

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 790 Session of  
2017

INTRODUCED BY PASHINSKI, CAUSER, EVERETT, HAGGERTY, RABB,  
V. BROWN, CALTAGIRONE, D. COSTA, BRIGGS, SOLOMON, STURLA,  
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FLYNN, DONATUCCI, KIM, KAVULICH, BARBIN, KORTZ AND  
MICCARELLI, MARCH 10, 2017

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, OCTOBER 17, 2017

AN ACT

~~1 Regulating controlled plants and noxious weeds; establishing the <--  
2 Controlled Plant and Noxious Weed Committee; providing for  
3 powers and duties of the Controlled Plant and Noxious Weed  
4 Committee; imposing powers and duties on the Secretary of  
5 Agriculture and municipalities; prescribing penalties;  
6 establishing a category of controlled plants and providing  
7 for the permitting of controlled plants; and making a related  
8 repeal.~~

9 AMENDING TITLE 3 (AGRICULTURE) OF THE PENNSYLVANIA CONSOLIDATED <--  
10 STATUTES, REGULATING CONTROLLED PLANTS AND NOXIOUS WEEDS;  
11 ESTABLISHING THE CONTROLLED PLANT AND NOXIOUS WEED COMMITTEE;  
12 PROVIDING FOR POWERS AND DUTIES OF THE CONTROLLED PLANT AND  
13 NOXIOUS WEED COMMITTEE; IMPOSING POWERS AND DUTIES ON THE  
14 SECRETARY OF AGRICULTURE AND MUNICIPALITIES; PRESCRIBING  
15 PENALTIES; ESTABLISHING A CATEGORY OF CONTROLLED PLANTS AND  
16 PROVIDING FOR THE PERMITTING OF CONTROLLED PLANTS; ABROGATING  
17 REGULATIONS; AND MAKING RELATED REPEALS.

18 The General Assembly of the Commonwealth of Pennsylvania  
19 hereby enacts as follows:

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30 ~~CHAPTER 1~~

PRELIMINARY PROVISIONS

~~Section 101. Short title.~~

~~This act shall be known and may be cited as the Controlled Plant and Noxious Weed Act.~~

~~Section 102. Definitions.~~

~~The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:~~

~~"Class A noxious weed." A weed listed in section 307(a) or a weed that has been determined by the committee to be a Class A noxious weed and that:~~

~~(1) Is established in this Commonwealth.~~

~~(2) Is geographically limited.~~

~~(3) Is intended to be eradicated.~~

~~"Class B noxious weed." A weed listed in section 307(b) or a weed that has been determined by the committee to be a Class B noxious weed and that:~~

~~(1) Is widely established in this Commonwealth.~~

~~(2) Cannot feasibly be eradicated.~~

~~"Class C noxious weed." A weed listed in section 307(c) or a weed that has been determined by the committee to be a Class C noxious weed and that:~~

~~(1) Is not known to exist in this Commonwealth.~~

~~(2) Poses a potential threat if introduced in this Commonwealth.~~

~~"Committee." The Controlled Plant and Noxious Weed Committee established in section 301.~~

~~"Control." The management of the population of a noxious weed or controlled plant to an acceptable level, including eradication, as determined by the department.~~

1       ~~"Control order." A written order issued by the department to~~  
2 ~~a person detailing required treatment measures to control~~  
3 ~~noxious weeds or controlled plants.~~

4       ~~"Controlled plant." A plant species or subspecies that has~~  
5 ~~been determined by the committee to be a "controlled plant" and~~  
6 ~~is regulated to prevent uncontained growth and to negate~~  
7 ~~undesirable characteristics.~~

8       ~~"Department." The Department of Agriculture of the~~  
9 ~~Commonwealth.~~

10       ~~"Distribute" or "distribution." To barter, consign,~~  
11 ~~exchange, give away, import, in any way transfer, offer for~~  
12 ~~sale, sell or otherwise supply or transport a noxious weed or~~  
13 ~~controlled plant in this Commonwealth.~~

14       ~~"Eradication." The elimination or removal of a noxious weed~~  
15 ~~or controlled plant so that no further growth occurs for at~~  
16 ~~least three consecutive years.~~

17       ~~"Established." Either:~~

18           ~~(1) a plant or plant population found growing in this~~  
19 ~~Commonwealth as a wild population and capable of~~  
20 ~~reproduction; or~~

21           ~~(2) a plant that has escaped from cultivation and is~~  
22 ~~reproducing.~~

23       ~~"Federal noxious weed." A weed listed in 7 CFR 360.200~~  
24 ~~(relating to designation of noxious weeds).~~

25       ~~"General permit." A regional or Statewide permit that is~~  
26 ~~issued by the department for a controlled plant and specifies~~  
27 ~~terms and conditions for distribution, cultivation or~~  
28 ~~propagation of the controlled plant.~~

29       ~~"Geographically limited." Found in discrete, limited~~  
30 ~~locations of this Commonwealth.~~

1 ~~"Individual permit." A permit that is issued by the~~  
2 ~~department and includes site specific terms and conditions for:~~

3 ~~(1) research, marketing, warehousing, holding,~~  
4 ~~retailing, wholesaling, transporting, distributing,~~  
5 ~~cultivating or propagating of a controlled plant; or~~

6 ~~(2) for research and educational purposes related to a~~  
7 ~~noxious weed.~~

8 ~~"Landowner." A person:~~

9 ~~(1) In whom is vested the ownership, dominion or title~~  
10 ~~of property and in whom one or more interests are vested for~~  
11 ~~his own benefit.~~

12 ~~(2) Who owns the fee and who has the right to dispose of~~  
13 ~~the property and includes one having a possessory right to~~  
14 ~~land or the person occupying or cultivating it.~~

15 ~~The term includes a department, board, commission, agency and~~  
16 ~~instrumentality of the Federal Government and the Commonwealth~~  
17 ~~and any of its political subdivisions.~~

18 ~~"Lessee." A person who has entered into a contract granting~~  
19 ~~the person occupation or use of property during a certain period~~  
20 ~~of time in exchange for a specified rent.~~

21 ~~"Noxious weed." Either:~~

22 ~~(1) a plant part or plant in any stage of development~~  
23 ~~that is determined to be injurious to crops, livestock,~~  
24 ~~agricultural land or other property including forest land and~~  
25 ~~bodies of water; or~~

26 ~~(2) any weed listed in 7 CFR 360.200 (relating to~~  
27 ~~designation of noxious weeds).~~

28 ~~"Noxious weed control area." A geographic area of this~~  
29 ~~Commonwealth, including the entire State, municipality or any~~  
30 ~~part or tract of land or body of water where a noxious weed is~~

1 ~~to be controlled as prescribed under this act.~~

2 ~~"Person." An individual, corporation, association,~~  
3 ~~partnership, municipality or any other entity.~~

4 ~~"Plant Pest Management Account" or "account." The Plant Pest~~  
5 ~~Management Account established under the act of December 16,~~  
6 ~~1992 (P.L.1228, No.162), known as the Plant Pest Act.~~

7 ~~"Propagate." To increase, multiply or spread a plant or crop~~  
8 ~~through planting, cultivation or any means of reproduction.~~

9 ~~"Secretary." The Secretary of Agriculture of the~~  
10 ~~Commonwealth.~~

11 ~~"Stop sale order." A written notice, issued by the~~  
12 ~~department to the person in possession of a noxious weed or~~  
13 ~~controlled plant, which prohibits its distribution.~~

14 ~~"Treatment measure." A method of eradicating, managing,~~  
15 ~~regulating or controlling noxious weeds or controlled plants~~  
16 ~~utilizing biological, chemical or mechanical means or a~~  
17 ~~combination thereof.~~

18 ~~"Widely established." Established throughout multiple~~  
19 ~~counties and municipalities of this Commonwealth.~~

20 ~~CHAPTER 3~~

21 ~~REGULATION AND ADMINISTRATION~~

22 ~~Section 301. Designation of noxious weeds and controlled~~  
23 ~~plants.~~

24 ~~(a) Controlled Plant and Noxious Weed Committee.—~~

25 ~~(1) The Controlled Plant and Noxious Weed Committee~~  
26 ~~shall have the powers of a departmental administrative board~~  
27 ~~in the department.~~

28 ~~(2) The committee shall be composed of:~~

29 ~~(i) the secretary, who shall be the chairperson of~~  
30 ~~the committee;~~

1           ~~(ii) the Secretary of Conservation and Natural~~  
2           ~~Resources;~~

3           ~~(iii) the Secretary of Environmental Protection;~~

4           ~~(iv) the Secretary of Transportation;~~

5           ~~(v) the Executive Director of the Fish and Boat~~  
6           ~~Commission and the Executive Director of the Game~~  
7           ~~Commission;~~

8           ~~(vi) the chairperson and minority chairperson of the~~  
9           ~~Agriculture and Rural Affairs Committee of the Senate and~~  
10          ~~the chairperson and minority chairperson of the~~  
11          ~~Agriculture and Rural Affairs Committee of the House of~~  
12          ~~Representatives;~~

13          ~~(vii) three persons, to be appointed by the~~  
14          ~~secretary, who must represent the interests and concerns~~  
15          ~~of the following groups, organizations or industries:~~

16                 ~~(A) One member of a Statewide general farm~~  
17                 ~~organization.~~

18                 ~~(B) One member representing the ornamental, turf~~  
19                 ~~and horticultural industry.~~

20                 ~~(C) One member from an institution of higher~~  
21                 ~~education within this Commonwealth.~~

22          ~~(3) Except for appointed members, who may be represented~~  
23          ~~by designees selected by the secretary, members may be~~  
24          ~~represented by a designee selected by the member.~~

25          ~~(4) The appointed members shall serve four year terms~~  
26          ~~except that such terms shall initially be staggered with one~~  
27          ~~of the three members serving a two year term.~~

28          ~~(5) Successors to fill expired terms of appointed~~  
29          ~~members shall be appointed by the secretary. The secretary~~  
30          ~~may appoint the same member to successive terms.~~

1           ~~(6) An appointed member may continue to hold the~~  
2 ~~position after his term has expired and until a successor has~~  
3 ~~been appointed, but in no case, may such time period be~~  
4 ~~longer than six months beyond the member's original term of~~  
5 ~~office.~~

6 ~~(b) Powers and duties of committee.~~

7           ~~(1) A majority of the committee shall constitute a~~  
8 ~~quorum. A quorum of the committee shall be required to take~~  
9 ~~any action. All actions of the committee shall be by a~~  
10 ~~majority vote.~~

11           ~~(2) Prior to taking any action, the committee shall be~~  
12 ~~required to convene a public meeting to elicit comments from~~  
13 ~~the regulated community and other interested parties. The~~  
14 ~~notice and agenda for a meeting of the committee shall~~  
15 ~~contain a list of the plants to be considered for addition to~~  
16 ~~or deletion from the noxious weed list or controlled plant~~  
17 ~~list. The notice and agenda for a meeting shall be published~~  
18 ~~in the Pennsylvania Bulletin at least one week prior to the~~  
19 ~~meeting, except in the case of a special meeting or~~  
20 ~~rescheduled meeting as allowed under 65 Pa.C.S. § 709(a)~~  
21 ~~(relating to public notice). All meetings shall be open to~~  
22 ~~the public and shall comply with the requirements of 65~~  
23 ~~Pa.C.S. Ch. 7 (relating to open meetings).~~

24           ~~(3) The committee shall have the following powers and~~  
25 ~~duties:~~

26           ~~(i) To establish a noxious weed list inclusive of~~  
27 ~~the list set forth under section 307. The committee may~~  
28 ~~add weeds to or delete weeds from the noxious weed list,~~  
29 ~~or move noxious weeds to the controlled plant list, in~~  
30 ~~accordance with the provisions of this act.~~

1           ~~(ii) To establish a controlled plant list and to add~~  
2 ~~plants to or delete plants from the controlled plant list~~  
3 ~~in accordance with the provisions of this act. A~~  
4 ~~controlled plant, upon approval of the committee, may be~~  
5 ~~moved from the controlled plant list to the noxious weed~~  
6 ~~list.~~

