

**WEST VIRGINIA  
SECRETARY OF STATE  
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ADMINISTRATIVE LAW DIVISION**

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OFFICE WEST VIRGINIA  
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**NOTICE OF RULE MODIFICATION OF A PROPOSED RULE**

AGENCY: WEST VIRGINIA DEPARTMENT OF AGRICULTURE TITLE NUMBER: 61

CITE AUTHORITY: W.Va Code 19-12D-4

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 14A

TITLE OF RULE BEING AMENDED: RULES AND REGULATIONS DEALING WITH  
NOXIOUS WEEDS

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

THE ABOVE PROPOSED LEGISLATIVE RULES, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE, IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.

  
Authorized Signature

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TITLE 61  
LEGISLATIVE RULES  
DEPARTMENT OF AGRICULTURE

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SERIES 14A  
RULES AND REGULATIONS DEALING WITH NOXIOUS WEEDS

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**§61-14A-1. General.**

1.1. Scope. -- ~~These~~ This Legislative regulations ~~amend, repromulgate and recodify administrative regulations~~ rule sets forth provisions governing noxious weeds. ~~They set~~ It sets forth definitions, cooperative suppression activities, prohibitions and declare certain weeds to be noxious.

1.2. Authority. -- W. Va. Code §19-12D-4.

1.3. Filing Date. --

1.4. Effective Date. --

**§61-14A-2. Declaration of policy.**

2.1. ~~These regulations are~~ This rule is promulgated to establish surveillance, suppression and control programs and to declare certain weeds noxious.

**§61-14A-3. Definitions.**

3.1. "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 regarding the cooperative suppression or control agreement and may include, but not be limited to, suppression or control procedures and methods, cost sharing, tenure of agreement and conditions.

**§61-14A-4. Cooperative suppression and control.**

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

4.1.1. Declare a quarantine, if necessary;

4.1.2. Enter into cooperative suppression or control agreement with any person<sup>s</sup>; or;

4.1.3. Proceed with suppression or control activities.

**§61-14A-5. Declaration of noxious weeds.**

5.1. Surveys have shown that the following plants are a detriment to agriculture in West Virginia and are hereby declared to be noxious weeds: Johnson Grass (*Sorghum halepense* L.); Plumeless Thistle (*Carduus acanthoides* L.); Curled Thistle (*C. crispus* L.); ~~and~~ Musk Thistle (*C. nutans* L.); Mile-a-minute (*Polygonum perfoliatum*); Japanese Knotweed (*P. cuspidatum*); Purple Loosestrife (*Lythrum salicaria*); Tree of Heaven

(Ailanthus altissima); Autumn Olive (Elaeagnus umbellata Thunb.); and Japanese Stiltgrass (Microstegium vimineum); Tartarian Honeysuckle (Lonicera tartarica); Morrow's Honeysuckle (OL. Morrowi); and Poison Hemlock (Conium maculatum).

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

~~5.3. The plant known as Autumn Olive (Elaeagnus umbellata Thunb.) has become a detriment to agriculture in Barbour, Braxton, Cabell, Calhoun, Doddridge, Gilmer, Harrison, Jackson, Kanawha, Lewis, Marion, Mason, Monongalia, Pleasants, Putnam, Ritchie, Roane, Taylor, Tyler, Upshur, Wetzel, Wirt and Wood counties and is hereby declared to be a noxious weed in these counties.~~

~~5.3~~ ~~5.4.~~ This section is reserved for narcotic drug producing plants (as defined under Title 21, USC Section 802) other than those listed in the West Virginia Noxious Weed Act. (W. Va. Code §19-12D-7)

~~5.4~~ West Virginia will adopt ~~adopts~~ the Federal Noxious Weed List of the Federal Noxious Weed Act [Public Law 93-629 (7 U.S.C. 2801 et seq.; 88 Stat. 2148)] as an extension of the West Virginia Noxious Weed list. The Federal Noxious Weed List (Appendix A) will be regulated by the West Virginia Noxious Weed Act.

~~§61-14A-6. Sale, use or distribution of noxious weed plants prohibited.~~

~~6.1. The sale, use or distribution of noxious weed plants, except as provided for in 5.2 is prohibited in accordance with W. Va. Code §19-12D-7.~~

