- Allow sufficient time for the violator to successfully destroy or control the weeds.
- Determine if the land is registered under private ownership or a company name. If registered under a company name you will have to obtain

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information through the Land Titles Office or Corporate Registry as to where the company is registered in order to serve your notice.

Inspector's notice is the form used to issue a notice: "This form may be found on the Alberta Agriculture and Forestry website. If an inspector finds non-compliance with this Act, an inspector may give an inspector's notice in writing requiring compliance" (s13(1)). Refer to the *Weed Control Act* for further details on section 13 and 14. Points to keep in mind when completing this form (Appendix) are as follows:

- Make sure you have the correct legal land description.
- Name the weeds and delete the word "prohibited noxious" or "noxious" whichever does not apply.
- Indicate the location of the weeds in the diagram using a landmark.
- State what action is to be taken regarding what, if any, crop to grow.

Local Authority's Notice may be used to issue a notice when dealing with subdivided areas not exceeding 20 acres. Conditions regulating the use of this notice (Appendix) are as follows:

- Used to control weeds on parcels of land 20 acres (8 ha) or less, including cities and towns.
- Effect does not extend beyond the current year of issuance.
- Must name a date by which action is completed.

Establishing a Deadline for Compliance

A notice issued under the *Weed Control Act* shall set out not only the methods by which the weeds or crops are to be destroyed or controlled, but also the time period in which the activities must be completed. This allows the weed inspector the opportunity to set a time period that will allow control before the weeds set seed or become too difficult to control. However, the violator does have the right to appeal within the time specified in the notice for completing activities or within 10 days, whichever is less. If the weed inspector has attempted to cooperate with the landowner/occupant to control the weeds, the weed inspector can use his/her discretion on the length of time that is practical and would be required to complete the specified activities. At the same time, if the weed is in flower or about to set seed, the time specified for control can be shortened. Factors that would influence establishing a deadline for compliance are as follows:

- **Stage of weed**
The closer the weed is to flowering the shorter the deadline for compliance.

* Describe factors for establishing a deadline for compliance.

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- **Severity of infestation**

A severe infestation may take longer to implement control methods over the area. A longer deadline for compliance is generally acceptable as the weeds are already fully established and it may be more productive to attempt to develop a cooperative relationship to control these weeds over time. However, keep in mind because there is more work involved this situation will more likely go to appeals. In contrast a higher success rate can be achieved controlling a smaller infestation and therefore a shorter deadline for compliance is preferred.

- **Lifecycle**

Annual weeds only spread by seed therefore the deadline for compliance is the same as the stage of the weed. The closer the weed is to flowering the shorter the deadline for compliance. Perennial weeds have the potential to spread by vegetative structures and by seed. Therefore the deadline for compliance needs to be suitable to prevent seed set, but just as important to allow proper control methods to be implemented.

- **Weather**

When issuing a notice, keep in mind the current weather conditions and if possible the weather conditions expected during the time specified on the notice. Deadlines for compliance may need to be adjusted if control methods are unable to be implemented due to adverse conditions for the method of control specified. In general weather conditions that reduce the efficacy of herbicides include high temperatures, low temperatures, windy conditions, rainfall and dry conditions. Weather conditions for improved herbicide efficacy are basically conditions that offer the best growing environment for facilities.

- **When notice is issued**

An inspector may give a notice requiring destruction of prohibited noxious weeds or control of noxious weeds in the following year. In this case, time must be allowed to implement control measures. Also, if the notice is issued late in the season it may not be effective to attempt control by any means other than physical or mechanical.

- **Weed designation**

Weeds are designated under the *Weed Control Act* as prohibited noxious or noxious. A notice issued to control prohibited noxious weeds will have a much shorter deadline for compliance than noxious weeds due to the low level of tolerance for prohibited noxious weeds.

- **Location of weed**

Weeds located in an area where they have the potential to easily spread will generally have a shorter deadline for compliance. For example, weeds within a riparian zone or high traffic areas will require more immediate attention.

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- **Control methods available**

An integrated method of weed control such as spraying followed by tillage requires time to implement and therefore the deadline for compliance may be longer. Picking by hand may be easy to initiate, but may take longer to complete the task. In this situation, the deadline for compliance should coincide with the initiation of the control activities.

- **Cooperation**

Generally, if the landowner/occupant is genuinely working to achieve weed control the deadline for compliance may be extended. If on the other hand, no effort to control the weeds is evident, the deadline can be as short as one day. However, keep in mind that the ultimate purpose is to control weeds and taking an aggressive approach may not necessarily achieve your goal.