7           ~~(iii) To propose the addition or deletion of plants~~  
8 ~~to or from the noxious weed list or controlled plant~~  
9 ~~list. The committee may request that the department~~  
10 ~~perform a study and risk assessment related to any plant~~  
11 ~~the committee may consider for addition to or deletion~~  
12 ~~from the noxious weed list or controlled plant list.~~

13           ~~(iv) To publish the noxious weed list and the~~  
14 ~~controlled plant list and any additions or deletions or~~  
15 ~~changes thereto as a notice in the Pennsylvania Bulletin.~~  
16 ~~Any additions to or deletions from the noxious weed list~~  
17 ~~or the controlled plant list shall become effective 60~~  
18 ~~days from publication.~~

19 ~~(c) Noxious weed and controlled plant seeds.—~~

20           ~~(1) Upon the determination of the committee that a plant~~  
21 ~~falls within the classification of a noxious weed or~~  
22 ~~controlled plant, the seed of that plant shall fall within~~  
23 ~~that same classification under 3 Pa.C.S. Ch. 71 (relating to~~  
24 ~~seed) and relevant regulations.~~

25           ~~(2) If no regulatory criteria exist for controlled plant~~  
26 ~~seeds, the department may regulate controlled plant seeds~~  
27 ~~through permit, for a period of two years from the effective~~  
28 ~~date of this section, at which time the department shall~~  
29 ~~promulgate regulatory standards.~~

30 ~~Section 302. Permits.~~

1       ~~(a) General rule. The following permitting rules apply with~~  
2 ~~regard to noxious weeds for research or educational purposes and~~  
3 ~~to controlled plants for research or marketing purposes,~~  
4 ~~cultivation, propagation, storing, warehousing or display, and~~  
5 ~~for retail, wholesale or distribution.~~

6           ~~(1) For noxious weeds, the department may issue~~  
7 ~~individual permits. A permit may allow for the cultivation~~  
8 ~~and propagation of a noxious weed for research and~~  
9 ~~educational purposes only. The department shall establish the~~  
10 ~~criteria for a noxious weed individual permit through the~~  
11 ~~issuance of a temporary order, as set forth in subsection (d)~~  
12 ~~(4).~~

13           ~~(2) For controlled plants, the department may issue~~  
14 ~~individual permits or general permits. The department shall~~  
15 ~~establish the criteria for a controlled plant individual~~  
16 ~~permit through the issuance of a temporary order as specified~~  
17 ~~under subsection (d) (4).~~

18       ~~(b) Permit required. No person may research, market,~~  
19 ~~distribute, transport, cultivate, hold, retail, wholesale,~~  
20 ~~propagate or display a noxious weed or controlled plant without~~  
21 ~~obtaining a permit from the department in accordance with the~~  
22 ~~provisions of this act.~~

23       ~~(c) General permits. General permits may be issued for the~~  
24 ~~research, marketing, retail, wholesale, transport, storage,~~  
25 ~~warehousing, display, distribution, cultivation or propagation~~  
26 ~~of controlled plants under the following circumstances:~~

27           ~~(1) General permits may be issued on a regional or~~  
28 ~~Statewide basis for controlled plants where the controlled~~  
29 ~~plants have similar characteristics and are capable of being~~  
30 ~~cultivated, propagated, processed and controlled or~~

1 ~~eradicated in a similar fashion.~~

2 ~~(2) General permits shall be published in the~~  
3 ~~Pennsylvania Bulletin effective upon publication.~~

4 ~~(3) An applicant seeking a general permit under this~~  
5 ~~subsection shall inform the department of the applicant's~~  
6 ~~intended use of the general permit and complete an~~  
7 ~~application for approval to operate under the general permit~~  
8 ~~requirements. The application shall include a written plan~~  
9 ~~establishing the practices and methods the applicant will~~  
10 ~~utilize in order to assure compliance with the general permit~~  
11 ~~requirements established by the department. In addition to~~  
12 ~~the written plan, the application shall state, at a minimum,~~  
13 ~~all of the information required under subsection (d)(5)(i),~~  
14 ~~(ii), (iii), (iv), (v), (vi), (vii), and (viii).~~

15 ~~(4) Before the approval and issuance of a general~~  
16 ~~permit, the department may enter onto and inspect the land~~  
17 ~~and premises, including buildings and conveyances, that will~~  
18 ~~be utilized for the purpose of engaging in an activity~~  
19 ~~authorized by the permit regarding a controlled plant. The~~  
20 ~~inspection shall be conducted during normal business hours.~~

21 ~~(d) Individual permits. Individual permits may be issued~~  
22 ~~for noxious weeds and controlled plants in accordance with the~~  
23 ~~following:~~

24 ~~(1) An individual permit may be issued for any~~  
25 ~~controlled plant where:~~

26 ~~(i) The controlled plant has such individual~~  
27 ~~characteristics as to make it difficult or impossible for~~  
28 ~~the department to regulate through a general set of~~  
29 ~~requirements.~~

30 ~~(ii) The land or area on which the controlled plant~~

1 ~~will be cultivated has such characteristics as would make~~  
2 ~~it difficult or impossible for the department to regulate~~  
3 ~~the controlled plant.~~

4 ~~(iii) The controlled plant is highly regulated or~~  
5 ~~requires additional scrutiny because of a characteristic~~  
6 ~~of the plant that would be hard to control under a~~  
7 ~~general permit or where Federal law preempts and requires~~  
8 ~~such permitting.~~

9 ~~(2) An individual permit shall be issued in writing to~~  
10 ~~the specific permit holder, contain the temporary order or~~  
11 ~~reference the regulations establishing the requirements of~~  
12 ~~the individual permit and be published in the Pennsylvania~~  
13 ~~Bulletin and effective as enumerated in paragraph (4).~~

14 ~~(3) The department may establish through regulation or a~~  
15 ~~temporary order, standards and requirements addressing the~~  
16 ~~issuance and criteria of an individual permit for noxious~~  
17 ~~weeds and controlled plants.~~

18 ~~(4) For each noxious weed, the department shall issue a~~  
19 ~~temporary order establishing the criteria for the individual~~  
20 ~~permit to be issued. For a controlled plant, upon determining~~  
21 ~~that a set of characteristics or circumstances requires the~~  
22 ~~issuance of an individual permit, the department shall issue~~  
23 ~~a temporary order establishing the criteria for the~~  
24 ~~individual permit to be issued. The following shall apply:~~

25 ~~(i) Through the temporary order, the department may~~  
26 ~~establish restrictions and standards, including bonding~~  
27 ~~requirements, as the department determines are necessary~~  
28 ~~to:~~

29 ~~(A) Identify the specific characteristics of the~~  
30 ~~noxious weed or controlled plant or the circumstances~~

1 ~~including Federal laws, regulations or orders, that~~  
2 ~~require the issuance of the individual permit.~~

3 ~~(B) Assure the permit holder institutes proper~~  
4 ~~containment, remediation and eradication criteria to~~  
5 ~~protect the interests of the public, the native plant~~  
6 ~~and animal populations in this Commonwealth and this~~  
7 ~~Commonwealth's flora, fauna and natural resources.~~

8 ~~(C) Assure the permit holder is responsible for~~  
9 ~~and has the means to cover any costs of remediation,~~  
10 ~~containment or eradication.~~

11 ~~(D) Assure that the permit holder does not~~  
12 ~~abandon the permitted site prior to notifying the~~  
13 ~~department and taking such remediation, containment~~  
14 ~~or eradication measures as the department may~~  
15 ~~determine are necessary.~~

16 ~~(ii) The department shall publish the temporary~~  
17 ~~order as a notice in the Pennsylvania Bulletin. A copy of~~  
18 ~~the order shall also be delivered to the person seeking~~  
19 ~~the individual permit.~~

20 ~~(iii) The provisions of the temporary order shall be~~  
21 ~~applicable as of the date of actual or constructive~~  
22 ~~notice of the temporary order or any later date specified~~  
23 ~~in the temporary order. Publication of the temporary~~  
24 ~~order in the Pennsylvania Bulletin shall be constructive~~  
25 ~~notice.~~

26 ~~(iv) The temporary order shall remain in effect for~~  
27 ~~a period not to exceed the length of time for which the~~  
28 ~~individual permit was issued, unless the permit is~~  
29 ~~reissued or extended, or until the criteria stated in the~~  
30 ~~temporary order are established in regulation, whichever~~

1           ~~occurs first.~~

2           ~~(5) A written application for an individual permit shall~~  
3 ~~meet the criteria established by the department through a~~  
4 ~~temporary order or regulation as authorized by this act and~~  
5 ~~be made on a form and a manner as prescribed by the~~  
6 ~~department. The application shall contain at least the~~  
7 ~~following:~~

8           ~~(i) The legal name, address and daytime and evening~~  
9 ~~telephone numbers of the applicant.~~

10           ~~(ii) The physical location, including a detailed~~  
11 ~~plot map and description of the site to be planted or~~  
12 ~~site where the noxious weed or controlled plant will be~~  
13 ~~propagated, cultivated, stored or distributed. The~~  
14 ~~description of the location shall also include the~~  
15 ~~county, municipality and the name of each road bordering~~  
16 ~~the physical location. The plot map shall be attached to~~  
17 ~~the application and shall state the GPS coordinates~~  
18 ~~outlining the boundaries of the site and other important~~  
19 ~~landmarks.~~

20           ~~(iii) For a seller, distributor, holder or~~  
21 ~~depository of propagation material, the name and address~~  
22 ~~and the applicable Federal or Commonwealth license or~~  
23 ~~certification number or both, where applicable.~~

24           ~~(iv) The scientific and common names of the noxious~~  
25 ~~weed or controlled plant for which the applicant desires~~  
26 ~~an individual permit according to the United States~~  
27 ~~Department of Agriculture PLANTS Database, including~~  
28 ~~classification of species by sterile biotype, cultivar,~~  
29 ~~variety F1 parent, variety F2 parent or other name.~~

30           ~~(v) The identity of the intended plant parts to be~~

1           ~~used and the stage of development at planting, including~~  
2           ~~seed, rhizome and cutting.~~

3           ~~(vi) Attestation that the plant materials have been~~  
4           ~~selected from apparently disease free and pest free~~  
5           ~~sources.~~

6           ~~(vii) A description of the packaging and biosecurity~~  
7           ~~safeguards to be utilized. Plant material shall be~~  
8           ~~packaged and safeguarded sufficiently to maintain~~  
9           ~~isolation from the domestic environment during~~  
10           ~~transportation.~~

11           ~~(viii) An attestation by the applicant stating the~~  
12           ~~applicant shall continue to comply with the permit~~  
13           ~~requirements for the duration of time the plant materials~~  
14           ~~are in the permit holder's possession and that the permit~~  
15           ~~holder understands and agrees to the following:~~

16                   ~~(A) If the permit holder intends to transfer~~  
17                   ~~possession or ownership of the noxious weed or~~  
18                   ~~controlled plant, the permit holder shall, before~~  
19                   ~~the transfer of possession or ownership, notify~~  
20                   ~~the department and assure the person to whom the~~  
21                   ~~noxious weed or controlled plant will be~~  
22                   ~~transferred or sold that the permit holder has~~  
23                   ~~obtained the required individual permit.~~

24                   ~~(B) If the permit holder intends to stop~~  
25                   ~~growing or cultivating the noxious weed or~~  
26                   ~~controlled plant, the permit holder shall notify~~  
27                   ~~the department and implement all measures ordered~~  
28                   ~~by the department to destroy the noxious weed or~~  
29                   ~~controlled plant, unless another person assumes~~  
30                   ~~responsibility for the noxious weed or~~

1                   ~~controlled plant and is issued an individual~~  
2                   ~~permit.~~

3                   ~~(C) If the permit holder abandons,~~  
4                   ~~relinquishes possession or ownership of, control~~  
5                   ~~over or responsibility for the noxious weed or~~  
6                   ~~controlled plant, in a manner inconsistent with~~  
7                   ~~the provisions of this act, all plant material~~  
8                   ~~regulated by the permit shall be destroyed in a~~  
9                   ~~manner approved by the department. The original~~  
10                   ~~permit holder shall continue to be responsible~~  
11                   ~~for the noxious weed or controlled plant, the~~  
12                   ~~cost of destruction and eradication of the~~  
13                   ~~noxious weed or controlled plant and any plant~~  
14                   ~~material associated with the noxious weed or~~  
15                   ~~controlled plant. The original permit holder~~  
16                   ~~shall continue to be subject to the penalties~~  
17                   ~~imposed under this act.~~