Appendix A:Federal Noxious Weed List (as of June 30, 2006)Aquatic/Wetland

- Azolla pinnata* R. Brown (mosquito fern, water velvet)  
*Caulerpa taxifolia* (Vahl) C. Agardh, Mediterranean strain (killer algae)  
*Eichornia azurea* (Swartz) Kunth (anchored waterhyacinth, rooted waterhyacinth)  
*Hydrilla verticillata* (Linnaeus f.) Royle (hydrilla)  
*Hygrophila polysperma* T. Anderson (Miramar weed)  
*Ipomoea aquatica* Forsskal (water-spinach, swamp morning-glory)  
*Lagarosiphon major* (Ridley) Moss  
*Limnophila sessiliflora* (Vahl) Blume (ambulia)  
*Melaleuca quinquenervia* (Cav.) Blake (broadleaf paper bark tree).  
*Monochoria hastata* (Linnaeus) Solms-Laubach  
*Monochoria vaginalis* (Burman f.) C. Presl  
*Ottelia alismoides* (L.) Pers.  
*Sagittaria sagittifolia* Linnaeus (arrowhead)  
*Salvinia auriculata* Aublet (giant salvinia)  
*Salvinia biloba* Raddi (giant salvinia)  
*Salvinia herzogii de la Sota* (giant salvinia)  
*Salvinia molesta* D.S. Mitchell (giant salvinia)  
*Solanum tampicense* Dunal (wetland nightshade)  
*Sparganium erectum* Linnaeus (exotic bur-reed)

Parasitic

- Aeginetia* spp.  
*Alectra* spp.  
*Cuscuta* spp. (dodders), other than following species:  
*Cuscuta americana* Linnaeus  
*Cuscuta applanata* Engelmann  
*Cuscuta approximata* Babington  
*Cuscuta attenuata* Waterfall  
*Cuscuta boldinghii* Urban  
*Cuscuta brachycalyx* (Yuncker) Yuncker  
*Cuscuta californica* Hooker & Arnott  
*Cuscuta campestris* Yuncker  
*Cuscuta cassytoides* Nees ex Engelmann  
*Cuscuta ceanothii* Behr  
*Cuscuta cephalanthii* Engelmann  
*Cuscuta compacta* Jussieu  
*Cuscuta corylii* Engelmann  
*Cuscuta cuspidata* Engelmann  
*Cuscuta decipiens* Yuncker  
*Cuscuta dentatasquamata* Yuncker  
*Cuscuta denticulata* Engelmann

*Cuscuta epilinum* Weihe  
*Cuscuta epithymum* (Linnaeus) Linnaeus  
*Cuscuta erosa* Yuncker  
*Cuscuta europaea* Linnaeus  
*Cuscuta exalta* Engelman  
*Cuscuta fasciculata* Yuncker  
*Cuscuta glabrior* (Engelman) Yuncker  
*Cuscuta globulosa* Benth  
*Cuscuta glomerata* Choisy  
*Cuscuta gronovii* Willdenow  
*Cuscuta harperi* Small  
*Cuscuta howelliana* Rubtzoff  
*Cuscuta indecora* Choisy  
*Cuscuta jepsonii* Yuncker  
*Cuscuta leptantha* Engelman  
*Cuscuta mitriformis* Engelman  
*Cuscuta nevadensis* I. M. Johnston  
*Cuscuta obtusiflora* Humboldt, Bonpland, & Kunth  
*Cuscuta occidentalis* Millspaugh ex Mill & Nuttall  
*Cuscuta odontolepis* Engelman  
*Cuscuta pentagona* Engelman  
*Cuscuta planiflora* Tenore  
*Cuscuta plattensis* A. Nelson  
*Cuscuta polygonorum* Engelman  
*Cuscuta rostrata* Shuttleworth ex Engelman  
*Cuscuta runyonii* Yuncker  
*Cuscuta salina* Engelman  
*Cuscuta sandwichiana* Choisy  
*Cuscuta squamata* Engelman  
*Cuscuta suaveolens* Seringe  
*Cuscuta suksdorfii* Yuncker  
*Cuscuta tuberculata* Brandegee  
*Cuscuta umbellata* Humboldt, Bonpland, & Kunth  
*Cuscuta umbrosa* Beyrich ex Hooker  
*Cuscuta vetchii* Brandegee  
*Cuscuta warneri* Yuncker  
*Orobanche* spp. (broomrapes), other than the following species:  
*Orobanche bulbosa* (Gray) G. Beck  
*Orobanche californica* Schlechtendal & Chamisso  
*Orobanche cooperi* (Gray) Heller  
*Orobanche corymbosa* (Rydberg) Ferris  
*Orobanche dugesii* (S. Watson) Munz  
*Orobanche fasciculata* Nuttall  
*Orobanche ludoviciana* Nuttall  
*Orobanche multicaulis* Brandegee  
*Orobanche parishii* (Jepson) Heckard

*Orobanche pinorum* Geyer ex Hooker  
*Orobanche uniflora* Linnaeus  
*Orobanche valida* Jepson  
*Orobanche vallicola* (Jepson) Heckard  
*Striga* spp. (witchweeds)