In most situations, there is a combination of the above factors that will influence the deadline for compliance. Keep in mind that the best results are often obtained through good public relations. It is not the volume of enforcement that counts, but the quality. Show people the logic behind your program and achieve broad based public support. Be fair, be firm, without favor or threat.

Serving the Notice (Part 6, Section 24)

An Inspectors' Notice is always issued on the land and served on person(s) responsible for that land. Therefore, a notice continues to be valid with ownership transfer of the land. There are 3 possible methods to serve an Inspectors Notice.

1. Deliver the notice in person to the violator. This method is the preferred method to serve a notice.
2. Leave the notice with a person apparently over 18 years of age at the dwelling place or place of business of the person to whom the notice is issued.

If service under 1 or 2 above is impractical then the following methods can be used

3. By posting the notice **and** sending by regular mail to the last known address (shown on the assessment roll of the municipality) of the person to whom the notice is issued. A notice sent by regular mail is considered to be received by the person to whom it is addressed 7 days after it is sent.

Note: the inspector shall post the notice in a conspicuous place on the land or on the private dwelling house of the person who is intended to be served.

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A Local Authority's Notice **must** be sent by regular mail to the last address listed in the assessment roll of the municipality for the owner of the land subject to the notice.

Notice is considered served and becomes effective only after receipt by violator or person receiving it on his/her behalf.

During this meeting it may be possible to suggest alternative methods for the control of weeds. Keep in mind that issuing a notice is the last resort.

Assignment 4.1

Using information in the following scenario, complete the appropriate notice (see Appendix).

During your late spring weed inspections, you found that Mr. Fred Farmer of Box 15, Somewhere, Alberta had a field infested with hoary alyssum. The location of the field was SW 15-51-06-W4. The plants were just beginning to flower at the time of the inspection. Assume that today's date is June 20, 2015 and the population density of the infestation was scattered (between 1 and 5% cover) and concentrated in an area of approximately 20 acres of the field.

Dealing with Non-compliance

After issuing a notice, follow-up measures are required to determine if the landowner/occupant has complied with the notice or whether action to control or destroy weeds is required.

Follow-up Measures

- Make a final inspection shortly after the notice has expired. This is to confirm whether or not action was taken.
- If action was not taken, advise the landowner/occupant of your plan of action.
- If possible, give the landowner/occupant one last opportunity to take action.
- Conduct measures as directed on the notice. Carry out only those measures as specified on the notice. For example, do not spray entire field when only spot spraying was specified. There is no limit on the acreage of infested crop that can be sprayed with a selective herbicide. There is also

 Graded Assignment

Total Question Value
= 12 pts

Fill in blanks = 7 pts

Map = 1 pt

Measures = 4 pts

DUE DATE: March 17, 2017

* Describe options for dealing with non-compliance.

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no acreage limitation for the destruction of crops with prohibited noxious weed infestations. The destruction of more than 20 acres of a crop with a noxious weed infestation requires written authorization from the local authority.

- Keep detailed field notes throughout, including photographic records, diagrams and samples. Document all actions taken by you and details of facts dealing with non-compliance.
- Notify landowner/occupant of action taken.

Other actions that may be taken when dealing with non-compliance are to have a Minister's notice issued or lay a charge against the person in non-compliance.

Components for Managing Designated Weeds

The purpose of the *Weed Control Act* is to protect riparian and natural areas, and the productivity of agricultural lands and farmer's livelihood by preventing the invasion of or curbing the spread of weeds. To achieve the purpose of the *Weed Control Act*, an effective municipal weed control program includes two main components, 1) extension and 2) enforcement. The level of effort put into extension will generally influence the enforcement component. Increased extension and public relations will often reduce the need for "heavy handed" enforcement. A municipal weed control program must contain elements of:

- **Awareness of problems and solutions.** Heightened awareness can be achieved through weed inspections, literature searches, obtaining research updates and communicating with stakeholders. Promote community participation by developing guidelines to support community involvement in coordinated mapping of the extent and severity of infestations of priority weeds. Sightings of noxious and prohibited noxious weeds should be reported to the local Agricultural Fieldman or bylaw officer.
- **Communication of problems and solutions.** Ensure that information on best management practices for weed management is available. This can be achieved in a variety of ways – in the form of publications, brochures, posters and other multi-media sources, technology transfer, staff training and individual or group consultations. It is also important to identify areas that cannot be reached by awareness or communication.
- **Fairness** to ensure that residents feel they are being kept informed and do not perceive they are being picked on or mistreated.
- **Enforcement** should be part of an overall municipal weed program; however, the intent is to achieve weed control not to impose punishment. Therefore, enforcement should be seen as the last resort.

