

Vermont Agency of Agriculture, Food & Markets Quarantine #3 - Noxious Weeds

Section I: Statement of Concerns

Whereas, the Vermont Department of Agriculture, Food & Markets having found that certain noxious weeds out compete and displace plants in natural ecosystems and managed lands; and

Whereas, competition and displacement of plants by certain noxious weeds has significant environmental, agricultural and economic impacts; and

Whereas, it has been determined to be in the best interest of the State of Vermont to regulate the importation, movement, sale, possession, cultivation and / or distribution of certain noxious weeds:

Therefore, the State of Vermont is hereby establishing this noxious weed quarantine regulation by the authority of 6 V.S.A., Chapter 84, Pest Survey, Detection and Management.

Section II: Definitions

"Class A Noxious Weed" means any noxious weed on the Federal Noxious Weed List (7 C.F.R. 360.200), or any noxious weed that is not native to the State, not currently known to occur in the State, and poses a serious threat to the State.

"Class B Noxious Weed" means any noxious weed that is not native to the state, is of limited distribution statewide, and poses a serious threat to the State, or any other designated noxious weed being managed to reduce its occurrence and impact in the State.

"Commissioner" means the Commissioner of Agriculture, Food & Markets, or his or her designee.

"Noxious Weed" means any plant in any stage of development, including parasitic plants whose presence whether direct or indirect, is detrimental to the environment, crops or other desirable plants, livestock, land, or other property, or is injurious to the public health.

"Plant and Plant Products" means trees, shrubs, and vines; forage, fiber, and cereal plants; cuttings, grafts, scions, buds and lumber; fruit, vegetables, roots, bulbs, seeds and wood; and all other plants, parts of plants, and plant products.

"Possession" means to grow, manage or cultivate through planting, pruning, watering, fertilization, weeding, propagation, or any other means that promotes the growth of the noxious weed. This does not include the incidental occurrence of a noxious weed on wild or managed land.

Section III: Designation as a Noxious Weed

(A) The following conditions shall be met for a plant or plant product to be designated as a Class A or B Noxious Weed:

(1) As determined by a pest risk assessment, a quarantined noxious weed must pose an actual or anticipated threat to a substantial agricultural, forestry or environmental interest and / or the general public.

(2) Establishment of a quarantine for a specified noxious weed is likely to contribute to the objective of preventing introduction or for limiting the spread and / or severity of the noxious weeds impact to the agricultural, forestry or environmental interest.

(3) No substitute or alternative mitigating action will accomplish the same pest prevention purpose.

(4) The economic and/or environmental benefits of quarantining a specified noxious weed outweigh the economic and/or environmental benefits associated with the noxious weed.

(B) The following biological factors shall be used to evaluate whether or not a plant or plant product has satisfied the conditions for designation as a Class A or Class B Noxious Weed.

- (1) Native origin of the plant;
- (2) Known distribution;
- (3) Mechanism and potential for spread to and within Vermont;
- (4) Past, current and potential environmental, economic and human health impacts;
- (5) Feasibility of control and spread prevention;
- (6) Regional and national perspective;
- (7) Designation as a federal noxious weed; and / or
- (8) Other pertinent factors.

(C) Designation as a Class A or Class B Noxious Weed shall occur through the Administrative Rule procedure as outlined in 3 V.S.A., Chapter 25.

Section IV: Designated Noxious Weeds

(A) Class A Noxious Weeds.

(1) All weeds listed in 7 C.F.R. 360.200 as amended, which is hereby incorporated by reference including subsequent amendments and editions.

- (2) *Cabomba caroliniana* (fanwort)
- (3) *Egeria densa* (Brazilian elodea)
- (4) *Hydrilla verticillata* (hydrilla)
- (5) *Hygrophila polysperma* (Roxb.) T. Anderson (E. Indian hygrophila)
- (6) *Myriophyllum aquaticum* (Vell.) Verdc. (Parrot feather)
- (7) *Myriophyllum heterophyllum* (variable-leaved milfoil)
- (8) *Salvinia auriculata* (giant salvinia)
- (9) *Salvinia biloba* (giant salvinia)
- (10) *Salvinia herzogii* (giant salvinia)
- (11) *Salvinia molesta* (giant salvinia)
- (12) *Vincetoxicum hirundinaria* Medikus. (pale swallow-wort)

(B) Class B Noxious Weeds.

- (1) *Aegopodium podagraria* L. (goutweed)
- (2) *Ailanthus altissima* (tree-of-heaven)
- (3) *Alliaria petiolata* (*A. officinalis*) (garlic mustard)
- (4) *Butomus umbellatus* (flowering rush)
- (5) *Celastrus orbiculatus* Thunb. (Oriental bittersweet)
- (6) *Fallopia japonica* (*Polygonum cuspidatum*) (Japanese knotweed)
- (7) *Hydrocharis morsus-ranae* L. (frogbit)
- (8) *Lonicera x bella* (Bell honeysuckle)
- (9) *Lonicera japonica* (Japanese honeysuckle)
- (10) *Lonicera maackii* (Amur honeysuckle)
- (11) *Lonicera morrowii* (Morrow honeysuckle)
- (12) *Lonicera tatarica* (Tartarian honeysuckle)
- (13) *Lythrum salicaria* (purple loosestrife)
- (14) *Myriophyllum spicatum* (Eurasian watermilfoil)
- (15) *Nymphoides peltata* (Gmel.) Ktze. (yellow floating heart)
- (16) *Phragmites australis* (common reed)
- (17) *Potamogeton crispus* L. (curly leaf pondweed)
- (18) *Rhamnus cathartica* (common buckthorn)
- (19) *Rhamnus frangula* (glossy buckthorn)
- (20) *Trapa natans* L. (water chestnut)
- (21) *Vincetoxicum nigrum* L. (black swallow-wort)

Section V: Prohibitions

(A) The movement, sale, possession, cultivation, and / or distribution of Class A Noxious Weeds designated in Section IV of this quarantine regulation is prohibited.

(B) The movement, sale, and / or distribution of Class B Noxious Weeds designated in Section IV of this quarantine regulation is prohibited.

(C) Violation of any of the prohibitions listed in Section V of this regulation may result in:

- (1) The issuance of cease and desist orders; and / or,
- (2) Temporary or permanent injunctions; and / or,
- (3) Administrative penalties not to exceed \$1,000 per violation, as specified in 6 V.S.A., Chapter 84, Sections 1037 and 1038.

Section VI: Exemptions

(A) Scientific, economic and educational exemptions may be granted by the Commissioner to allow for the movement, possession and field experimentation of noxious weeds for scientific and educational purposes under such conditions as may be prescribed by the commissioner. When granting exemptions, the commissioner shall take into consideration the value of the scientific, economic or education purpose and the risk to Vermont's environment, economy and citizens.

(B) Transportation of any Class A or B Noxious weed on any road or highway of the state is exempt if any of the following is true:

- (1) It is for disposal as part of a management control activity; or
 - (2) It is for the purpose of identifying a species or reporting the presence of a species, and the Class A or B Noxious weed is in a sealed container; or
- (C) Preserved specimens in the form of herbaria or other preservation means are not subject to this regulation.
- (D) Varieties, cultivars, hybrids and/or subspecies that have been shown through scientific research and analysis not to be invasive.

Adopted on 4/22/02