18                   ~~(ix) The identification of the use of the~~  
19                   ~~noxious weed or controlled plant to be permitted,~~  
20                   ~~including ornamental landscape, agricultural crop,~~  
21                   ~~feed crop, research, education, biofuel, biomass,~~  
22                   ~~further sale or distribution or any other particular~~  
23                   ~~use.~~

24                   ~~(x) A detailed description of the activity~~  
25                   ~~authorized by the permit, including the intended size~~  
26                   ~~of the area to be planted and the intended date of~~  
27                   ~~planting.~~

28                   ~~(xi) Whether the noxious weed or controlled~~  
29                   ~~plant will be further distributed, sold, transported,~~  
30                   ~~replanted, used for seed or other purposes. If the~~

1           ~~noxious weed or controlled plant will be further~~  
2           ~~distributed, sold, transported, replanted, used for~~  
3           ~~seed or other purposes, the permit shall include the~~  
4           ~~name and address of the person and location to which~~  
5           ~~the noxious weed or controlled plant will be~~  
6           ~~distributed, sold or transported. If sold or~~  
7           ~~distributed for further propagation, the application~~  
8           ~~shall include the information required under~~  
9           ~~subparagraphs (i) and (ii) and the name and address~~  
10           ~~of the person to which the noxious weed or controlled~~  
11           ~~plant was sold or distributed for such use.~~

12           ~~(xii) A written contingency plan for each site~~  
13           ~~for eradication or recapture in the event of an~~  
14           ~~unauthorized escape or introduction of the noxious~~  
15           ~~weed or controlled plant.~~

16           ~~(xiii) An attestation that the applicant shall~~  
17           ~~comply with all terms and conditions contained in the~~  
18           ~~permit.~~

19           ~~(6) The secretary may request additional information, if~~  
20           ~~necessary, from the applicant in writing after the~~  
21           ~~application is received to evaluate the potential risk to the~~  
22           ~~Commonwealth.~~

23           ~~(7) An individual permit shall expire on December 31 of~~  
24           ~~each year, unless otherwise specified in the permit. An~~  
25           ~~application for renewal of an individual permit must be made~~  
26           ~~by October 1 of the year the permit expires. An application~~  
27           ~~for renewal shall describe any change to the required~~  
28           ~~information previously submitted. Failure to renew an~~  
29           ~~individual permit shall be a violation of this act.~~

30           ~~(8) General information regarding permit compliance~~

1 ~~shall be updated on a calendar year basis. Updated~~  
2 ~~information shall be submitted to the department no later~~  
3 ~~than January 10 of each new calendar year. Failure to submit~~  
4 ~~the required information within the time period established~~  
5 ~~under this paragraph shall be a violation of this act.~~

6 ~~(9) Before the approval and issuance of an individual~~  
7 ~~permit, the department may enter onto and inspect the land~~  
8 ~~and premises, including buildings and conveyances, that will~~  
9 ~~be utilized for the purpose of engaging in an activity~~  
10 ~~authorized by the permit. The inspection shall be limited to~~  
11 ~~normal business hours.~~

12 ~~(e) Notice of closing, change of name or moving location.~~

13 ~~(1) Any person who holds a permit under this act shall~~  
14 ~~notify the department, in writing, prior to any change of~~  
15 ~~status related to the permit, including:~~

16 ~~(i) Intent to close, sell or change the name of the~~  
17 ~~business or entity holding the permit.~~

18 ~~(ii) Intent to move the location of the business or~~  
19 ~~entity or the location of the activity specifically~~  
20 ~~authorized by the permit.~~

21 ~~(iii) Intent to discontinue the activities~~  
22 ~~specifically authorized by the permit.~~

23 ~~(2) Upon notification, the department, in performance of~~  
24 ~~its duties to protect the interests of the public, the native~~  
25 ~~plant and animal populations and natural resources in this~~  
26 ~~Commonwealth, may enter onto the land and premises, including~~  
27 ~~buildings and conveyances that were utilized for or where the~~  
28 ~~permitted activity of the person holding or required to hold~~  
29 ~~a permit under this act took or are taking place, and to~~  
30 ~~conduct such inspections of the premises as are necessary to~~

1 ~~determine what remedial, eradication or containment practices~~  
2 ~~are necessary prior to the closure or other change of status~~  
3 ~~occurring.~~

4 ~~(3) Failure to notify the department or otherwise comply~~  
5 ~~with the provisions of this subsection shall be a violation~~  
6 ~~of this act.~~

7 ~~(f) Revocation or suspension. Within 30 days of receipt of~~  
8 ~~a notice of revocation, the permit holder may apply for an~~  
9 ~~amendment to the permit or request a hearing as outlined in~~  
10 ~~section 312. The secretary may revoke or suspend all or part of~~  
11 ~~a permit issued under this section when:~~

12 ~~(1) The secretary determines that a permit holder has~~  
13 ~~failed to comply with the requirements of this act.~~

14 ~~(2) It is necessary to protect the interests of the~~  
15 ~~public, to protect native plant and animal populations in~~  
16 ~~this Commonwealth, or to otherwise protect this~~  
17 ~~Commonwealth's natural resources.~~

18 ~~Section 303. Prohibited acts.~~

19 ~~(a) General compliance. It shall be a violation of this act~~  
20 ~~to fail to comply with any provision of this act or any~~  
21 ~~regulation, permit requirement or order established under this~~  
22 ~~act.~~

23 ~~(b) Noxious weeds. Except as established in an individual~~  
24 ~~permit allowing educational or research purposes, it shall be a~~  
25 ~~violation of this act to distribute, cultivate or propagate any~~  
26 ~~noxious weed within this Commonwealth.~~

27 ~~(c) Controlled plants. It shall be a violation of this act~~  
28 ~~to research, market, hold, warehouse, retail, wholesale,~~  
29 ~~transport, display, distribute, cultivate or propagate a~~  
30 ~~controlled plant without a permit issued by the department.~~

1 ~~(d) Abandonment. It shall be a violation of this act for a~~  
2 ~~person holding or required to hold or comply with a permit~~  
3 ~~requirement of this act to abandon a noxious weed or controlled~~  
4 ~~plant site or premises without first notifying the department~~  
5 ~~and taking such actions as are necessary or ordered by the~~  
6 ~~department to remediate the site.~~

7 ~~(e) Concealment or misrepresentation. It shall be unlawful~~  
8 ~~for a person to:~~

9 ~~(1) conceal a noxious weed or controlled plant from~~  
10 ~~inspection; or~~

11 ~~(2) make a false declaration of acreage, square footage~~  
12 ~~or any other information required to comply with the permit~~  
13 ~~requirements of this act.~~

14 ~~Section 304. Noxious weed control areas.~~

15 ~~(a) General rule. The following apply:~~

16 ~~(1) The department may establish a noxious weed control~~  
17 ~~area through a control order issued by the department under~~  
18 ~~section 305. The order shall be published in the Pennsylvania~~  
19 ~~Bulletin and disseminated to persons in the noxious weed~~  
20 ~~control area that will be affected by the order. A control~~  
21 ~~order shall remain in effect until such time as it is~~  
22 ~~rescinded by the department or until the criteria set forth~~  
23 ~~in the control order are established by regulation.~~

24 ~~(2) Within the noxious weed control area, the department~~  
25 ~~may prohibit, without inspection, the movement, shipment or~~  
26 ~~transportation of any noxious weed or other material capable~~  
27 ~~of carrying the noxious weed from the area under the control~~  
28 ~~order.~~

29 ~~(b) Compliance. The department shall require an affected~~  
30 ~~landowner or lessee or other person within the noxious weed~~

1 ~~control area to comply with the provisions of the control order~~  
2 ~~within the time frame indicated in the order.~~

3 ~~(c) Publication. Every designated noxious weed control area~~  
4 ~~and any accompanying control order created under this section~~  
5 ~~and section 305 shall be published in the Pennsylvania Bulletin~~  
6 ~~pursuant to the act of July 31, 1968 (P.L.769, No.240), referred~~  
7 ~~to as the Commonwealth Documents Law.~~

8 ~~Section 305. Control orders.~~

9 ~~(a) Noxious weeds.~~

10 ~~(1) The department may issue a control order requiring~~  
11 ~~any person to implement treatment measures for noxious weeds.~~  
12 ~~The control order shall state the general factual and legal~~  
13 ~~basis for the action and shall advise the affected person~~  
14 ~~that, within 15 days of receipt of the control order, the~~  
15 ~~affected person may file with the department a written~~  
16 ~~request for an administrative hearing. The hearing shall be~~  
17 ~~conducted in accordance with 2 Pa.C.S. (relating to~~  
18 ~~administrative law and procedure).~~

19 ~~(2) The written control order of the department shall be~~  
20 ~~served upon the affected person by personal service or by~~  
21 ~~registered or certified mail, return receipt requested.~~

22 ~~(3) The control order shall become final upon the~~  
23 ~~expiration of the 15 day period for requesting an~~  
24 ~~administrative hearing, unless a timely request for a hearing~~  
25 ~~has been filed with the department.~~

26 ~~(b) Controlled plants.~~

27 ~~(1) The department may issue a control order requiring a~~  
28 ~~controlled plant permit holder or a person required to have~~  
29 ~~such permit to implement treatment measures for a controlled~~  
30 ~~plant. The department may issue a control order for~~

1 ~~controlled plants if the department finds that a controlled~~  
2 ~~plant is growing on any premises or property without a valid~~  
3 ~~permit. The order shall state the general factual and legal~~  
4 ~~basis for the action and advise the affected person that~~  
5 ~~within 15 days of receipt of the order, the affected person~~  
6 ~~may file with the department a written request for an~~  
7 ~~administrative hearing. The hearing shall be conducted in~~  
8 ~~accordance with 2 Pa.C.S.~~

9 ~~(2) The written control order of the department shall be~~  
10 ~~served upon the affected person by personal service or by~~  
11 ~~registered or certified mail, return receipt requested.~~

12 ~~(3) The control order shall become final upon the~~  
13 ~~expiration of the 15 day period for requesting an~~  
14 ~~administrative hearing, unless a timely request for a hearing~~  
15 ~~has been filed with the department.~~

16 ~~(c) Description of situation in order. The control order~~  
17 ~~shall describe the noxious weed or controlled plant situation~~  
18 ~~that exists and prescribe the required treatment measures and~~  
19 ~~the date by which such measures must be completed.~~

20 ~~Section 306. Compliance with orders.~~

21 ~~(a) General rule. A person subject to a control order~~  
22 ~~issued under section 305 shall comply with the control order~~  
23 ~~within the time frame specified in the control order or, if~~  
24 ~~appealed, the time frame established in the final adjudication~~  
25 ~~of the secretary. The cost of the treatment measures shall be~~  
26 ~~borne by the person subject to the control order.~~

27 ~~(b) Notice and duty of municipality.~~

28 ~~(1) If the person subject to the control order fails to~~  
29 ~~comply with the control order, the department shall notify~~  
30 ~~that person and the municipality within which the person~~

1 ~~resides or where the person's property is located by~~  
2 ~~certified mail. After receipt of the notice, the appropriate~~  
3 ~~officials of the municipality shall take the necessary steps~~  
4 ~~to carry out the treatment measures established in the~~  
5 ~~control order within the time frame specified in the~~  
6 ~~notification by the department.~~

7 ~~(2) A municipality which acts to control a noxious weed~~  
8 ~~or controlled plant on a noncomplying person's property may~~  
9 ~~recover the expenses and costs incurred by the municipality~~  
10 ~~in carrying out the treatment measures established in the~~  
11 ~~control order from the person who is the subject of the~~  
12 ~~department's control order.~~

13 ~~Section 307. Noxious weed list.~~

14 ~~(a) Class A noxious weeds. The following are Class A~~  
15 ~~noxious weeds:~~

16 ~~(1) *Amaranthus palmeri* S. Watson (commonly known as~~  
17 ~~Palmer amaranth).~~