* Describe possible extension components for managing designated weeds.

Effective Enforcement Components

* Describe an effective enforcement component of a program for managing designated weeds.

Effective administration and enforcement of a legislative Act requires a thorough understanding of the intent of the Act and associated regulations and their ramifications. Every year millions of dollars are spent on weed control. Preventing weeds from being introduced is more cost effective than trying to control them after they have become established. However, once weeds are established, control measures must be implemented and enforcement actions may be necessary.

The degree of the inspector's success in the enforcement of the *Weed Control Act* largely depends on their approach to people and problem situations. Therefore, in order to be effective and gain cooperation of the public keep the following points in mind:

- Always use common courtesy and good judgement
- Be patient and do not act on impulse
- Be sincere, polite, honest and personable
- Detach yourself emotionally from the case and maintain your position without bias
- Do not give out inaccurate information; it could later be turned against you
- Do not discuss cases outside your work environment
- Ensure that your council or ASB is aware of your enforcement plans and actions
- Be fair, firm, and professional

Enforcement actions are to be taken when the duties of the landowner or occupant, with respect to the *Weed Control Act*, have not been performed or a person has contravened a term or condition as stated in the *Regulation*. Before taking action to control or destroy weeds and/or crops, ensure that the local authority will support your actions, and that no appeals have been filed. Technically, this support may be verbal or in writing. However, as there is always the possibility of legal action it is always important to have clear and concise documentation. Also, if it is necessary to destroy a crop over 20 acres to achieve control or destruction of noxious weeds, written consent of the local authority is required.

Issuing a Minister's Notice

If all possibilities have been exhausted, an inspector may provide information to the Minister to determine if a Minister's Notice is necessary to prevent any further contravention of the *Weed Control Act* and the associated *Regulation*. If the Minister is satisfied that the person:

- has contravened or is contravening a provision of the *Weed Control Act* or the *Regulation*;
- owns or operates anything that causes the spread of weeds; and/or
- has contravened a term or condition of a license to operate a seed cleaning facility, the Minister may issue a Minister's notice.

A stop order shall contain the reasons for making it and requires that the person to whom it is directed:

- cease the contravention specified in the order; and
- stop any operations or shut down or stop the operation of any facility, equipment, structure or thing specified in the order, either permanently or for a specified period

Laying a Charge

A person who contravenes the *Weed Control Act* or the *Regulation* is guilty of an offence and is liable to a fine of not more than \$5000.00. Non compliance with a Minister's notice carries a fine of not more than \$1,000 for each day the offence continues.(s28).

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Under the *Weed Control Act* a person is guilty of an offence if he/she:

- Sell, lease or otherwise dispose of land without providing the purchaser with a copy of any notices issued against the land (s25(2)).
- Does not follow a decision made by the local authority or Minister following an appeal (s19, s20).
- Does not destroy prohibited noxious weeds (s3) and control noxious weeds (s2) present on land under their control).
- Fails to comply with a notice (s18).
- Does not satisfactorily dispose of weed screenings (s5(2)).
- Deposits weed seeds in a place where they might grow or spread (s5(1)).
- Operates a seed cleaning facility without a license (s6).
- Obstructs or delays a weed inspector in carrying out his duties (s11).

Weed inspectors have the power to invoke action to control and/or destroy weeds if the violator has failed to comply with the notice. The inspector also has the power to lay a charge against the violator if they have failed to comply with the notice.

As part of the duty to comply with a notice, a landowner/occupant who receives a notice shall carry out the actions required under the notice, subject to any right of appeal (s19(2)). If a person fails to comply with a notice, the inspector may carry out by any means consistent with good agricultural practices the action that is required under the notice (s18).

Recovery of Expenses

A demand for payment, in the form of a debt recovery notice, will be issued to the landowner for expenses incurred by an inspector while carrying out the actions required under the notice (s21). If the landowner has not paid within the time specified on the debt recovery notice, which is typically 30 days from the delivery of the statement, and the expenses have not been disputed, the chief administrative officer can add the amount as an additional tax to the land or file a certificate with the clerk of the Court of Queen's Bench.

