

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
STATE DEPARTMENT OF AGRICULTURE

Chapter 19-12D
1976

GENERAL INDEX

for

Series XIVa

WEST VIRGINIA NOXIOUS WEED ACT OF 1976

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WEST VIRGINIA NOXIOUS WEED ACT OF 1976
REGULATIONS

OFFICE OF THE CLERK OF
SECRETARY OF STATE OF
WEST VIRGINIA

SECTION 1 - GENERAL

1.01 SCOPE

THIS DATE 5/10/77
WVH

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.

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. J.R.D.

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~~ a plant is a noxious weed 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 must 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.

DATE 7/2/77

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, Wetzol, 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, Chaflestone, West Virginia 25305, this 29th day of April, 1977, to become effective on the _____ day of _____, 1977.

ENROLLED

Senate Bill No. 54

(By MR. GALPERIN)

[Passed March 7, 1980; in effect July 1, 1980.]

AN ACT to amend and reenact section eight, article twelve-d, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to establishment of program for eradication of the noxious weed known as multiflora rose; providing for a pilot research and testing program; and providing for cooperation among state agencies for purposes of control and ultimate eradication of multiflora rose.

Be it enacted by the Legislature of West Virginia:

That section eight, article twelve-d, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 12D. WEST VIRGINIA NOXIOUS WEED ACT.

§19-12D-8. Cooperation with federal and state agencies; drug producing plants declared noxious; establishment of program for eradication of multiflora rose.

- 1 (a) The commissioner is authorized to cooperate in any
2 way with any person in order to prevent the establish-
3 ment of noxious weeds in this state.
- 4 (b) The commissioner is authorized to cooperate in any
5 way with any person in programs designed to suppress or
6 control noxious weeds already widely distributed in the
7 state without first declaring a quarantine.
- 8 (c) The commissioner may, upon request, cooperate
9 with federal and state agencies and political subdivisions
10 in the enforcement of the narcotic laws to the extent of
11 preventing the spread of and destroying marijuana or
12 hemp, *Cannabis* spp., or other plants which produce drugs

13 which have been condemned for destruction under the
14 narcotics laws: *Provided*, That nothing herein shall
15 authorize the commissioner to participate in a criminal
16 investigation or prosecution under the Controlled Sub-
17 stances Act or federal narcotic laws. Such drug producing
18 plants are hereby declared noxious.

19 (d) It is hereby declared to be the policy of the
20 Legislature to control, and ultimately to eradicate, in
21 West Virginia the noxious weed known as multiflora rose,
22 which, having been introduced into West Virginia, multi-
23 plied and infested fields and meadows to the point where
24 it defies eradication or control by means available to the
25 average landowner.

26 The commissioner shall take any and all action neces-
27 sary to eradicate the multiflora rose, *Rosa multiflora*,
28 including but not limited to the commissioner's initiating
29 a research and testing program.

30 The commissioner is therefore authorized to initiate a
31 research and testing program for the control, and ulti-
32 mately the eradication, of multiflora rose on suitable
33 lands, public or private, which are infested by that nox-
34 ious weed. The program may include control of any and
35 all means by which multiflora rose is spread, whether by
36 plant, animal or fowl, or by any other means. If the land
37 to be used for the program is privately owned, then the
38 owner must give his consent in writing to such use. In
39 selecting the site for, and in conducting the program on
40 the land the commissioner shall solicit the opinion of
41 persons and groups affected by, or concerned about the
42 proliferation of multiflora rose.

43 In conducting the program the commissioner shall use
44 only such chemicals and other means that have been
45 tested and determined to be reasonably safe for the
46 purposes stated herein, and shall take all due care to
47 avoid injury and damage to plant, animal and human life
48 and health and to all structures of any kind on or near
49 the site of the test program.

50 All agencies of state government and its political sub-
51 divisions shall cooperate with the commissioner for the
52 purposes stated herein, and the commissioner shall use

53 any public moneys available or appropriated for the pilot
54 program. The commissioner may also use, as part of a
55 cost-sharing program, any moneys contributed voluntarily
56 by landowners, including persons whose land may be
57 used for the program. The results of such programs shall
58 be reported to the Legislature at its next regular session.



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

William E. Shingleton

William E. Shingleton
House of Delegates

Cochairmen, Legislative
Rule-Making Review
Committee

FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

THIS DATE 8/15/77

JRH/cal

Enclosure



File file
reg. file
MAY 1 1977

GUS R. DOUGLASS
COMMISSIONER

STATE OF WEST VIRGINIA
DEPARTMENT OF AGRICULTURE
CHARLESTON 25305

WILLIAM H. GILLESPIE
ADMINISTRATIVE ASSISTANT

May 10, 1977

FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

THIS DATE 5/10/77
W.H.G.

Mr. William Harrington
Rules and Regulations Division
Secretary of States Office
State Capitol - West Wing
Charleston, WV 25305

Dear Mr. Harrington:

I am enclosing two copies of the regulations promulgated by Agriculture Commissioner Gus R. Douglass, to implement the West Virginia Noxious Weed Act of 1976, Chapter 19, Article 12D of the State Code of West Virginia.

These will be designated as Series 14 a.

They were submitted to the Legislative Rule-Making Committee on May ¹⁰/₈, 1977.

Would you please acknowledge their receipt so our files will be complete?

Sincerely,

William H. Gillespie
Administrative Assistant

WHG/rkd
Enc.

cc - Gus R. Douglass
A. E. Cole
Earl Vickers