18 ~~(2) *Amaranthus rudis* (commonly known as common~~  
19 ~~waterhemp).~~

20 ~~(3) *Amaranthus tuberculatus* (commonly known as tall~~  
21 ~~waterhemp).~~

22 ~~(4) *Avena sterilis* L. (commonly known as animated oat).~~

23 ~~(5) *Cuscuta* spp., except for native species (commonly~~  
24 ~~known as dodder).~~

25 ~~(6) *Galega officinalis* L. (commonly known as goatsrue).~~

26 ~~(7) *Heracleum mantegazzianum* Sommier & Levier (commonly~~  
27 ~~known as giant hogweed).~~

28 ~~(8) *Hydrilla verticillata* (L.f.) Royle (commonly known~~  
29 ~~as hydrilla).~~

30 ~~(9) *Oplismenus hirtellus* (L.) P. Beauv. Subsp.~~

1 ~~undulatifolius (commonly known as Wavyleaf basketgrass).~~

2 ~~(10) Orobanche spp., except for native species (commonly~~  
3 ~~known as broomrape).~~

4 ~~(11) Pueraria lobate (Willd.) Ohwi (commonly known as~~  
5 ~~kudzu).~~

6 ~~(b) Class B noxious weeds. The following are Class B~~  
7 ~~noxious weeds:~~

8 ~~(1) Carduus nutans L. (commonly known as musk thistle).~~

9 ~~(2) Cirsium arvense L. (commonly known as Canada~~  
10 ~~thistle).~~

11 ~~(3) Cirsium vulgare L. (commonly known as bull thistle).~~

12 ~~(4) Exotic Lythrum species, including Lythrum salicaria~~  
13 ~~L. (commonly known as purple loosestrife), the Lythrum~~  
14 ~~salicaria complex and Lythrum virgatum L. (commonly known as~~  
15 ~~European wand loosestrife), their cultivars and any~~  
16 ~~combination thereof.~~

17 ~~(5) Persicaria perfoliata (L.) H. Grass (formerly known~~  
18 ~~as Polygonum perfoliatum L.) (commonly known as mile a minute~~  
19 ~~weed).~~

20 ~~(6) Rosa multiflora L. (commonly known as multiflora~~  
21 ~~rose).~~

22 ~~(7) Sorghum bicolor L. Moench (commonly known as~~  
23 ~~shattercane).~~

24 ~~(8) Sorghum halepense (L.) Pers. (commonly known as~~  
25 ~~Johnson grass).~~

26 ~~(c) Class C noxious weeds. Class C noxious weeds are any~~  
27 ~~Federal noxious weeds listed in 7 CFR 360.200 (relating to~~  
28 ~~designation of noxious weeds) not established in this~~  
29 ~~Commonwealth which are not referenced above.~~

30 ~~(d) Committee determination. Any plant or weed designated~~

1 ~~as a noxious weed under this section and as authorized under~~  
2 ~~section 301.~~

3 ~~Section 308.—Fees.~~

4 ~~(a) General rule. The following fees, which shall be~~  
5 ~~deposited into the account are established:~~

6 ~~(1) General permit, \$150 per permit with a \$50 annual~~  
7 ~~renewal fee.~~

8 ~~(2) Individual permit, \$250 per permit with a \$100~~  
9 ~~annual renewal fee.~~

10 ~~(3) Inspection fees for field locations—\$50 inspection~~  
11 ~~fee for up to 10 acres, with a \$5 per acre fee for each~~  
12 ~~additional acre up to a maximum fee of \$500.~~

13 ~~(4) Inspection fees for greenhouses—Greenhouse~~  
14 ~~locations shall be assessed a fee based on square footage as~~  
15 ~~follows:~~

16 ~~(i) \$50 for less than 5,000 square feet.~~

17 ~~(ii) \$100 for 5,000 25,000 square feet.~~

18 ~~(iii) \$150 if greater than 25,000 square feet.~~

19 ~~(5) Plant identification—\$40 per sample.~~

20 ~~(6) Laboratory testing—Fees as established in 3-~~  
21 ~~Pa.C.S. Ch. 71 (relating to seed).~~

22 ~~(b) Adjustment of fees. The department may promulgate~~  
23 ~~regulations to fix, adjust, assess and collect, or cause to be~~  
24 ~~collected, fees as established in this act. The fees shall be~~  
25 ~~large enough to meet the reasonable expenses incurred by the~~  
26 ~~department or its agents in administering this act, including~~  
27 ~~issuing permits, conducting inspections and carrying out~~  
28 ~~necessary testing. If the secretary determines that money~~  
29 ~~derived from all authorized fees are either greater or less than~~  
30 ~~that required to administer this act, the secretary may reduce~~

1 ~~or increase the fees so as to maintain revenues sufficient to~~  
2 ~~administer this act.~~

3 ~~(c) Payment of fees. Fees shall be paid by check or money~~  
4 ~~order made payable to the Commonwealth of Pennsylvania. Failure~~  
5 ~~to pay a fee on time shall be a violation of this act. A late~~  
6 ~~fee of \$25 shall be assessed for every month that a fee is past~~  
7 ~~due.~~

8 ~~Section 309. Powers and duties of the secretary and department.~~

9 ~~(a) General rule. The secretary shall enforce this act and~~  
10 ~~may employ all proper means for the enforcement of this act,~~  
11 ~~including issuing notices of violation and orders, filing~~  
12 ~~violations for criminal prosecution, seeking injunctive relief,~~  
13 ~~imposing civil penalties and entering into consent agreements.~~

14 ~~(b) General powers and duties of department. The~~  
15 ~~department, in carrying out the provisions of this act and in~~  
16 ~~addition to all other authority granted to the secretary and the~~  
17 ~~department by this act, shall have the authority to:~~

18 ~~(1) Issue and enforce a written control order to any~~  
19 ~~person in possession of a noxious weed or controlled plant.~~

20 ~~(2) Issue and enforce written permits and permit~~  
21 ~~requirements to any person who wishes to research, market,~~  
22 ~~hold, warehouse, retail, wholesale, propagate, transport,~~  
23 ~~cultivate or distribute a noxious weed or controlled plant~~  
24 ~~under such terms and conditions as are reasonably required to~~  
25 ~~carry out the provisions of this act.~~

26 ~~(3) Utilize any enforcement tool authorized by this act~~  
27 ~~to control, remediate, contain or eradicate a noxious weed or~~  
28 ~~controlled plant.~~

29 ~~(4) Recover, from the noncomplying person or landowner,~~  
30 ~~expenses and costs incurred in such enforcement and~~

1 ~~compliance actions. The department may impose additional~~  
2 ~~civil or criminal penalties for failure to comply. Such~~  
3 ~~penalties shall include the reasonable cost of eradication~~  
4 ~~and compliance expenses incurred by the department.~~

5 ~~(5) If the department is denied access to any building,~~  
6 ~~conveyance, equipment, land or vehicle where such access was~~  
7 ~~sought for the purposes and under the authority set forth in~~  
8 ~~this act, the secretary may apply to any issuing authority~~  
9 ~~for a search warrant authorizing access to such building,~~  
10 ~~conveyance, equipment, land or vehicle for that purpose. The~~  
11 ~~court may, upon application by the department, issue the~~  
12 ~~search warrant for the purposes requested.~~

13 ~~(b.1) Right of entry and inspection. In the performance of~~  
14 ~~the duties required by this act, the department and its~~  
15 ~~inspectors, employees and agents shall have access, during~~  
16 ~~reasonable hours, to inspect the land and premises and any areas~~  
17 ~~of the land and premises, including buildings and conveyances,~~  
18 ~~that are or will be utilized for permitted activities.~~

19 ~~(c) Search warrants.—~~

20 ~~(1) If an inspector, employee or agent of the department~~  
21 ~~has probable cause to believe a noxious weed or controlled~~  
22 ~~plant exists on a property or premises, the department's~~  
23 ~~inspector, employee or agent may, upon oath or affirmation,~~  
24 ~~declare before a court of competent jurisdiction that the~~  
25 ~~inspector, employee or agent has probable cause to believe~~  
26 ~~that noxious weeds or controlled plants exist on the land or~~  
27 ~~premises.~~

28 ~~(2) Upon review of such declaration, the court may issue~~  
29 ~~a search warrant for the property or premises. The search~~  
30 ~~warrant shall describe the property or premises, which may be~~

1 ~~searched under authority of the search warrant, but need not~~  
2 ~~describe the exact or all possible noxious weeds or~~  
3 ~~controlled plants that exist or may exist on the property or~~  
4 ~~premises.~~

5 ~~(3) It shall be sufficient probable cause to show either~~  
6 ~~of the following:~~

7 ~~(i) That in cases involving a person who holds an~~  
8 ~~individual permit or general permit under this act, the~~  
9 ~~inspector, employee or agent has been refused or delayed~~  
10 ~~entry for the purpose of inspection.~~

11 ~~(ii) The inspector, employee or agent has reasonable~~  
12 ~~grounds to believe that a violation of this act or~~  
13 ~~regulations promulgated or orders issued under the~~  
14 ~~authority of this act has been or is occurring.~~

15 ~~(d) Inspections and sampling authority.~~

16 ~~(1) The department, through its inspectors, employees~~  
17 ~~and agents, may inspect any land, premises, buildings,~~  
18 ~~vehicles, vessels, articles, locations, machinery,~~  
19 ~~conveyances or other places of a person holding a permit~~  
20 ~~under this act.~~

21 ~~(2) The department may inspect any records required to~~  
22 ~~be kept under an individual permit or general permit and any~~  
23 ~~attendant orders and regulations.~~

24 ~~(3) The department may collect samples and take pictures~~  
25 ~~of any noxious weeds or controlled plants.~~

26 ~~(e) Delegation. The secretary may delegate any power or~~  
27 ~~duty under this act to an agent acting on behalf of the~~  
28 ~~department, with the exception of the powers and duties of the~~  
29 ~~committee.~~

30 ~~Section 310. Stop sale orders.~~

1       ~~(a) General rule. The department may issue and enforce a~~  
2 ~~stop sale order to any person holding or required to hold a~~  
3 ~~permit under this act or to any person where a noxious weed or~~  
4 ~~controlled plant exists. The stop sale order shall require a~~  
5 ~~person to hold, at a designated place, any noxious weed or~~  
6 ~~controlled plant. Noxious weeds or controlled plants subject to~~  
7 ~~a stop sale order issued under the authority of this subsection~~  
8 ~~shall continue to be held at the designated place until the~~  
9 ~~department is notified by the person to whom the stop sale order~~  
10 ~~was directed that the prescribed treatment measure or action has~~  
11 ~~been taken and a reinspection of the premises indicates the~~  
12 ~~treatment measure has been completed and was effective.~~

13       ~~(b) Official marking of noxious weeds and controlled plants~~  
14 ~~subject to a stop sale order.~~

15             ~~(1) Noxious weeds and controlled plants under a stop~~  
16 ~~sale order shall be clearly identified and, where~~  
17 ~~practicable, conspicuously marked.~~

18             ~~(2) It shall be unlawful for a person to remove markings~~  
19 ~~placed by the department for this purpose unless instructed~~  
20 ~~by the department to do so.~~

21       ~~(c) Violation of a stop sale order. It shall be unlawful to~~  
22 ~~violate a stop sale order issued under this section. The~~  
23 ~~department may impose any and all penalties authorized under~~  
24 ~~this act for a violation of such order.~~

25 ~~Section 311. Seizure and condemnation.~~

26       ~~(a) General rule. Where the distribution, transportation,~~  
27 ~~cultivation, propagation, marketing, retail, wholesale, holding,~~  
28 ~~warehousing, research or educational practices of a noxious weed~~  
29 ~~or controlled plant is not in compliance with the provisions of~~  
30 ~~this act, a permit, or any regulation promulgated or order~~

1 ~~issued under this act, the department, in addition to any other~~  
2 ~~action authorized under this act, may file a complaint before a~~  
3 ~~court of competent jurisdiction in the area in which the noxious~~  
4 ~~weed or controlled plant is located, or before the Commonwealth~~  
5 ~~Court, requesting such injunctive relief as necessary to prevent~~  
6 ~~harm and requesting an order of seizure and condemnation be~~  
7 ~~issued.~~

