

WEST VIRGINIA LEGISLATURE

FILED *Legislative Rule-Making Review Committee*

1985 JAN 15 PM 4:49

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE



NOTICE OF ACTIONS TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

Dec. 4, 1984

TO: A. James Manchin, Secretary of State; State Register  
And

TO: Dept. of Agriculture

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: Noxious Weed Rules; Chapter 19-12D, Series XIV (1984)

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative Rule \_\_\_\_\_
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached. \_\_\_\_\_
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached. \_\_\_\_\_
4. Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached. XXX

Pursuant to Code 29A-3-11(c), this notice has been filed in the state register and with the agency proposing the rule.

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The Legislative Rule-Making Review Committee, upon receipt of oral comments at the November 13 and December 4, 1984, meetings, recommends to the Legislature withdrawal of the Department of Agriculture's Noxious Weed Rules. This is based on testimony by the Department of Natural Resources and various wildlife interest groups in opposition to including Kanawha County on the list of counties in which Autumn Olive is declared a noxious weed. The Department of Natural Resources and various wildlife interest groups cite the valuable use of Autumn Olive as both a wildlife food source and its use in the reclamation of strip mined land in Kanawha County. The Legislative Rule-Making Review Committee agrees with this continuing need and, therefore, recommends that this Rule be withdrawn.

Very truly yours,

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Robert R. Nelson, Cochairman  
State Senate

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Robert C. Chambers, Cochairman  
House of Delegates

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SECRETARY OF STATE

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FILED

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*Legislative Rule-Making Review Committee*



The purpose of the proposed amendment to the Noxious Weed Rules of the Department of Agriculture is to include Kanawha County on the list of counties in which Autumn Olive is declared a noxious weed.

Following testimony before the Legislative Rule Making Review Committee by the Department of Natural Resources, Wildlife and Reclamation Divisions and various hunting associations it pointed out that Autumn Olive is an important wildlife food source and is highly useful in the reclamation of strip mined land.

The Legislative Rule Making Review Committee therefore recommends to the Legislature that the Department of Agriculture withdraw the proposed amendment to the Noxious Weed Rules, Chapter 19-22D, Series XIV.

A handwritten signature in dark ink, appearing to read "Robert R. Nelson", written over a horizontal line.

Robert R. Nelson,  
Co-Chairman-Senate

A handwritten signature in dark ink, appearing to read "Robert Chambers", written over a horizontal line.

Robert Chambers,  
Co-Chairman-House

## PROPOSED LEGISLATIVE RULE ANALYSIS

AGENCY: DEPARTMENT OF AGRICULTURE

RULE: NOXIOUS WEEDS ACT RULES. CHAPTER 19-12D, SERIES XIV, (1984)

### ABSTRACT

These are amendemnts to an existing rule designating plants as noxious weeds throughout the State or in selected counties and permitting control measures to be utilized. The proposed amendment is to include the Autumn Olive as a noxious weed in Kanawha County. It is already designated as such in several counties. The proposal is a result of petitions from affected farmers in Kanawha County.

### AUTHORITY

Code 19-12D-4: Noxious Weed Act.

(a) The commissioner shall administer and enforce the provisions of this article and shall have authority to issue regulations after a public hearing following due notice to all interested persons in conformance with the provisions of the state administrative procedures set forth in chapter twenty-nine-a of this Code.

(b) In issuing such regulations, the commissioner shall give consideration to pertinent research findings and recommendations of other agencies of the State, the federal government, and other reliable sources.

### PERTINENT DATES

Filed for public hearing - June 7, 1984  
Date of public hearing - July 11, 1984  
Filed following public hearing - September 10, 1984  
Filed LRMRC - September 30, 1984

### ANALYSIS

Following of a petition from 201 Kanawha County rural property owners advocating noxious weed status for Autumn Olive in Kanawha County the Department of Agriculture held a public hearing on the issue.

The two sides on this issue are:

A. For declaring Autumn Olive a noxious weed in Kanawha:

1. The petitioners.
2. Capital Soil Conservation District.

B. Against declaring Autumn Olive a noxious weed in Kanawha:

1. Department of Natural Resources, Wildlife Division, Reclamation Division and Forestry Division.
2. National and State Wild Turkey Federation and other persons who submitted a petition in response to proposal - 220 signatures.

#### Issues

1. Those for declaring Autumn Olive a noxious weed in Kanawha County complain of its spreading onto agricultural land and posing an eradication problem similar to multi-floral rose.
2. Those against declaring Autumn Olive a noxious weed in Kanawha County point to the plant's usefulness as a wildlife food source and reclamation of stripmine sites.

#### STAFF COMMENTS

The Department of Natural Resources will have comments to present to the committee in opposition to this proposal.

*Notes*

*possibly want to allow planting for strip mine reclamation  
placing the burden of eradication for encroachment onto  
private property from the planting onto the coal  
company.*