### **Terrestrial**

*Ageratina adenophora* (Sprengel) King & Robinson (crofton weed)  
*Alternanthera sessilis* (Linnaeus) R. Brown ex de Candolle (sessile joyweed)  
*Asphodelus fistulosus* Linnaeus (onionweed)  
*Avena sterilis* Linnaeus (including *Avena ludoviciana* Durieu) (animated oat, wild oat)  
*Carthamus oxyacantha* M. Bieberstein (wild safflower)  
*Chrysopogon aciculatus* (Retzius) Trinius (pilipiliula)  
*Commelina benghalensis* Linnaeus (Benghal dayflower)  
*Crupina vulgaris* Cassini (common crupina)  
*Digitaria scalarum* (Schweinfurth) Chiovenda (African couchgrass, fingergrass)  
*Digitaria velutina* (Forsskal) Palisot de Beauvois (velvet fingergrass, annual conchgrass)  
*Drymaria arenarioides* Humboldt & Bonpland ex Roemer & Schultes (lightning weed)  
*Emex australis* Steinheil (three-cornered jack)  
*Emex spinosa* (Linnaeus) Campdera (devil's thorn)  
*Galega officinalis* Linnaeus (goatsrue)  
*Heracleum mantegazzianum* Sommier & Levier (giant hogweed)  
*Homeria* spp.  
*Imperata brasiliensis* Trinius (Brazilian satintail)  
*Imperata cylindrica* (Linnaeus) Raeuschel (cogongrass)  
*Ischaemum rugosum* Salisbury (muraingrass)  
*Leptochloa chinensis* (Linnaeus) Nees (Asian sprangletop)  
*Lycium ferocissimum* Miers (African boxthorn)  
*Melastoma malabathricum* Linnaeus  
*Mikania cordata* (Burman f.) B. L. Robinson (mile-a-minute)  
*Mikania micrantha* Humboldt, Bonpland, & Kunth  
*Mimosa invisa* Martius (giant sensitive plant)  
*Mimosa pigra* Linnaeus var. *pigra* (catclaw mimosa)  
*Nassella trichotoma* (Nees) Hackel ex Arechavaleta (serrated tussock)  
*Opuntia aurantiaca* Lindley (jointed prickly pear)  
*Oryza longistaminata* A. Chevalier & Roehrich (red rice)  
*Oryza punctata* Kotschy ex Steudel (red rice)  
*Oryza rufipogon* Griffith (red rice)  
*Paspalum scrobiculatum* Linnaeus (Kodo-millet)  
*Pennisetum clandestinum* Hochstetter ex Chiovenda (kikuyugrass)  
*Pennisetum macrourum* Trinius (African feathergrass)  
*Pennisetum pedicellatum* Trinius (kyasumagrass)  
*Pennisetum polystachion* (Linnaeus) Schultes (missiongrass, thin napiergrass)  
*Prosopis alata* R. A. Philippi  
*Prosopis argentina* Burkart  
*Prosopis articulata* S. Watson  
*Prosopis burkartii* Munoz  
*Prosopis caldenia* Burkart  
*Prosopis calingastana* Burkart

*Prosopis campestris* Griseback  
*Prosopis castellanosii* Burkart  
*Prosopis denudans* Benth  
*Prosopis elata* (Burkart) Burkart  
*Prosopis farcta* (Solander ex Russell) Macbride  
*Prosopis ferox* Grisebach  
*Prosopis fiebrigii* Harms  
*Prosopis hassleri* Harms  
*Prosopis humilis* Gillies ex Hooker & Arnott  
*Prosopis kuntzei* Harms  
*Prosopis pallida* (Humboldt & Bonpland ex Willdenow) Humboldt, Bonpland, & Kunth  
*Prosopis palmeri* S. Watson  
*Prosopis reptans* Benth var. *reptans*  
*Prosopis rojasiana* Burkart  
*Prosopis ruizlealii* Burkart  
*Prosopis ruscifolia* Grisebach  
*Prosopis sericantha* Gillies ex Hooker & Arnott  
*Prosopis strombulifera* (Lamarck) Benth  
*Prosopis torquata* (Cavanilles ex Lagasca y Segura) de Candolle  
*Rottboellia cochinchinensis* (Lour.) W. Clayton  
*Rubus fruticosus* Linnaeus (complex) (wild blackberry)  
*Rubus moluccanus* Linnaeus (wild raspberry)  
*Saccharum spontaneum* Linnaeus (wild sugarcane)  
*Salsola vermiculata* Linnaeus (wormleaf salsola)  
*Senecio inaequidens* DC (South African ragwort)  
*Senecio madagascariensis* Poir (Madagascar ragwort)  
*Setaria pallide-fusca* (Schumacher) Stapf & Hubbard (cattail grass)  
*Solanum torvum* Swartz (turkeyberry)  
*Solanum viarum* Dunal (tropical soda apple)  
*Spermacoce alata* (Aublet) de Candolle  
*Tridax procumbens* Linnaeus (coat buttons)  
*Urochloa panicoides* Beauvois (liverseed grass)