8 ~~(b) Relief. In the event that the court finds the noxious~~  
9 ~~weed or controlled plant to be in violation of this act, a~~  
10 ~~permit, or any regulation promulgated or order issued under this~~  
11 ~~act, the court shall order the condemnation of the noxious weed~~  
12 ~~or controlled plant. Upon execution of such court order, the~~  
13 ~~condemned noxious weed or controlled plant shall be disposed of~~  
14 ~~in any manner consistent with the laws of this Commonwealth.~~

15 ~~Section 312. Appeal process.~~

16 ~~An administrative appeal shall be taken and hearing conducted~~  
17 ~~in accordance with the provisions of 2 Pa.C.S. Chs. 5 Subch. A~~  
18 ~~(relating to practice and procedure of Commonwealth agencies)~~  
19 ~~and 7 Subch. A (relating to judicial review of Commonwealth~~  
20 ~~agency action). A person must file an appeal of an enforcement~~  
21 ~~action by the department within 15 days of the date of the~~  
22 ~~enforcement action.~~

23 ~~Section 313. Cooperation with other entities.~~

24 ~~The department may cooperate and enter into agreements with~~  
25 ~~any individual, person, organization or Federal, State, county,~~  
26 ~~or municipal agency for the purpose of implementing the~~  
27 ~~provisions of this act. The department may assist in the~~  
28 ~~enforcement of any Federal noxious weed quarantine established~~  
29 ~~under Federal act or regulations.~~

30 ~~Section 314. Rules and regulations.~~

1 ~~The department may promulgate rules and regulations and~~  
2 ~~establish and enforce orders necessary for administration and~~  
3 ~~implementation of this act in accordance with the act of July~~  
4 ~~31, 1968 (P.L.769, No.240), referred to as the Commonwealth~~  
5 ~~Documents Law, the act of October 15, 1980 (P.L.950, No.164),~~  
6 ~~known as the Commonwealth Attorneys Act, and the act of June 25,~~  
7 ~~1982 (P.L.633, No.181), known as the Regulatory Review Act.~~

8 CHAPTER 5

9 ENFORCEMENT

10 Section 501. Unlawful conduct.

11 ~~It shall be unlawful for a person to fail to comply with or~~  
12 ~~to cause or assist in the violation of a permit, an order or~~  
13 ~~provision of this act or any attendant regulation.~~

14 Section 502. Interference with inspector, agent or employee of  
15 department.

16 A person who willfully or intentionally interferes with an  
17 inspector, employee or agent of the department in the  
18 performance of the inspector's, employee's or agent's duties or  
19 activities authorized under this act commits a misdemeanor of  
20 the third degree and shall, upon conviction, be subject to a  
21 term of imprisonment of not more than one year or a fine of not  
22 more than \$2,500, or both.

23 Section 503. Enforcement and penalties.

24 (a) Criminal penalties. Unless otherwise specified, a  
25 person who violates a permit, a provision of this act or a rule  
26 or regulation adopted under this act or any order issued under  
27 this act:

28 (1) ~~For the first offense, commits a summary offense and~~  
29 ~~may, upon conviction, be sentenced for each offense to pay a~~  
30 ~~fine of not less than \$100 and costs of prosecution or to~~

1 ~~undergo imprisonment for a term which shall be fixed at not~~  
2 ~~more than 90 days, or both.~~

3 ~~(2) For a subsequent offense committed within three~~  
4 ~~years of a prior conviction for a violation of this act or a~~  
5 ~~rule, regulation or order made under this act, commits a~~  
6 ~~misdemeanor of the second degree and shall, upon conviction,~~  
7 ~~be sentenced to pay a fine of not less than \$500 and costs of~~  
8 ~~prosecution or to imprisonment for not more than two years,~~  
9 ~~or both.~~

10 ~~(b) Civil penalties.~~

11 ~~(1) In addition to any other remedy available at law or~~  
12 ~~in equity for a violation of this act, the department may~~  
13 ~~assess a civil penalty of not more than \$10,000, plus cost of~~  
14 ~~remediation, containment or eradication, upon a person for~~  
15 ~~each violation of this act, a permit, or a regulation~~  
16 ~~promulgated or order issued under authority of this act. The~~  
17 ~~civil penalty assessed shall be payable to the department for~~  
18 ~~deposit into the account. The penalty amount shall be~~  
19 ~~collectible in any manner provided by law for the collection~~  
20 ~~of debt, including referring any collection matter to the~~  
21 ~~Office of Attorney General, which shall recover such amount~~  
22 ~~by action in the appropriate court.~~

23 ~~(2) No civil penalty shall be assessed unless the person~~  
24 ~~assessed the penalty has been given notice and an opportunity~~  
25 ~~for a hearing on the assessment in accordance with the~~  
26 ~~provisions of 2 Pa.C.S. Chs. 5 Subch. A (relating to practice~~  
27 ~~and procedure of Commonwealth agencies) and 7 Subch. A~~  
28 ~~(relating to judicial review of Commonwealth agency action).~~  
29 ~~Section 504. Injunctive relief.~~

30 ~~In addition to any other remedies provided for in this act,~~

1 ~~the Attorney General, at the request of the secretary, may~~  
2 ~~initiate, in the Commonwealth Court or the court of common pleas~~  
3 ~~of the county in which the defendant resides or has his place of~~  
4 ~~business, an action in equity for an injunction to restrain any~~  
5 ~~and all violations of this act, a permit, order, or the rules~~  
6 ~~and regulations promulgated under this act.~~

7 ~~Section 505. De minimis violations.~~

8 ~~Nothing in this act shall be construed as requiring the~~  
9 ~~department to report a violation or to institute seizure~~  
10 ~~proceedings or other enforcement actions under this act as a~~  
11 ~~result of de minimis violations of this act if the department~~  
12 ~~concludes that the public interest will be best served by a~~  
13 ~~suitable notice of violation or warning in writing.~~

#### 14 ~~CHAPTER 7~~

#### 15 ~~MISCELLANEOUS PROVISIONS~~

16 ~~Section 701. Disposition of funds.~~

17 ~~(a) Plant Pest Management Account. Money received from~~  
18 ~~permitting fees, control work reimbursement, fines and penalties~~  
19 ~~under this act shall be paid into the Plant Pest Management~~  
20 ~~Account.~~

21 ~~(b) Supplements. The account may be supplemented by money~~  
22 ~~received from the following sources:~~

23 ~~(1) Federal funds appropriated to the department for~~  
24 ~~purposes of this act.~~

25 ~~(2) State funds appropriated to the department for~~  
26 ~~purposes of this act.~~

27 ~~(3) Gifts and other contributions from public or private~~  
28 ~~sources for purposes of this act.~~

29 ~~Section 702. Preemption.~~

30 ~~All local laws contrary to this act are preempted.~~

1 ~~Section 703. Abrogation.~~

2 ~~The regulations under 7 Pa. Code §§ 111.22 (relating to~~  
3 ~~prohibited noxious weed seeds) and 111.23 (relating to~~  
4 ~~restricted noxious weed seeds) are abrogated insofar as they are~~  
5 ~~inconsistent with this act.~~

6 ~~Section 704. Repeals.~~

7 ~~Repeals are as follows:~~

8 ~~(1) The General Assembly declares that the repeals under~~  
9 ~~paragraphs (2) and (3) are necessary to effectuate this act.~~

10 ~~(2) The act of April 7, 1982 (P.L.228, No.74), known as~~  
11 ~~the Noxious Weed Control Law, is repealed.~~

12 ~~(3) 3 Pa.C.S. Ch. 71 is repealed insofar as it is~~  
13 ~~inconsistent with this act.~~

14 ~~Section 705. Effective date.~~

15 ~~This act shall take effect in 60 days.~~

16 SECTION 1. PART III OF TITLE 3 OF THE PENNSYLVANIA <--  
17 CONSOLIDATED STATUTES IS AMENDED BY ADDING A CHAPTER TO READ:

18 CHAPTER 15

19 CONTROLLED PLANTS AND NOXIOUS WEEDS

20 SUBCHAPTER

21 A. PRELIMINARY PROVISIONS

22 B. REGULATION AND ADMINISTRATION

23 C. ENFORCEMENT

24 D. MISCELLANEOUS PROVISIONS

25 SUBCHAPTER A

26 PRELIMINARY PROVISIONS

27 SEC.

28 1501. SCOPE OF CHAPTER.

29 1502. DEFINITIONS.

30 § 1501. SCOPE OF CHAPTER.

1 THIS CHAPTER RELATES TO CONTROLLED PLANTS AND NOXIOUS WEEDS.

2 § 1502. DEFINITIONS.

3 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER  
4 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
5 CONTEXT CLEARLY INDICATES OTHERWISE:

6 "CLASS A NOXIOUS WEED." A WEED LISTED IN SECTION 1519(A)  
7 (RELATING TO NOXIOUS WEED LIST) OR A WEED THAT HAS BEEN  
8 DETERMINED BY THE COMMITTEE TO BE A CLASS A NOXIOUS WEED AND  
9 THAT:

10 (1) IS ESTABLISHED IN THIS COMMONWEALTH.

11 (2) IS GEOGRAPHICALLY LIMITED.

12 (3) IS INTENDED TO BE ERADICATED.

13 "CLASS B NOXIOUS WEED." A WEED LISTED IN SECTION 1519(B) OR  
14 A WEED THAT HAS BEEN DETERMINED BY THE COMMITTEE TO BE A CLASS B  
15 NOXIOUS WEED AND THAT:

16 (1) IS WIDELY ESTABLISHED IN THIS COMMONWEALTH.

17 (2) CANNOT FEASIBLY BE ERADICATED.

18 "CLASS C NOXIOUS WEED." A WEED LISTED IN SECTION 1519(C) OR  
19 A WEED THAT HAS BEEN DETERMINED BY THE COMMITTEE TO BE A CLASS C  
20 NOXIOUS WEED AND THAT:

21 (1) IS NOT KNOWN TO EXIST IN THIS COMMONWEALTH.

22 (2) POSES A POTENTIAL THREAT IF INTRODUCED IN THIS  
23 COMMONWEALTH.

24 "COMMITTEE." THE CONTROLLED PLANT AND NOXIOUS WEED COMMITTEE  
25 ESTABLISHED IN SECTION 1511 (RELATING TO DESIGNATION OF NOXIOUS  
26 WEEDS AND CONTROLLED PLANTS).

27 "CONTROL." THE MANAGEMENT OF THE POPULATION OF A NOXIOUS  
28 WEED OR CONTROLLED PLANT TO AN ACCEPTABLE LEVEL, INCLUDING  
29 ERADICATION, AS DETERMINED BY THE DEPARTMENT.

30 "CONTROL ORDER." A WRITTEN ORDER ISSUED BY THE DEPARTMENT TO

1 A PERSON DETAILING REQUIRED TREATMENT MEASURES TO CONTROL  
2 NOXIOUS WEEDS OR CONTROLLED PLANTS.

3 "CONTROLLED PLANT." A PLANT SPECIES OR SUBSPECIES THAT HAS  
4 BEEN DESIGNATED BY THE COMMITTEE AS A CONTROLLED PLANT AND IS  
5 REGULATED TO PREVENT UNCONTAINED GROWTH AND TO NEGATE  
6 UNDESIRABLE CHARACTERISTICS.

7 "DISTRIBUTE" OR "DISTRIBUTION." TO BARTER, CONSIGN,  
8 EXCHANGE, GIVE AWAY, IMPORT, IN ANY WAY TRANSFER, OFFER FOR  
9 SALE, SELL OR OTHERWISE SUPPLY OR TRANSPORT A NOXIOUS WEED OR  
10 CONTROLLED PLANT IN THIS COMMONWEALTH.

11 "ERADICATION." THE ELIMINATION OR REMOVAL OF A NOXIOUS WEED  
12 OR CONTROLLED PLANT SO THAT NO FURTHER GROWTH OCCURS FOR AT  
13 LEAST THREE CONSECUTIVE YEARS.