A debt recovery notice must include the following information:

- A statement of expenses with the demand for the recovery of the debt due
- Information regarding the debtor's right to appeal the debt recovery notice

Options and Process for Appeals (Part 3)

* Describe the options and process for appeals.

A landowner or occupant that feels aggrieved by a notice has the right to appeal the notice. With the right to file an appeal come certain requirements. Specific components of an appeal include the following:

- Must be delivered personally or sent by certified or registered mail to the CAO
- Must be submitted in writing and include the name and address of the appellant;
- Must include a copy of the notice with the appeal;
- Must include the legal land description for which the notice was issued;
- Must include the reason the appeal is being filed;
- Must be in the hands of the chief administrative officer within the time specified on notice or 10 days, whichever is less.
- Must be accompanied by a deposit in an amount prescribed by the *Regulation* under the *Weed Control Act*. The deposit shall be refunded if the aggrieved is successful in his appeal.

A local authority shall at least once a year appoint an **independent** appeal committee to hear and determine appeals. Upon receiving a notice of appeal the local authority shall refer the appeal to the independent appeal committee, which begins the first level of appeal hearings. There are two levels in the appeal process.

 **REMINDER** – Ensure that a local unbiased appeal committee is appointed each year.

1. Municipal level (local authority)

- Appeal is heard by an independent committee appointed by the local authority. Members of the committee must not be composed of people involved in the original decision.
- Appeal must be heard and a decision rendered within 5 days.
- Decision at the municipal level may uphold, rescind or vary the notice.
- First level gives the local authority an opportunity to review the notice and recommendations included on the notice.

2. Ministerial level

- An appeal can be filed with the Minister of Agriculture if unsatisfied with the outcome of the municipal appeal.
- Appeal must be filed within three days of receiving municipal decision.

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- Decision at the Ministerial level may uphold, rescind or vary the notice.
- Minister's decision is final regardless of the outcome.
- Opportunity to review procedures and check for strict adherence to the act and to ensure that the aggrieved individual was treated fairly.
- Second and final level allows neutrality. This level prevents the municipality from being the judge and jury.

A notice is stayed pending the outcome of an appeal, and therefore no action to control or destroy the crop or weed may be taken during the appeal process. This procedure is in line with the normal process of democracy.

Bylaws under the Weed Control Act

Local municipalities have the authority to make bylaws under the *Weed Control Act* with the intent to tailor the Act to their own special circumstances. Bylaws are formulated and passed at the local municipality after two readings and must be in keeping with the intent of the *Weed Control Act*. Final approval of a bylaw is by the Minister of Agriculture and Forestry. Once approved by the Minister, it is read before the local municipality for a third and final time. Once the bylaw is approved there are certain implications that must be considered:

- A bylaw is only applicable to the municipality that made it.
- Once the bylaw is approved, all sections of the *Weed Control Act* continue to apply.
- It is the responsibility of the municipality to enforce the bylaw according to the *Weed Control Act*. For example, a bylaw that elevates a weed such as scentless chamomile from a noxious category to a prohibited noxious category requires the appropriate enforcement for the new designation of scentless chamomile as a prohibited noxious weed.

A bylaw may reclassify a weed by elevating it from its current status in the *Provincial Regulation*. For example, a weed that is designated as noxious may be reclassified as prohibited noxious. A bylaw may not reclassify a weed to a lower designation than that stated in the *Regulation*. A bylaw may also be passed to classify a weed that is currently not included in the *Provincial Regulation*, but is a cause for concern in your area. Another type of bylaw can be created to designate weed control responsibility to the center of the road. In formulating a bylaw, consideration must be given to the availability of the effective methods for control, and the practicality enforcing the bylaw according to the *Weed Control Act*. Compare the weed designations in your jurisdiction with your colleagues. Are there any different designations due to bylaws? If so, provide information to

* Describe the intent of bylaws under the *Weed Control Act*.

support your bylaw. If not, are there any new weeds or weeds in the Provincial *Regulation* that you would consider reclassifying for your area – explain why?

How Seed Cleaning Facilities Relate to Weed Control

* Describe how seed cleaning facilities relate to weed control.

Licenses to operate a seed cleaning facility are issued under the authority of the *Weed Control Act and Regulation*. Licenses expire one year after the date of issue, and are non-transferable. The purpose of licensing is to protect users from the spread of weeds due to faulty practices, design, or maintenance of seed cleaning facilities.

