



WEST VIRGINIA LEGISLATURE
CHARLESTON 25305

August 15, 1977

Honorable A. James Manchin
Secretary of State
Room W-151, State Capitol
Charleston, West Virginia 25305

Dear Mr. Manchin:

This is notification of approval of rules or regulations in accordance with Section 11, Article 3, Chapter 29A of the West Virginia Code.

On August 15, 1977, the Legislative Rule-Making Review Committee approved regulations submitted by the Department of Agriculture concerning noxious weeds. A copy of the approved regulations is attached.

Very truly yours,

Robert M. Steptoe

Robert M. Steptoe
State Senate

FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

THIS DATE 8/15/77

William E. Shingleton

William E. Shingleton
House of Delegates

Cochairmen, Legislative
Rule-Making Review
Committee

JRH/cal

Enclosure

WEST VIRGINIA NOXIOUS WEED ACT OF 1976

REGULATIONS

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.

1.02 AUTHORITY

These regulations are issued under authority of Chapter 19, Article 12D, Sections 4 and 5, Code of West Virginia 1931 as amended.

1.03 EFFECTIVE DATE

These regulations are promulgated on the 29th day of April, 1977, and become effective _____.

1.04 FILING DATE

These regulations were filed in the Office of the Secretary of State on _____.

1.05 CERTIFICATIONS

These regulations 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.

**FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA**

THIS DATE 8/15/77

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 those 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 person 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

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. Declare a quarantine if necessary.
2. Enter into cooperative suppression or control agreements with any person, or,
3. Proceed with suppression or control activities under authority of §19-12D-7(c).

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 Weed; Sorghum halepense (L) or johnson grass; Carduus acanthoides L. or plumeless thistle; C. crispus L. or curled thistle, and C. nutans L. or Musk thistle.

5.02 a. The plant known as Kudzu or Pueraria thunbergiana (S and Z) Benth. has become or threatens to become a detriment to agriculture in West Virginia and is hereby declared to be noxious.

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 roadsides, rights-of-way or woodlands.

c. The Plant known as Autumn olive or 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 farmland in certain areas of the state and therefore the planting or sale of Autumn olive is prohibited only in the following West Virginia counties: Barbour, Braxton, Cabell, Calhoun, Doddridge, Gilmer, Harrison, Jackson, Lewis, Marion, Mason, Monongalia, Pleasants, Putnam, Ritchie, Roane, Taylor, Tyler, Upshur, Wetzel, Wirt, and Wood.

5.03 The following drug producing plants which are declared to be noxious by the West Virginia Noxious Weed Act (§19-12D-8(c)) are as follows: Marijuana, Cannabis sativa L.; and opium poppy, Papaver somniferum L.

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 b. and 5.02 c. is prohibited in accordance with §19-12D-7.

SECTION 7 - EFFECTIVE DATE

7.01 Done in the office of the Commissioner, West Virginia Department of Agriculture, Capitol Building, Charleston, West Virginia 25305, this 29th day of April, 1977, to become effective on the _____ day of _____, 1977.