14 "ESTABLISHED." WHEN USED IN REFERENCE TO A PLANT POPULATION,  
15 EITHER:

16 (1) A PLANT OR PLANT POPULATION FOUND GROWING IN THIS  
17 COMMONWEALTH AS A WILD POPULATION AND CAPABLE OF  
18 REPRODUCTION; OR

19 (2) A PLANT THAT HAS ESCAPED FROM CULTIVATION AND IS  
20 REPRODUCING.

21 "FEDERAL NOXIOUS WEED." A WEED LISTED IN 7 CFR 360.200  
22 (RELATING TO DESIGNATION OF NOXIOUS WEEDS).

23 "GENERAL PERMIT." A STATEWIDE OR REGIONAL PERMIT THAT IS  
24 ISSUED BY THE DEPARTMENT FOR A CONTROLLED PLANT AND SPECIFIES  
25 TERMS AND CONDITIONS FOR DISTRIBUTION, CULTIVATION OR  
26 PROPAGATION OF THE CONTROLLED PLANT.

27 "GEOGRAPHICALLY LIMITED." FOUND IN DISCRETE, LIMITED  
28 LOCATIONS OF THIS COMMONWEALTH.

29 "INDIVIDUAL PERMIT." A PERMIT THAT IS ISSUED BY THE  
30 DEPARTMENT AND INCLUDES SITE-SPECIFIC TERMS AND CONDITIONS FOR:

1           (1) RESEARCH, MARKETING, WAREHOUSING, HOLDING,  
2 RETAILING, WHOLESALING, TRANSPORTING, DISTRIBUTING,  
3 CULTIVATING OR PROPAGATING OF A CONTROLLED PLANT; OR

4           (2) RESEARCH AND EDUCATIONAL PURPOSES RELATED TO A  
5 NOXIOUS WEED.

6 "LANDOWNER."

7           (1) A PERSON:

8           ~~(I) IN WHOM IS VESTED THE OWNERSHIP, DOMINION OR~~ <--  
9 ~~TITLE OF PROPERTY AND IN WHOM ONE OR MORE INTERESTS ARE~~  
10 ~~VESTED FOR HIS OWN BENEFIT.~~

11           ~~(II) WHO OWNS THE FEE AND WHO HAS THE RIGHT TO~~  
12 ~~DISPOSE OF THE PROPERTY AND INCLUDES ONE HAVING A~~  
13 ~~POSSESSORY RIGHT TO LAND OR THE PERSON OCCUPYING OR~~  
14 ~~CULTIVATING IT.~~

15           (I) IN WHOM IS VESTED THE TITLE OF PROPERTY. <--

16           (II) WITH ANY RIGHTS IN REAL PROPERTY THAT PERMIT  
17 POSSESSION OR CONTROL OF SURFACE ACTIVITIES ON THE REAL  
18 PROPERTY.

19           (2) THE TERM INCLUDES A DEPARTMENT, BOARD, COMMISSION,  
20 AGENCY AND INSTRUMENTALITY OF THE FEDERAL GOVERNMENT AND THE  
21 COMMONWEALTH AND ANY OF ITS POLITICAL SUBDIVISIONS.

22 "LESSEE." A PERSON WHO HAS ENTERED INTO A CONTRACT GRANTING  
23 THE PERSON OCCUPATION OR USE OF PROPERTY DURING A CERTAIN PERIOD  
24 OF TIME IN EXCHANGE FOR A SPECIFIED RENT.

25 "NOXIOUS WEED." EITHER:

26           (1) A PLANT PART OR PLANT IN ANY STAGE OF DEVELOPMENT  
27 THAT IS DETERMINED TO BE INJURIOUS TO CROPS, LIVESTOCK,  
28 AGRICULTURAL LAND OR OTHER PROPERTY INCLUDING FOREST LAND AND  
29 BODIES OF WATER; OR

30           (2) ANY WEED LISTED IN 7 CFR 360.200 (RELATING TO

1 DESIGNATION OF NOXIOUS WEEDS).  
2 "NOXIOUS WEED CONTROL AREA." A GEOGRAPHIC AREA OF THIS  
3 COMMONWEALTH, INCLUDING THE ENTIRE STATE, MUNICIPALITY OR ANY  
4 PART OR TRACT OF LAND OR BODY OF WATER WHERE A NOXIOUS WEED IS  
5 TO BE CONTROLLED AS PRESCRIBED UNDER THIS CHAPTER.

6 "PERSON." AN INDIVIDUAL, CORPORATION, ASSOCIATION,  
7 PARTNERSHIP, MUNICIPALITY OR ANY OTHER ENTITY.

8 "PLANT PEST MANAGEMENT ACCOUNT" OR "ACCOUNT." THE PLANT PEST  
9 MANAGEMENT ACCOUNT ESTABLISHED UNDER THE ACT OF DECEMBER 16,  
10 1992 (P.L.1228, NO.162), KNOWN AS THE PLANT PEST ACT.

11 "PROPAGATE." TO INCREASE, MULTIPLY OR SPREAD A PLANT OR CROP  
12 THROUGH PLANTING, CULTIVATION OR ANY MEANS OF REPRODUCTION.

13 "STOP-SALE ORDER." A WRITTEN NOTICE, ISSUED BY THE  
14 DEPARTMENT TO THE PERSON IN POSSESSION OF A NOXIOUS WEED OR  
15 CONTROLLED PLANT, WHICH PROHIBITS ITS DISTRIBUTION.

16 "TREATMENT MEASURE." A METHOD OF ERADICATING, MANAGING,  
17 REGULATING OR CONTROLLING NOXIOUS WEEDS OR CONTROLLED PLANTS  
18 UTILIZING BIOLOGICAL, CHEMICAL OR MECHANICAL MEANS OR A  
19 COMBINATION THEREOF.

20 "WIDELY ESTABLISHED." ESTABLISHED THROUGHOUT MULTIPLE  
21 COUNTIES OR MUNICIPALITIES OF THIS COMMONWEALTH.

22 SUBCHAPTER B

23 REGULATION AND ADMINISTRATION

24 SEC.

25 1511. DESIGNATION OF NOXIOUS WEEDS AND CONTROLLED PLANTS.

26 1512. PERMITS.

27 1513. GENERAL PERMITS.

28 1514. INDIVIDUAL PERMITS.

29 1515. PROHIBITED ACTS.

30 1516. NOXIOUS WEED CONTROL AREAS.

1 1517. CONTROL ORDERS.  
2 1518. COMPLIANCE WITH ORDERS.  
3 1519. NOXIOUS WEED LIST.  
4 1520. FEES.  
5 1521. POWERS AND DUTIES OF SECRETARY AND DEPARTMENT.  
6 1522. STOP-SALE ORDERS.  
7 1523. SEIZURE AND CONDEMNATION.  
8 1524. APPEAL PROCESS.  
9 1525. COOPERATION WITH OTHER ENTITIES.  
10 1526. RULES AND REGULATIONS.  
11 § 1511. DESIGNATION OF NOXIOUS WEEDS AND CONTROLLED PLANTS.

12 (A) CONTROLLED PLANT AND NOXIOUS WEED COMMITTEE.--

13 (1) THE CONTROLLED PLANT AND NOXIOUS WEED COMMITTEE IS  
14 ESTABLISHED IN THE DEPARTMENT AND SHALL HAVE THE POWERS OF A  
15 DEPARTMENTAL ADMINISTRATIVE BOARD.

16 (2) THE COMMITTEE SHALL BE COMPOSED OF:

17 (I) THE SECRETARY, WHO SHALL BE THE CHAIRPERSON OF  
18 THE COMMITTEE;

19 (II) THE SECRETARY OF CONSERVATION AND NATURAL  
20 RESOURCES;

21 (III) THE SECRETARY OF ENVIRONMENTAL PROTECTION;

22 (IV) THE SECRETARY OF TRANSPORTATION;

23 (V) THE EXECUTIVE DIRECTOR OF THE PENNSYLVANIA FISH  
24 AND BOAT COMMISSION AND THE EXECUTIVE DIRECTOR OF THE  
25 PENNSYLVANIA GAME COMMISSION;

26 (VI) THE CHAIRPERSON AND MINORITY CHAIRPERSON OF THE  
27 AGRICULTURE AND RURAL AFFAIRS COMMITTEE OF THE SENATE AND  
28 THE CHAIRPERSON AND MINORITY CHAIRPERSON OF THE  
29 AGRICULTURE AND RURAL AFFAIRS COMMITTEE OF THE HOUSE OF  
30 REPRESENTATIVES;

1           (VII) THREE PERSONS, TO BE APPOINTED BY THE  
2           SECRETARY, WHO MUST REPRESENT THE INTERESTS AND CONCERNS  
3           OF THE FOLLOWING GROUPS, ORGANIZATIONS OR INDUSTRIES:

4           (A) ONE MEMBER OF A STATEWIDE GENERAL FARM  
5           ORGANIZATION.

6           (B) ONE MEMBER REPRESENTING THE ORNAMENTAL, TURF  
7           AND HORTICULTURAL INDUSTRY.

8           (C) ONE MEMBER FROM AN INSTITUTION OF HIGHER  
9           EDUCATION WITHIN THIS COMMONWEALTH.

10          (3) EXCEPT FOR APPOINTED MEMBERS, WHO MAY BE REPRESENTED  
11          BY DESIGNEES SELECTED BY THE SECRETARY, MEMBERS MAY BE  
12          REPRESENTED BY A DESIGNEE SELECTED BY THE MEMBER.

13          (4) THE APPOINTED MEMBERS SHALL SERVE FOUR-YEAR TERMS  
14          EXCEPT THAT THE TERMS SHALL INITIALLY BE STAGGERED WITH ONE  
15          OF THE THREE MEMBERS SERVING A TWO-YEAR TERM.

16          (5) SUCCESSORS TO FILL EXPIRED TERMS OF APPOINTED  
17          MEMBERS SHALL BE APPOINTED BY THE SECRETARY. THE SECRETARY  
18          MAY APPOINT THE SAME MEMBER TO SUCCESSIVE TERMS.

19          (6) AN APPOINTED MEMBER MAY CONTINUE TO HOLD THE  
20          POSITION AFTER HIS TERM HAS EXPIRED AND UNTIL A SUCCESSOR HAS  
21          BEEN APPOINTED, BUT IN NO CASE MAY THE TIME PERIOD BE LONGER  
22          THAN SIX MONTHS BEYOND THE MEMBER'S ORIGINAL TERM OF OFFICE.

23          (B) POWERS AND DUTIES OF COMMITTEE.--

24          (1) A MAJORITY OF THE COMMITTEE SHALL CONSTITUTE A  
25          QUORUM. A QUORUM OF THE COMMITTEE SHALL BE REQUIRED TO TAKE  
26          ANY ACTION. ALL ACTIONS OF THE COMMITTEE SHALL BE BY A  
27          MAJORITY VOTE.

28          (2) PRIOR TO TAKING ANY ACTION, THE COMMITTEE SHALL BE  
29          REQUIRED TO CONVENE A PUBLIC MEETING TO ELICIT COMMENTS FROM  
30          THE REGULATED COMMUNITY AND OTHER INTERESTED PARTIES. THE

1 NOTICE AND AGENDA FOR A MEETING OF THE COMMITTEE SHALL  
2 CONTAIN A LIST OF THE PLANTS TO BE CONSIDERED FOR ADDITION TO  
3 OR DELETION FROM THE NOXIOUS WEED LIST OR CONTROLLED PLANT  
4 LIST. THE NOTICE AND AGENDA FOR A MEETING SHALL BE PUBLISHED  
5 IN THE PENNSYLVANIA BULLETIN AT LEAST ONE WEEK PRIOR TO THE  
6 MEETING, EXCEPT IN THE CASE OF A SPECIAL MEETING OR  
7 RESCHEDULED MEETING AS ALLOWED UNDER 65 PA.C.S. § 709(A)  
8 (RELATING TO PUBLIC NOTICE). ALL MEETINGS SHALL BE OPEN TO  
9 THE PUBLIC AND SHALL COMPLY WITH THE REQUIREMENTS OF 65  
10 PA.C.S. CH. 7 (RELATING TO OPEN MEETINGS).