During an inspection of a seed-cleaning facility, an inspector shall complete the appropriate license:

- if the seed cleaning facility is a fixed structure
- if the seed cleaning facility is portable

Both the fixed structure and portable seed cleaning facilities are rated in the same two categories regardless of the inspection form used.

1. **Design, maintenance and operation of the seed cleaning facility relating to the prevention of cross-contamination of lots of seeds.** In order to receive a license, a facility must be designed and operated in a manner that eliminates the possibility of cross contamination. The score obtained in this section contributes 50% toward the final rating.
2. **Quality of the end product or seed produced.** The facility can obtain up to 50% of its final rating based on the end product meeting Canada Seed Grade standards for weed seed content. Seed samples must be collected on at least 10 different occasions and without prior notice of when they are to be collected. For seed cleaning facilities that are fixed structures, 5% of seed lots cleaned or 20 samples, whichever is greater, are collected over the year. Similarly, for portable seed cleaning facilities, 20 samples are collected over the year, which constitutes a bare minimum on which to judge the quality of the end products.

Additional management items not required for licensing are often collected. This information is not connected with the issuing of the license, but is used to indicate overall maintenance and operation of the facility. It has been developed for facility managers and board members and is included as a convenience. Types of information collected include the following:

WEED CONTROL ACT

- Type of dust control system
- Fire control equipment and strategy
- Electrical equipment and safety
- Safety features such as guards, shields, handrails, first aid kit, emergency telephone numbers, use of ladders and manlifts, etc.
- Housekeeping items such as exterior grounds maintenance, condition of facilities, presence of records, policies and regulations; etc.
- Appropriate signage posted such as poison posters, warning posters such as “Treated Seed is Poisonous”, “Transportation of Weed Seeds”, “No Smoking” and current Pesticide Applicators License posted

The above information is not collected for portable seed cleaning facilities. Information not included in the licensing process can be submitted to the weed inspector, seed cleaning facility manager and members of the inspection team. Copies of the licensing form are also submitted to the weed inspector and seed cleaning facility manager.

Regardless of whether the seed cleaning facility is a fixed structure or portable, a facility must obtain a final rating of 80% or greater to receive a license. The license to operate a grain and seed cleaning facility is issued under the authority of section 3 of the *Weed Control Act and Regulation* under that Act. If the final rating is less than 80% the license is cancelled.



Test your
knowledge

Learning Exercise 4.5

Review the forms in the Appendix copied from the Seed Cleaning Facility Inspection form. These are the recommended forms to use during the inspection and licensing of a fixed structure or portable seed cleaning facility.

Contravention of the *Weed Control Act* or Regulation

If an inspector is of the opinion that an applicant or a current license holder has contravened any of the following sections of the *Weed Control Act* or the *Regulation*, it may be reported to the ASB Supervisor who will assist you in reporting it to the authorized person within Alberta Agriculture.

- Section 25(2) – Authorized person - as a landowner, shall provide a copy of any general notice, method of control, or notice of prohibition to a purchaser or lessee.
- Section 2 & 3 – Duties regarding weeds - as an occupant or owner of land he or she is responsible to destroy prohibited noxious weeds and control noxious weeds.
- Section 17 – Compliance with notice - as an occupant or owner of land, subject to right of appeal, he or she shall carry out the directions contained in a notice.
- Section 5(2) – Disposal of screenings - dispose as directed by an inspector or store in a container to prevent spread of seeds.
- Section 5(1) – Offence to deposit weed seeds - shall not deposit or permit to be deposited weed seeds or material containing weed seeds in a place where they might grow or spread.
- Section 6 – Seed cleaning license - shall not operate a seed cleaning facility for the cleaning of grain or seeds for seed purposes unless holding a license to operate a seed cleaning facility issued under the *Regulation*, or unless as a farmer processing seed to be used on his or her own farm.
- Section 11 – Obstruction of inspector - shall not wilfully obstruct or delay an inspector carrying out his duties under the *Weed Control Act* or the *Regulation*.

Notification of Report to Authorized Person

If an inspector intends to file a report, the inspector shall in writing, notify the applicant or license holder of the intent no later than seven days after filing a report or notifying the appropriate authorized person within Alberta Agriculture and Forestry that a report will be filed. After receiving notification that a report will be filed, the applicant or license holder has 14 days to make representation or submissions to the Director. Therefore, a Director may not suspend, cancel, refuse to issue or renew a license any sooner than 15 days after an applicant or

WEED CONTROL ACT

license holder has been informed of the report. An applicant or license holder may appeal the decision of the Director to the Minister.

