

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

Section I: Statement of Concerns

Whereas, the Vermont ~~Department~~ Agency 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~~ in order to protect Vermont's environmental and economic resources.

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 plant~~ 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 , including those on the Federal Noxious Weed List (7 C.F.R. 360.200).

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

"Committee" means the Vermont invasive exotic plant advisory committee.

"Cultivate" means to intentionally promote or improve the growth of a plant by labor and attention.

"Distribute" means the intentional act of transporting or disseminating material for the purposes of spreading or establishing in a new location said materials, whether for commercial gain or not.

"Move" means the intentional act of transporting material from the property where said material originates, whether for commercial gain or not.

"Noxious Weed" means any plant in any stage of development, including all current and subsequent subspecies, varieties, and cultivars, and 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 or the economy generally.

"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; other propagative materials; and all other plants, parts of plants, and plant products.

"Possession" means to intentionally 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 or unintentional occurrence of a noxious weed on wild or managed land.

"Secretary" means the Secretary of the Agency of Agriculture, Food and Markets, or his or her designee.

Section III: Statutory Authority

This rule is established by the Agency of Agriculture, Food and Markets under the authority granted to the secretary at 6 V.S.A., Chapter 84, 'Pest Survey, Detection and Management'.

Section III IV: Designation as a Noxious Weed

Designation or deletions of noxious weeds shall occur through the following procedure:

The prohibited weed lists will be reviewed annually by the committee to make recommendations for listed species additions or deletions.

Review actions shall include:

_____ completion and review of pest risk assessments (described below),

evaluation of real or potential environmental, economic or other impacts of species prohibitions, and

other activities as deemed necessary by the committee to provide a comprehensive and defensible rationale for additions or deletions to the lists.

Recommendations for deletions will be made based on review of presence of established weed populations, and eradication and control efforts, and the success of these efforts.

Based on the results of these reviews, the committee will provide recommendations to the secretary for additions or deletions to the lists.

(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 prohibited~~ 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~~ Prohibiting 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, or the general public.

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

(4) The economic and/or environmental benefits of ~~quarantining prohibiting~~ a specified noxious weed outweigh the economic and/or environmental benefits associated with not prohibiting 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 as determined by the committee.

~~(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.~~

At the secretary's discretion, the weeds will be added to either the A or B list of prohibited species, rejected for addition, or sent back to the committee for further evaluation and review.

Section V: Prohibitions

(A) The movement, sale, possession, cultivation, and / or distribution of Class A Noxious Weeds designated in Appendix A of this rule is prohibited.

(B) The sale, movement, and / or distribution of Class B Noxious Weeds designated in Appendix A of this rule is prohibited.

(C) Violation of any of these prohibitions may result in:

- (1) The issuance of cease and desist orders; and / or,
- (2) Temporary or permanent injunctions; and / or,
- (3) Administrative penalties as specified in 6 V.S.A., Chapter 1, Section 15, and Chapter 84, Sections 1037 and 1038.

Section VI: Exemptions

(A) Exemptions may be granted by the secretary to allow for the movement, possession and field experimentation of noxious weeds for scientific, educational, or other purposes under such conditions as may be prescribed by the secretary..

(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 are exempted. Those cultivars and varieties so demonstrated as non-invasive are listed in the attached Appendix B.

(E) Permits for movement and disposal of listed weeds and associated material (soil, debris, etc.) may be granted by the secretary for the purposes of weed control or infestation mitigation efforts after review of the proposed procedures and disposal site(s). In granting permits, specific consideration shall be made regarding the location of disposal and monitoring sites and whether the movement and disposal effort(s) accomplishes the general intent of reducing the overall impact of noxious weeds on the environment.

APPENDIX A: Designated Noxious Weeds**(A) Class A Noxious Weeds.**

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

(B) Class B Noxious Weeds.

- (1) Aegopodium podagraria L. (goutweed/bishopsweed/snow-on-the-mountain)
- (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)
- (22) Acer platanoides (Norway maple)*
- (23) Berberis vulgaris (common barberry)*
- (24) Berberis japonicus (Japanese barberry)*
- (25) Euonymus elata (burningbush)*
- (26) Iris pseudocorus (yellow flag iris)*
- (27) Acer ginnala (Amur maple)*
- (28) Najas minor (European naiad)*
- (29) All weeds listed in 7 C.F.R. 360.200 as amended, which is hereby incorporated by reference including subsequent amendments and editions.

*Specimens of these species acquired prior to the final filing of this rule may be sold or offered for sale until January 1, 2015.

APPENDIX B: Subspecies, Hybrids, Varieties and Cultivars Exempted Under Rule

(1) Rhamnus frangula "Asplenifolia"

(2) Rhamnus frangula "Fine Line"

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

Effective Date: April 22, 2002 (Secretary of State Rule Log # 02-12)