11 (3) THE COMMITTEE SHALL HAVE THE FOLLOWING POWERS AND  
12 DUTIES:

13 (I) TO ESTABLISH A NOXIOUS WEED LIST INCLUSIVE OF  
14 THE LIST SET FORTH UNDER SECTION 1519 (RELATING TO  
15 NOXIOUS WEED LIST). THE COMMITTEE MAY ADD WEEDS TO OR  
16 REMOVE WEEDS FROM THE NOXIOUS WEED LIST, OR MOVE NOXIOUS  
17 WEEDS TO THE CONTROLLED PLANT LIST, IN ACCORDANCE WITH  
18 THE PROVISIONS OF THIS CHAPTER.

19 (II) TO ESTABLISH A CONTROLLED PLANT LIST AND TO ADD  
20 PLANTS TO OR REMOVE PLANTS FROM THE CONTROLLED PLANT LIST  
21 IN ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER. A  
22 CONTROLLED PLANT, UPON APPROVAL OF THE COMMITTEE, MAY BE  
23 MOVED FROM THE CONTROLLED PLANT LIST TO THE NOXIOUS WEED  
24 LIST.

25 (III) TO PROPOSE THE ADDITION OR REMOVAL OF PLANTS  
26 TO OR FROM THE NOXIOUS WEED LIST OR CONTROLLED PLANT  
27 LIST. THE COMMITTEE MAY REQUEST THAT THE DEPARTMENT  
28 PERFORM A STUDY AND RISK ASSESSMENT RELATED TO ANY PLANT  
29 THE COMMITTEE MAY CONSIDER FOR ADDITION TO OR REMOVAL  
30 FROM THE NOXIOUS WEED LIST OR CONTROLLED PLANT LIST.

1           (IV) TO PUBLISH THE NOXIOUS WEED LIST AND THE  
2           CONTROLLED PLANT LIST AND ADDITIONS OR REMOVALS OR  
3           CHANGES THERETO AS A NOTICE IN THE PENNSYLVANIA BULLETIN.  
4           ANY ADDITIONS TO OR REMOVAL FROM THE NOXIOUS WEED LIST OR  
5           THE CONTROLLED PLANT LIST SHALL BECOME EFFECTIVE 60 DAYS  
6           FROM PUBLICATION.

7           (C) NOXIOUS WEED AND CONTROLLED PLANT SEEDS.--

8           (1) UPON THE DETERMINATION OF THE COMMITTEE THAT A PLANT  
9           FALLS WITHIN THE CLASSIFICATION OF A NOXIOUS WEED OR  
10           CONTROLLED PLANT, THE COMMITTEE, IN CONSULTATION WITH THE  
11           DEPARTMENT, SHALL DETERMINE IF THE WEED'S SEED FALLS WITHIN  
12           THE CATEGORY OF A PROHIBITED NOXIOUS WEED SEED OR A  
13           RESTRICTED NOXIOUS WEED SEED AND THE SEEDS SHALL BE REGULATED  
14           IN THE MANNER ESTABLISHED IN 7 PA. CODE CH. 111 (RELATING TO  
15           SEED TESTING, LABELING AND STANDARDS).

16           (2) IF NO REGULATORY CRITERIA EXIST FOR CONTROLLED PLANT  
17           SEEDS, THE DEPARTMENT MAY REGULATE CONTROLLED PLANT SEEDS  
18           THROUGH PERMIT, FOR A PERIOD OF TWO YEARS FROM THE EFFECTIVE  
19           DATE OF THIS SECTION, AT WHICH TIME THE DEPARTMENT SHALL  
20           PROMULGATE REGULATORY STANDARDS.

21   § 1512. PERMITS.

22           (A) GENERAL RULE.--THE FOLLOWING PERMITTING RULES APPLY TO  
23           NOXIOUS WEEDS FOR RESEARCH OR EDUCATIONAL PURPOSES AND TO  
24           CONTROLLED PLANTS FOR RESEARCH OR MARKETING PURPOSES,  
25           CULTIVATION, PROPAGATION, STORING, WAREHOUSING OR DISPLAY, AND  
26           FOR RETAIL, WHOLESALE OR DISTRIBUTION:

27           (1) FOR NOXIOUS WEEDS, THE DEPARTMENT MAY ISSUE  
28           INDIVIDUAL PERMITS. A PERMIT MAY ALLOW FOR THE CULTIVATION  
29           AND PROPAGATION OF A NOXIOUS WEED FOR RESEARCH AND  
30           EDUCATIONAL PURPOSES ONLY. THE DEPARTMENT SHALL ESTABLISH THE

1 CRITERIA FOR A NOXIOUS WEED INDIVIDUAL PERMIT THROUGH THE  
2 ISSUANCE OF A TEMPORARY ORDER, AS SET FORTH IN SECTION  
3 1514(4) (RELATING TO INDIVIDUAL PERMITS).

4 (2) FOR CONTROLLED PLANTS, THE DEPARTMENT MAY ISSUE  
5 INDIVIDUAL PERMITS OR GENERAL PERMITS. THE DEPARTMENT SHALL  
6 ESTABLISH THE CRITERIA FOR A CONTROLLED PLANT INDIVIDUAL  
7 PERMIT THROUGH THE ISSUANCE OF A TEMPORARY ORDER AS SPECIFIED  
8 UNDER SECTION 1514(4).

9 (B) PERMIT REQUIRED.--NO PERSON MAY RESEARCH, MARKET,  
10 DISTRIBUTE, TRANSPORT, CULTIVATE, HOLD, RETAIL, WHOLESALE,  
11 PROPAGATE OR DISPLAY A NOXIOUS WEED OR CONTROLLED PLANT WITHOUT  
12 OBTAINING A PERMIT FROM THE DEPARTMENT IN ACCORDANCE WITH THE  
13 PROVISIONS OF THIS CHAPTER.

14 (C) NOTICE OF CLOSING, CHANGE OF NAME OR MOVING LOCATION.--

15 (1) ANY PERSON WHO HOLDS A PERMIT UNDER THIS CHAPTER  
16 SHALL NOTIFY THE DEPARTMENT, IN WRITING, PRIOR TO ANY CHANGE  
17 OF STATUS RELATED TO THE PERMIT, INCLUDING:

18 (I) INTENT TO CLOSE, SELL OR CHANGE THE NAME OF THE  
19 BUSINESS OR ENTITY HOLDING THE PERMIT.

20 (II) INTENT TO MOVE THE LOCATION OF THE BUSINESS OR  
21 ENTITY OR THE LOCATION OF THE ACTIVITY SPECIFICALLY  
22 AUTHORIZED BY THE PERMIT.

23 (III) INTENT TO DISCONTINUE THE ACTIVITIES  
24 SPECIFICALLY AUTHORIZED BY THE PERMIT.

25 (2) UPON NOTIFICATION, THE DEPARTMENT MAY ENTER ONTO THE  
26 LAND AND PREMISES, INCLUDING BUILDINGS AND CONVEYANCES THAT  
27 WERE UTILIZED FOR OR WHERE THE PERMITTED ACTIVITY OF THE  
28 PERSON HOLDING OR REQUIRED TO HOLD A PERMIT UNDER THIS  
29 CHAPTER TOOK OR ARE TAKING PLACE, AND TO CONDUCT INSPECTIONS  
30 OF THE PREMISES AS ARE NECESSARY TO DETERMINE WHAT REMEDIAL,

1 ERADICATION OR CONTAINMENT PRACTICES ARE NECESSARY PRIOR TO  
2 THE CLOSURE OR OTHER CHANGE OF STATUS OCCURRING.

3 (3) FAILURE TO NOTIFY THE DEPARTMENT OR OTHERWISE COMPLY  
4 WITH THE PROVISIONS OF THIS SUBSECTION SHALL BE A VIOLATION  
5 OF THIS CHAPTER.

6 (D) REVOCATION OR SUSPENSION.--WITHIN 30 DAYS OF RECEIPT OF  
7 A NOTICE OF REVOCATION, THE PERMIT HOLDER MAY APPLY FOR AN  
8 AMENDMENT TO THE PERMIT OR REQUEST A HEARING AS PROVIDED UNDER  
9 SECTION 1524 (RELATING TO APPEAL PROCESS). THE SECRETARY MAY  
10 REVOKE OR SUSPEND ALL OR PART OF A PERMIT ISSUED UNDER THIS  
11 SECTION WHEN:

12 (1) THE SECRETARY DETERMINES THAT A PERMIT HOLDER HAS  
13 FAILED TO COMPLY WITH THE REQUIREMENTS OF THIS CHAPTER.

14 (2) IT IS NECESSARY TO PROTECT CROPS, LIVESTOCK,  
15 AGRICULTURAL LAND OR OTHER PROPERTY INCLUDING FOREST LAND AND  
16 BODIES OF WATER.

17 § 1513. GENERAL PERMITS.

18 GENERAL PERMITS MAY BE ISSUED FOR THE RESEARCH, MARKETING,  
19 RETAIL, WHOLESALE, TRANSPORT, STORAGE, WAREHOUSING, DISPLAY,  
20 DISTRIBUTION, CULTIVATION OR PROPAGATION OF CONTROLLED PLANTS  
21 UNDER THE FOLLOWING CIRCUMSTANCES:

22 (1) GENERAL PERMITS MAY BE ISSUED ON A STATEWIDE OR  
23 REGIONAL BASIS FOR CONTROLLED PLANTS WHERE THE CONTROLLED  
24 PLANTS HAVE SIMILAR CHARACTERISTICS AND ARE CAPABLE OF BEING  
25 CULTIVATED, PROPAGATED, PROCESSED AND CONTROLLED OR  
26 ERADICATED IN A SIMILAR FASHION.

27 (2) GENERAL PERMITS SHALL BE PUBLISHED IN THE  
28 PENNSYLVANIA BULLETIN EFFECTIVE UPON PUBLICATION.

29 (3) AN APPLICANT SEEKING A GENERAL PERMIT UNDER THIS  
30 SECTION SHALL INFORM THE DEPARTMENT OF THE APPLICANT'S

1 INTENDED USE OF THE GENERAL PERMIT AND COMPLETE AN  
2 APPLICATION FOR APPROVAL TO OPERATE UNDER THE GENERAL PERMIT  
3 REQUIREMENTS. THE APPLICATION SHALL INCLUDE A WRITTEN PLAN  
4 ESTABLISHING THE PRACTICES AND METHODS THE APPLICANT WILL  
5 UTILIZE IN ORDER TO ASSURE COMPLIANCE WITH THE GENERAL PERMIT  
6 REQUIREMENTS ESTABLISHED BY THE DEPARTMENT. IN ADDITION TO  
7 THE WRITTEN PLAN, THE APPLICATION SHALL STATE, AT A MINIMUM,  
8 ALL OF THE INFORMATION REQUIRED UNDER SECTION 1514(5) (I),  
9 (II), (III), (IV), (V), (VI), (VII) AND (VIII) (RELATING TO  
10 INDIVIDUAL PERMITS).

11 (4) BEFORE THE APPROVAL AND ISSUANCE OF A GENERAL  
12 PERMIT, THE DEPARTMENT MAY ENTER ONTO AND INSPECT THE LAND  
13 AND PREMISES, INCLUDING BUILDINGS AND CONVEYANCES, THAT WILL  
14 BE UTILIZED FOR THE PURPOSE OF ENGAGING IN AN ACTIVITY  
15 AUTHORIZED BY THE PERMIT REGARDING A CONTROLLED PLANT. THE  
16 INSPECTION SHALL BE CONDUCTED DURING NORMAL BUSINESS HOURS.

17 § 1514. INDIVIDUAL PERMITS.

18 INDIVIDUAL PERMITS MAY BE ISSUED FOR NOXIOUS WEEDS AND  
19 CONTROLLED PLANTS IN ACCORDANCE WITH THE FOLLOWING:

20 (1) AN INDIVIDUAL PERMIT MAY BE ISSUED FOR ANY  
21 CONTROLLED PLANT WHERE:

22 (I) THE CONTROLLED PLANT HAS INDIVIDUAL  
23 CHARACTERISTICS AS TO MAKE IT DIFFICULT OR IMPOSSIBLE FOR  
24 THE DEPARTMENT TO REGULATE THROUGH A GENERAL SET OF  
25 REQUIREMENTS.