For a complete version of the *Weed Control Act* and *Regulation* refer to the *Weed Control Act*.

References

Alberta Weed Control Act 2010.

http://www.qp.alberta.ca/574.cfm?page=W05P1.cfm&leg_type=Acts&isbncln=9780779737420

Alberta Weed Control Regulation 2010.

http://www.qp.alberta.ca/574.cfm?page=2010_019.cfm&leg_type=Regs&isbncln=9780779748150

Risk Assessment Tool (RAT).

<http://www.agric.gov.ab.ca/app19/calc/risk/riskcalculator.jsp>

Ross, M.A. and C.A. Lembi. 1999. *Applied Weed Science*, 2nd ed. Prentice-Hall Inc., New Jersey.

Shuttleworth, C.L. 1973. The case for reducing wild oats in commercial grain. *In* Let's Clean Up on Wild Oats, Proceedings, Action Proposals and Programs. Agriculture Canada and United Grain Growers Limited Special Seminar.

Swanton, C.J., K.N. Harker and R.L. Anderson. 1993. Crop Losses Due to Weeds in Canada. *Weed Technology*. Vol. 7:537-542.

Virtue, D. 2002. *Weed Assessment Guide – August 2002*. Animal and Plant Control Commission. Adelaide, Australia.

USDA and APHIS. 2002. *Weed-Initiated Pest Risk Assessment Guidelines for Qualitative Assessments*. Version 5.2, July 2002. Riverdale, MD.

APPENDIX 4.1

FORMS

Photo	<p style="text-align: center;">Alberta Weed Inspector Identification Card</p> <p>This certifies that <u>(name)</u> of <u>(address)</u> is an inspector under the <i>Weed Control Act</i> for the jurisdiction of <u>(County, M.D., town, village)</u>.</p> <p>This appointment is effective from <u>(date)</u> to <u>(date)</u></p> <p style="text-align: center;"><i>(CAO signature)</i> _____</p> <p style="text-align: center;">IMPORTANT: SEE REVERSE</p>
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Front

(WCA, Section 10)

<p style="text-align: center;">(Reprinted from the Weed Control Act)</p> <p style="text-align: center;">Obstruction of an Inspector</p> <p style="text-align: center;">s11 A person shall not willfully obstruct or delay an inspector in the exercise of the inspector's duties or powers to enforce and monitor compliance with this Act.</p> <p style="text-align: center;">Offence and penalty</p> <p style="text-align: center;">s28 A person who contravenes this Act is guilty of an offence and liable to a fine of not more than \$5000.</p>

Back

To:

Address:

You are hereby directed to:

Destroy the prohibited noxious weeds Control the noxious weeds

1. 1.

2. 2.

3. 3.

Which are infesting the property:

Municipally known as:

Lots Block Plan

Or as described as:

% of section:	Township:	Range:	Meridian:
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

N

W E

S

Location on property (approximate)

The weeds will be considered destroyed/controlled if:

Action is to be completed on or before:

If this notice is not complied with, action will be taken in accordance with the *Weed Control Act*.

Inspector	<input type="text"/>	Municipality	<input type="text"/>
Date	<input type="text"/>	Address	<input type="text"/>
File No.	<input type="text"/>		<input type="text"/>

(Reprinted from the Weed Control Act)

**Violation
Weed Control**

Noxious weeds - control

2 A person shall control a noxious weed that is on land the person owns or occupies.

Prohibited noxious weeds - destroy

3 A person shall destroy a prohibited noxious weed that is on land the person owns or occupies.

Compliance with notice

17(1) A person given a notice under this Part in accordance with section 24 shall, subject to the right to appeal an inspector's notice or a local authority's notice, comply with the notice.

Part 3

Appeal of Inspector's Notice, Local Authority's Notice or Debt Recovery Notice

Application

10 This Part sets out the requirements that apply to an appeal of an inspector's notice, local authority's notice or debt recovery notice under section 19(2) of the Act.

Delivery of notice

11(1) The appellant shall provide notice of the appeal to the chief administrative officer of the municipality in which the land subject to the notice is located.

(2) The notice of appeal must be delivered personally or sent by certified or registered mail within the time specified in the notice for doing the thing required by the notice or 10 days, whichever is less.

Notice requirements

- 12 The notice of appeal must be in writing and include
- (a) the name and address of the appellant,
 - (b) a copy of the notice in respect of which the appeal is being taken,
 - (c) the legal description of the land affected,
 - (d) the grounds for appeal, and
 - (e) a \$500 appeal fee.

