

MINUTES OF THE MEETING
AGRICULTURE, LIVESTOCK & IRRIGATION
SUBCOMMITTEE ON HB 220
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

January 30, 1987

The meeting of the Agriculture, Livestock & Irrigation Subcommittee on HB 220 was called to order by Chairman Loren Jenkins on January 30, 1987, at 2:00 p.m. in Room 317 of the State Capitol.

ROLL CALL: Members in attendance were Reps. Patterson and DeMars. Also present were Dave Hammond, seed industry, Conrad; Keith Kelly, Director of the Department of Agriculture; Ralph Peck, Deputy Director of the DOA; Roy Bjornson, DOA; Doug Johnson, Cascade County; Charles Hankamp, Melrose; Bill Hiett, Director Lewis & Clark County Weed Program; Tom Gomez, Researcher for the Agriculture, Livestock & Irrigation Committee.

Rep. Loren Jenkins, Chairman of the subcommittee said the Agriculture, Livestock & Irrigation Committee wanted to leave the list of noxious weeds in the codes, and wanted to give rulemaking authority to the DOA so they could either add to or remove noxious weeds from the prohibited or restricted lists, as the occasion demanded.

Mr. Peck advised such lists could be set up both by statute and by rule.

Rep. Jenkins stated there is a problem with removing weed seeds out of the statute. Seed people are willing to go either way on this bill. He is afraid there may be a "blank spot" between the old statutes and the time any new rulemaking authority becomes effective.

Mr. Kelly said they would take the whole list and put it in rulemaking. (Maybe oxeye daisy should be removed from the list.) The reason for having rulemaking authority is for flexibility, current updating of the weed lists, and quicker curtailment of weed spread. They do not have to wait around for the legislature to change the law. This way, the list could be kept current and enforced.

Mr. Doug Johnson, Director of the Noxious Weed Management Act had no problem with the DOA establishing weed lists by rule that had previously been set by statute. He felt that the way it is now is cumbersome. The county could always add or delete weed seeds, except for five specific ones. Under this process, they can hold a hearing and address

that. It seems cumbersome to have to wait two years for a new statute. Technically, they could not make a person eradicate a bad weed. They cannot enforce eradication until given legislative permission. He does not have any problem with rulemaking.

Rep. Jenkins - one concern - the DOA would implement by rulemaking authority and would hold hearings. If we did this, then you would have these on a list and none could be removed without a hearing. Mr. Peck advised by having rulemaking authority, hearings could be held and noxious weeds could be removed or added to the proper list quickly.

Mr. Kelly mentioned only once for 35-40 days, they went without any noxious weed eradication enforcement authority. Theoretically, with the emergency rulemaking powers they do have, they would never have a day without authority.

Mr. Gomez advised they could add that in the law.

Mr. Kelly explained by having a hearing out there and if someone objected, then very likely, they would see why oxeye daisy should be on the list.

Mr. Gomez explained the Statement of Intent may tell them to do one thing, but that does not mean they have to do that because the Statement of Intent does not carry the force of law.

Mr. Kelly said they prefer to have that whole list that you can add to or delete from in the interest of getting it done.

Mr. Bjornson approved of an effective date. Mr. Kelly reminded Rep. Jenkins wants weed seeds always to be covered; wants time to overlap someway. Prohibited seed would move to Category II. Mr. Bjornson advised the seed man comes into this when number of seeds per pound is changed. Weeds are easier to control in seed than after planted and grown.

Mr. Charles Hahnkamp advised they are trying to get a weed free highway program so those people are going to want some seed that does not have any weed seed in it. He does not see how any seed can be sold that has any knapweed or leafy spurge seeds in it. Language prohibits weed seeds. Dodder cannot be removed completely from alfalfa seed without very special cleaning processes. So far, cleaners cannot refine well enough to take out every weed seed.

Rep. Jenkins stated the restricted list has spotted knapweed in it, and it must be included in the prohibited list. Dyer's woad should be included in the restricted list.

Rep. DeMars agreed to the proposed changes in his bill since he is sponsoring HB 220 at the request of the DOA and whatever they approve, is fine with him.

Mr. Kelly advised it would be easiest to merge all the bills.

Rep. Patterson said the laws must state that spotted knapweed and dyer's woad are on the prohibited list.

Mr. Bjornson mentioned rulemaking authority will allow them some flexibility. They could take the present list and maybe move spotted knapweed up.

Rep. Patterson mentioned the stricken lines would go back into the bill. Mr. Bjornson said they should have their amendments ready by Monday.

Mr. Dave Hammond said the simple HB 220 has no real benefit to the overall seed law. He will present changes his people would like.

Mr. Bjornson said if the sponsor of the bill agrees, they can add in seed changes to make it one bill. If not in agreement, the Ag committee would be able to write a committee bill.

Mr. Dave Hammond said the problem is that the total definition of weeds has been eliminated. Everything will be a noxious weed or would not be anything at all.

Mr. Dave Hammond said if you go from law to rule, he could see a group of, say, 50 farmers who have a lot of power, get together at a hearing and say they do not like some acceptable seed. Hypothetically, this could open up problems.

Mr. Gomez said they had talked about the problem of identification; that all of this language from existing law would come back in; spotted knapweed would be moved up to become prohibited. The committee had talked about a delayed effective date and an immediate effective date for rulemaking. They would get together and establish times so there would be no absence of law or rules. It would be covered at all times. A list would be in the statutes. In the Statement of Intent, the DOA would be given rulemaking authority to add to or delete weeds from a list.

Rep. Jenkins said the definition of noxious weeds would be left in. There is a difference between a noxious weed and a noxious weed seed. He would like the language in HB 220 left in up to line 11.

Mr. **Dave** Hammond said the contention of the seed people is that **45** wild oat seeds in grass seed is alright, but only nine **per** pound should be allowed in cereal grain seed.

Rep. Patterson thinks it is alright to give the DOA rulemaking authority.


Mr. Gomez will make a bill summary for a revised HB 220, allowing the DOA to make amendments to rules. It shall provide for amendments to existing administrative rules.

Rep. Jenkins asked if the committee wanted the rules to be in the statutes.

Mr. Bjornson explained some of the rules have been moved forward to the licensing of seed conditioning plants. The DOA has rulemaking power but he thinks that should be brought into the statutes.

Get it drafted.

ADJOURNMENT: There being no further business to come before the subcommittee, the subcommittee adjourned at 3:10 p.m. and will meet again when HB 220 has been redrafted in accordance with above provisions.



REP. LOREN JENKINS, CHAIRMAN
Subcommittee for HB 220

VISITORS' REGISTER

Ag Livestock + Inv

COMMITTEE

BILL NO. 220 Subcommittee

DATE 1/30/87

SPONSOR _____

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Charles Hahnkamp	Melrose		
Bill HiETT	Helewa		
Joe Brown	Wash County		
Ray [unclear]	Wash County		
[unclear]	[unclear]		
Sarah Japine			
Don Howard	Conrad		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.