



STATE OF WEST VIRGINIA
OFFICE OF THE SECRETARY OF STATE
CHARLESTON 25305

A. JAMES MANCHIN
SECRETARY OF STATE

STATE REGISTER FILING

I, Gus R. Douglass, Commissioner,
Title or Position

W. Va. Department of Agriculture, hereby submit to record in
Department or Division

the State Register on 8 1/2 x 11" paper two (2) copies of

- () proposed rules and regulations concerning topics of material not covered by existing rules and regulations;
- (XX) proposed rules and regulations superseding rules and regulations already on file;
- () notice of hearing;
- () findings and determinations;
- () rules and regulations; or
- () other - specify (

This filing pertains to

Chapter 19
Article 12D
Series XIV
Section 4
Page No. 1, 2, 3

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE
THIS DATE 9-10-84
Administrative Law Division

- (X) proposed rules and regulations are required to go to Legislative Rule Making Committee;
- () proposed rules and regulations are excluded from Legislative Rule Making Committee;

September 10, 1984
Date Submitted

Gus R. Douglass
Signature of Person Authorizing
this Filing

Gus R. Douglass, Agriculture Commissioner

LEGISLATIVE

WEST VIRGINIA ADMINISTRATIVE REGULATIONS

STATE DEPARTMENT OF AGRICULTURE

Chapter 10-12D

SERIES XIV

SUBJECT: Rules & Regulations Dealing with Noxious Weeds.

Section 1. General

1.01. Scope - ~~These regulations establish general operating rules and procedures for the enforcement of the West Virginia Noxious Weed Act of 1976 (Article 12D) including, but not limited to, the declaration of noxious weeds.~~

These regulations amend, repromulgate and recodified administrative regulations governing noxious weeds. They set forth definitions, cooperative suppression activities, prohibitions and declare certain weeds to be noxious. These are LEGISLATIVE REGULATIONS.

1.02 Authority - These regulations are issued under authority of Chapter 19, Article 12D, Section 4 and 5 of the Code of West Virginia, as amended.

1.03 Filing Date - These regulations were filed in the office of the Secretary of State on the 10th day of September, 1984. ~~August 15, 1977.~~

1.04. Effective Date - ~~These regulations are promulgated on the 29th day of April, 1977, and become effective -----.~~
These regulations become effective on the _____ day of _____.

1.05. ~~CERTIFICATIONS~~

~~These are certified authentic by the Secretary of State.~~

Section 2. Declaration of Policy

Article-12D, Chapter-19, Code-of-West-Virginia, places-the enforcement-of-the-West-Virginia-Noxious-Weed-Act-of-1976-with the-West-Virginia-Commissioner-of-Agriculture-and-empowers-him to-promulgate-rules-and-regulations-in-the-public-interest-for the-surveillance-of,-suppression-and-control-of,-and-the-declaration--of-noxious-weeds-in-West-Virginia.

2.01. These regulations are promulgated to establish surveillance, suppression and control programs and to declare certain weeds noxious.

By-virtue-of-the-authority-invested-in-me-as-Commissioner of-Agriculture-by-Article-12D, Chapter-19-of-the-Code-of-West Virginia-as-amended,-I,-Gus-R.-Douglass,-Commissioner-of-Agriculture,-do-hereby-promulgate-the-following-rules-and-regulations governing-the-control-and-suppression-of-noxious-weeds-and-do declare-certain-plant-species-to-be-noxious-as-determined-by-surveys.

Section 3. Definitions

3.01. For-the-purpose-of-these-regulations,-the-definitions shall-be-the-same-as-these-appearing-in-the-West-Virginia-Noxious Weed-Act-of-1976,-with-the-following-additions:

a.-The-term-"Cooperative suppression or control agreement" means a written agreement entered into by the Commissioner and one or more other persons which defines the responsibilities of each party and may include, but not be limited to, suppression or control procedures and methods, cost sharing, tenure of agreement and conditions.

Section 4. Cooperative Suppression and Control

4.01. A+ When it has been determined that an infestation of a noxious weed exists for which suppression and control activities are practical, the commissioner may:

- 1+ a. Declare a quarantine, if necessary;
- 2+ b. Enter into cooperative suppression or control agreement with any person, or;
- 3+ c. Proceed with suppression or control activities.
~~under authority of S-19-12D-7(e).~~

Section 5. Declaration of Noxious Weeds

5.01. a+ Surveys have shown that the following plants are a detriment to agriculture in West Virginia and are hereby declared to be a noxious weeds: Johnson Grass (Sorghum halepense L.); Plumeless Thistle (Carduus acanthoides L.); Curled Thistle (C. crispus L.) and Musk Thistle (C. nutans L.).

5.02. a+ The plant known as Kudzu or (Pueraria thunbergiana [S and Z] Benth.) ~~has become or threatens to become~~ is a detriment to agriculture in West Virginia and is hereby declared to be noxious, however, b+ because Kudzu has a potential value as a forage crop, the commissioner may issue a permit for its cultivation. Such permit shall be issued by the commissioner upon application by a prospective grower who agrees to follow cropping practices prescribed by the commissioner. Such cropping practices shall include, but not be limited to, measures to prevent the spread of Kudzu to road sides, rights-of-way or woodlands.

5.03. ~~er.~~ The plant known as Autumn Olive (Elaeagnus umbellata Thunb.) has become a detriment to agriculture in West Virginia and is hereby declared to be noxious. Surveys have shown, however, that Autumn Olive has not spread on to farmlands in certain areas of the state and therefore the planting or sale of Autumn Olive is prohibited only in the following West Virginia counties: in Barbour, Braxton, Cabell, Calhoun, Doddridge, Gilmer, Harrison, Jackson, Kanawha, Lewis, Marion, Mason, Monongalia, Pleasants, Putnum, Ritchie, Roane, Taylor, Tyler, Upshur, Wetzel, Wirt and Wood counties and is hereby declared to be a noxious weed in these counties.

5.04. ~~5.03.~~ The following drug producing plants which are declared to be noxious by the West Virginia Noxious Weed Act (~~s-19-12D-8{e}~~) are as follows: --Marijuana, Cannibis sativa L., and opium poppy, Papaver somniferum L. --

This section reserved for drug producing plants other than those listed in the West Virginia Noxious Weed Act.
(§19-12D-7)

Section 6 - Sale, Use or Distribution of Noxious Weed Plants
Prohibited.

6.01. The sale, use or distribution of noxious weed plants, except as provided for in 5.02 is prohibited in accordance with §-19-12D-7.



STATE OF WEST VIRGINIA
DEPARTMENT OF AGRICULTURE
CHARLESTON 25305

GUS R. DOUGLASS
COMMISSIONER

WILLIAM H. GILLESPIE
ADMINISTRATIVE ASSISTANT

September 10, 1984

Honorable A. James Manchin
West Virginia Secretary of State
Capitol Building
Charleston, WV 25305

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE

THIS DATE Sept. 10, 1984
Administrative Law Division

Dear Secretary Manchin:

I am enclosing two copies of revised Legislative Regulations concerning noxious weeds.

This regulation is being promulgated after receipt of petitions from affected farmers in Kanawha County asking for relief and the holding of a public hearing at which the predominance of testimony was clearly in favor of the addition.

I hereby certify that these are the original regulations to be filed in the office of the Secretary of State on September 10, 1984. The regulations are also being filed today with the Legislative Rule-Making Review Committee for action and subsequent legislative action during the 1985 legislative session.

With best regards, I am

Very truly yours,

Gus R. Douglass
Agriculture Commissioner

GRD/G/d
Enc.