Determination of appeal

13(1) The appeal panel shall hear and determine the appeal within 5 days of receipt of the notice of appeal by the chief administrative officer.

(2) The appeal panel may confirm, rescind or vary the notice.

(3) The chief administrative officer shall send a copy of the decision together with the written reasons, if any, to the appellant by certified or registered mail.

Appeal review request

14 A request to review a decision of the appeal panel under section 20 of the Act must be made to the Minister within 3 days of the appellant receiving the appeal decision.

Refund of fee

15(1) If the appellant is successful in an appeal or review, the \$500 appeal fee will be refunded to the appellant.

(2) If the appellant is partially successful in an appeal or review, the \$500 appeal fee may be refunded in whole or in part at the sole discretion of the appeal panel or the Minister, as the case may be.

To: _____

Address: _____

You are hereby directed to:

Destroy the prohibited noxious weeds Control the noxious weeds

1. _____ 1. _____

2. _____ 2. _____

3. _____ 3. _____

Which are infesting the property:

Municipally known as:

Lots _____ Block _____ Plan _____

Or as described as:

_____	_____	_____	_____	_____
1/4 of section:	Township:	Range:	Meridian:	

N

W E

S

Location on property (approximate)

The weeds will be considered destroyed/controlled if:

Action is to be completed on or before: _____

If this notice is not complied with, action will be taken in accordance with the *Weed Control Act*.

Inspector	_____	Municipality	_____
Date	_____	Address	_____
File No.	_____		_____

(Reprinted from the Weed Control Act)

**Violation
Weed Control**

Noxious weeds - control

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- (a) the name and address of the appellant,
 - (b) a copy of the notice in respect of which the appeal is being taken,
 - (c) the legal description of the land affected,
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Weed Control Act
WCA Regulation, Section 3, Licence Issue
Seed-Cleaning Facility Licensing Form

FACILITY:

ADDRESS:

Licences are issued to Seed-Cleaning Facilities under authority of the *Weed Control Act*. The purpose of licensing is to protect users from the spread of weeds due to faulty practices, design or maintenance of seed-cleaning facilities.

Facilities are to be rated in two categories:

1. The design, maintenance, and operation of the facility relating to the prevention of cross-contamination of lots of seeds.
2. The quality of the end product or seed produced

Section 1: Cross-contamination

In order to receive a licence, a facility must be designed and operated in a manner that eliminates the possibility of cross-contamination. The score obtained in this section contributes 50% towards the final rating. A 80% final rating must be obtained to receive a licence.

In scoring a facility, please indicate N/A opposite any category that does not apply to the facility being rated. Possible score is weighed to reflect the relative importance of each item. Assess score for each item within range stated under "Possible Score" column.

The overall rating will be the percentage of total possible score leaving out those items not applicable.

WEED CONTROL ACT

Item #	Possible Score	Score	Item
1.	0-8		Receiving pit in good repair, lining intact, and no obstruction to hold seed, etc.
2.	0-2		Legs have sufficient space between cup and belt.
3.	0-2		Legs or augers are equipped with a clean-out access.
4.	0-10		Boots cleaned between lots. (If score is zero in Item #3, then score a zero for Item #4).
5.	0-5		Cleaning machines cleaned and/or flushed between lots.
6.	0-10		Bin linings smooth and in good repair, no obstructions to catch seed. (Bins needing repair, numbers _____).
7.	0-8		Bins covered on top or otherwise protected to prevent mixing.
8.	0-7		All spouting in good repair and have no holes or leaks.
9.	0-7		All hoppers in good repair and have no holes or leaks.
10.	0-5		Floors in cupola clean of spilled grain, weed seeds, refuse and dust.
11.	0-8		All cleaning machinery, including screens are in good repair. Defects are:
12.	0-8		All cleaning machinery accessible for cleaning and kept free of accumulated seeds and dust.
13.	0-4		A rough analysis is done prior to truck unloading, and this record is on file.
14.	0-4		Main area clean of spilled grain, weed seeds, dust and refuse.
15.	0-3		Basement clean of spilled grain, weed seeds, dust and refuse.
16.	0-2		Treater(s) in good repair and properly spouted to allow free flow and containment of treated seed.
17.	0-4		Treater floor clean of spilled grain, weed seeds, dust, refuse, and is tight to prevent spilled grain or chemical from escaping.
18.	0-3		Treater(s) cleaned between lots.
19.	0-4		Driveway in good repair (no cracks or obstructions to catch and hold seeds).
20.	0-5		Loading out of screenings controlled to reduce loss of weed seed.
21.	0-2		Licence displayed in conspicuous place.
22.	0-5		Suitable grading and inspection facilities present and used.
(a)			Total score obtained.

With no N/A – maximum possible score = 116.

Total score obtained = _____ (a)

Total maximum possible score = _____ (b) (exclude N/A points)

Percent rating = $\frac{(a)}{(b)} \times 100 =$ _____ % **Section 1**

Seed-Cleaning Facility:

I hereby certify that I have personally inspected the above facility and that the facility meets all of the requirements and standards for the final rating given.

Inspector:	Date:
------------	-------

I hereby certify that the Inspector has discussed the rating with me and advised me of the final rating that the facility will receive.

Facility Manager/Board Member:	Date:
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A facility must obtain a Final Rating of 80% or greater to receive a licence.

Comments:

LICENCE TO OPERATE A
SEED-CLEANING FACILITY

Authority is hereby given to:

To operate a seed-cleaning facility or the purpose of cleaning seed under the
Weed Control Act (Alberta).

Issued by:

Signature _____ Expires _____

Restrictions: _____ Rating:

Weed Control Act
WCA Regulations Section 3, Licence Issue

Portable Seed-Cleaning Facility Licensing Form

FACILITY OPERATOR:

ADDRESS:	PHONE NO.:
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Licences are issued to Seed-Cleaning facilities under authority of the *Weed Control Act*. The purpose of licensing is to protect users from the spread of weeds due to faulty practices, design or maintenance of seed-cleaning facilities.

Facilities are to be rated in two categories:

1. The design, maintenance, and operation of the facility relating to the prevention of cross-contamination of lots of seeds.
2. The quality of the end product or seed produced.

Section 1: Cross Contamination

In order to receive a licence, a facility must be designed and operated in a manner which eliminates the possibility of cross-contamination. The score obtained in this section contributes 50% toward the final rating. A 80% final rating must be obtained to receive a licence.

In scoring a facility, please indicate N/A opposite any category that does not apply to the facility being rated. Possible score is weighed to reflect the relative importance of each item. Assess score for each item within range stated under "Possible Score" column.

The overall rating will be the percentage of total possible score leaving out those items not applicable.

WEED CONTROL ACT

Item #	Possible Score	Score	Item
1.	0-5		Grain receiving system in good repair and no obstructions to hold seed, etc.
2.	0-2		Legs have sufficient space between cup and belt, and are in good repair.
3.	0-2		Legs or augers are equipped with a clean-out access.
4.	0-10		Boots cleaned between lots. (If score is zero in Item #3, then score a zero for Item #4).
5.	0-5		Cleaning machines cleaned and/or flushed between lots.
6.	0-5		Clean grain conveyor in good condition (auger, leg, etc.).
7.	0-7		All spouting in good repair and have no holes or leaks.
8.	0-8		Equipment for cleaning the machine and floor is adequate.
9.	0-10		Machine cleaned of spilled grain, weed seeds, refuse and dust prior to moving from one location to another.
10.	0-5		Service vehicle kept clean and free of grain, weed seeds, and refuse.
11.	0-8		All cleaning machinery, including screens, are in good repair. Defects are:
12.	0-4		A rough analysis is done prior to truck unloading and this record in on file.
13.	0-4		Treater(s) in good repair, kept clean, and properly spouted to allow free flow and containment of treated seed.
14.	0-3		Treater(s) cleaned between lots.
15.	0-5		Loading out of screenings controlled to reduce loss of weed seed.
16.	0-2		Licence displayed in conspicuous place.
(a)			Total score obtained

With no N/A – maximum possible score = 85

Total score obtained = _____ (a)

Total maximum possible score = _____ (b)(exclude N/A points)

Percent rating = $\frac{(a)}{(b)} \times 100 = \text{_____} \% \text{ Section 1}$

<p>LICENCE TO OPERATE A MOBILE SEED-CLEANING FACILITY</p> <p>_____</p> <p>Authority is hereby given to:</p> <p>_____</p> <p>To operate a mobile seed-cleaning facility for the purpose of cleaning seed under the <i>Weed Control Act</i> (Alberta).</p> <p>Issued by:</p> <p>_____</p> <p>Signature _____ Expires _____</p> <p>Restrictions: _____ Rating: <input type="text"/></p>	
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