26 (II) THE LAND OR AREA ON WHICH THE CONTROLLED PLANT  
27 WILL BE CULTIVATED HAS CHARACTERISTICS AS WOULD MAKE IT  
28 DIFFICULT OR IMPOSSIBLE FOR THE DEPARTMENT TO REGULATE  
29 THE CONTROLLED PLANT.

30 (III) THE CONTROLLED PLANT IS HIGHLY REGULATED OR

1           REQUIRES ADDITIONAL SCRUTINY BECAUSE OF A CHARACTERISTIC  
2           OF THE PLANT THAT WOULD BE HARD TO CONTROL UNDER A  
3           GENERAL PERMIT OR WHERE FEDERAL LAW PREEMPTS AND REQUIRES  
4           THE PERMITTING.

5           (2) AN INDIVIDUAL PERMIT SHALL BE ISSUED IN WRITING TO  
6           THE SPECIFIC PERMIT HOLDER, CONTAIN THE TEMPORARY ORDER  
7           ESTABLISHING THE REQUIREMENTS OF THE INDIVIDUAL PERMIT AND BE  
8           PUBLISHED IN THE PENNSYLVANIA BULLETIN AND EFFECTIVE AS  
9           PROVIDED UNDER PARAGRAPH (4) (III).

10           (3) THE DEPARTMENT MAY ESTABLISH THROUGH REGULATION OR A  
11           TEMPORARY ORDER, STANDARDS AND REQUIREMENTS ADDRESSING THE  
12           ISSUANCE AND CRITERIA OF AN INDIVIDUAL PERMIT FOR NOXIOUS  
13           WEEDS AND CONTROLLED PLANTS.

14           (4) FOR EACH NOXIOUS WEED, THE DEPARTMENT SHALL ISSUE A  
15           TEMPORARY ORDER ESTABLISHING THE CRITERIA FOR THE INDIVIDUAL  
16           PERMIT TO BE ISSUED. FOR A CONTROLLED PLANT, UPON DETERMINING  
17           THAT A SET OF CHARACTERISTICS OR CIRCUMSTANCES REQUIRES THE  
18           ISSUANCE OF AN INDIVIDUAL PERMIT, THE DEPARTMENT SHALL ISSUE  
19           A TEMPORARY ORDER ESTABLISHING THE CRITERIA FOR THE  
20           INDIVIDUAL PERMIT TO BE ISSUED. THE FOLLOWING SHALL APPLY:

21           (I) THROUGH THE TEMPORARY ORDER, THE DEPARTMENT MAY  
22           ESTABLISH RESTRICTIONS AND STANDARDS, INCLUDING BONDING  
23           REQUIREMENTS, AS THE DEPARTMENT DETERMINES ARE NECESSARY  
24           TO:

25                   (A) IDENTIFY THE SPECIFIC CHARACTERISTICS OF THE  
26                   NOXIOUS WEED OR CONTROLLED PLANT OR THE CIRCUMSTANCES  
27                   INCLUDING FEDERAL LAWS, REGULATIONS OR ORDERS, THAT  
28                   REQUIRE THE ISSUANCE OF THE INDIVIDUAL PERMIT.

29                   (B) ASSURE THE PERMIT HOLDER INSTITUTES PROPER  
30                   CONTAINMENT, REMEDIATION AND ERADICATION CRITERIA TO

1 PROTECT THE INTERESTS OF THE PUBLIC, THE NATIVE PLANT  
2 AND ANIMAL POPULATIONS IN THIS COMMONWEALTH AND THIS  
3 COMMONWEALTH'S FLORA, FAUNA AND NATURAL RESOURCES.

4 (C) ASSURE THE PERMIT HOLDER IS RESPONSIBLE FOR  
5 AND HAS THE MEANS TO COVER ANY COSTS OF REMEDIATION,  
6 CONTAINMENT OR ERADICATION.

7 (D) ASSURE THAT THE PERMIT HOLDER DOES NOT  
8 ABANDON THE PERMITTED SITE PRIOR TO NOTIFYING THE  
9 DEPARTMENT AND TAKING THE REMEDIATION, CONTAINMENT OR  
10 ERADICATION MEASURES AS THE DEPARTMENT MAY DETERMINE  
11 ARE NECESSARY.

12 (II) THE DEPARTMENT SHALL PUBLISH THE TEMPORARY  
13 ORDER AS A NOTICE IN THE PENNSYLVANIA BULLETIN. A COPY OF  
14 THE ORDER SHALL ALSO BE DELIVERED TO THE PERSON SEEKING  
15 THE INDIVIDUAL PERMIT.

16 (III) THE PROVISIONS OF THE TEMPORARY ORDER SHALL BE  
17 APPLICABLE AS OF THE DATE OF ACTUAL OR CONSTRUCTIVE  
18 NOTICE OF THE TEMPORARY ORDER OR ANY LATER DATE SPECIFIED  
19 IN THE TEMPORARY ORDER. PUBLICATION OF THE TEMPORARY  
20 ORDER IN THE PENNSYLVANIA BULLETIN SHALL BE CONSTRUCTIVE  
21 NOTICE.

22 (IV) THE TEMPORARY ORDER SHALL REMAIN IN EFFECT FOR  
23 A PERIOD NOT TO EXCEED THE LENGTH OF TIME FOR WHICH THE  
24 INDIVIDUAL PERMIT WAS ISSUED, UNLESS THE PERMIT IS  
25 REISSUED OR EXTENDED.

26 (5) A WRITTEN APPLICATION FOR AN INDIVIDUAL PERMIT SHALL  
27 MEET THE CRITERIA ESTABLISHED BY THE DEPARTMENT THROUGH A  
28 TEMPORARY ORDER AS AUTHORIZED BY THIS CHAPTER AND BE MADE ON  
29 A FORM AND IN A MANNER PRESCRIBED BY THE DEPARTMENT. THE  
30 APPLICATION SHALL CONTAIN AT LEAST THE FOLLOWING:

1           (I) THE LEGAL NAME, ADDRESS AND DAYTIME AND EVENING  
2 TELEPHONE NUMBERS OF THE APPLICANT.

3           (II) THE PHYSICAL LOCATION, INCLUDING A DETAILED  
4 PLOT MAP AND DESCRIPTION OF THE SITE TO BE PLANTED OR  
5 SITE WHERE THE NOXIOUS WEED OR CONTROLLED PLANT WILL BE  
6 PROPAGATED, CULTIVATED, STORED OR DISTRIBUTED. THE  
7 DESCRIPTION OF THE LOCATION SHALL ALSO INCLUDE THE  
8 COUNTY, MUNICIPALITY AND THE NAME OF EACH ROAD BORDERING  
9 THE PHYSICAL LOCATION. THE PLOT MAP SHALL BE ATTACHED TO  
10 THE APPLICATION AND SHALL STATE THE GPS COORDINATES  
11 OUTLINING THE BOUNDARIES OF THE SITE AND OTHER IMPORTANT  
12 LANDMARKS.

13           (III) FOR A SELLER, DISTRIBUTOR, HOLDER OR  
14 DEPOSITORY OF PROPAGATION MATERIAL, THE NAME AND ADDRESS  
15 AND THE APPLICABLE FEDERAL OR COMMONWEALTH LICENSE OR  
16 CERTIFICATION NUMBER OR BOTH, WHERE APPLICABLE.

17           (IV) THE SCIENTIFIC AND COMMON NAMES OF THE NOXIOUS  
18 WEED OR CONTROLLED PLANT FOR WHICH THE APPLICANT DESIRES  
19 AN INDIVIDUAL PERMIT ACCORDING TO THE UNITED STATES  
20 DEPARTMENT OF AGRICULTURE PLANTS DATABASE, INCLUDING  
21 CLASSIFICATION OF SPECIES BY STERILE BIOTYPE, CULTIVAR,  
22 VARIETY F1 PARENT, VARIETY F2 PARENT OR OTHER NAME.

23           (V) THE IDENTITY OF THE INTENDED PLANT PARTS TO BE  
24 USED AND THE STAGE OF DEVELOPMENT AT PLANTING, INCLUDING  
25 SEED, RHIZOME AND CUTTING.

26           (VI) ATTESTATION THAT THE PLANT MATERIALS HAVE BEEN  
27 SELECTED FROM APPARENTLY DISEASE-FREE AND PEST-FREE  
28 SOURCES.

29           (VII) A DESCRIPTION OF THE PACKAGING AND BIOSECURITY  
30 SAFEGUARDS TO BE UTILIZED. PLANT MATERIAL SHALL BE

1 PACKAGED AND SAFEGUARDED SUFFICIENTLY TO MAINTAIN  
2 ISOLATION FROM THE DOMESTIC ENVIRONMENT DURING  
3 TRANSPORTATION.

4 (VIII) AN ATTESTATION BY THE APPLICANT STATING THE  
5 APPLICANT SHALL CONTINUE TO COMPLY WITH THE PERMIT  
6 REQUIREMENTS FOR THE DURATION OF TIME THE PLANT MATERIALS  
7 ARE IN THE PERMIT HOLDER'S POSSESSION AND THAT THE PERMIT  
8 HOLDER UNDERSTANDS AND AGREES TO THE FOLLOWING:

9 (A) IF THE PERMIT HOLDER INTENDS TO TRANSFER  
10 POSSESSION OR OWNERSHIP OF THE NOXIOUS WEED OR  
11 CONTROLLED PLANT, THE PERMIT HOLDER SHALL, BEFORE THE  
12 TRANSFER OF POSSESSION OR OWNERSHIP, NOTIFY THE  
13 DEPARTMENT AND ASSURE THE PERSON TO WHOM THE NOXIOUS  
14 WEED OR CONTROLLED PLANT WILL BE TRANSFERRED OR SOLD  
15 THAT THE PERMIT HOLDER HAS OBTAINED THE REQUIRED  
16 INDIVIDUAL PERMIT.

17 (B) IF THE PERMIT HOLDER INTENDS TO STOP GROWING  
18 OR CULTIVATING THE NOXIOUS WEED OR CONTROLLED PLANT,  
19 THE PERMIT HOLDER SHALL NOTIFY THE DEPARTMENT AND  
20 IMPLEMENT ALL MEASURES ORDERED BY THE DEPARTMENT TO  
21 DESTROY THE NOXIOUS WEED OR CONTROLLED PLANT, UNLESS  
22 ANOTHER PERSON ASSUMES RESPONSIBILITY FOR THE NOXIOUS  
23 WEED OR CONTROLLED PLANT AND IS ISSUED AN INDIVIDUAL  
24 PERMIT.

25 (C) IF THE PERMIT HOLDER ABANDONS, RELINQUISHES  
26 POSSESSION OR OWNERSHIP OF, CONTROL OVER OR  
27 RESPONSIBILITY FOR THE NOXIOUS WEED OR CONTROLLED  
28 PLANT IN A MANNER INCONSISTENT WITH THE PROVISIONS OF  
29 THIS CHAPTER, ALL PLANT MATERIAL REGULATED BY THE  
30 PERMIT SHALL BE DESTROYED IN A MANNER APPROVED BY THE

1           DEPARTMENT. THE ORIGINAL PERMIT HOLDER SHALL CONTINUE  
2           TO BE RESPONSIBLE FOR THE NOXIOUS WEED OR CONTROLLED  
3           PLANT, THE COST OF DESTRUCTION AND ERADICATION OF THE  
4           NOXIOUS WEED OR CONTROLLED PLANT AND ANY PLANT  
5           MATERIAL ASSOCIATED WITH THE NOXIOUS WEED OR  
6           CONTROLLED PLANT. THE ORIGINAL PERMIT HOLDER SHALL  
7           CONTINUE TO BE SUBJECT TO THE PENALTIES IMPOSED UNDER  
8           THIS CHAPTER.

9           (IX) THE IDENTIFICATION OF THE USE OF THE NOXIOUS  
10          WEED OR CONTROLLED PLANT TO BE PERMITTED, INCLUDING  
11          ORNAMENTAL LANDSCAPE, AGRICULTURAL CROP, FEED CROP,  
12          RESEARCH, EDUCATION, BIOFUEL, BIOMASS, FURTHER SALE OR  
13          DISTRIBUTION OR ANY OTHER PARTICULAR USE.

14          (X) A DETAILED DESCRIPTION OF THE ACTIVITY  
15          AUTHORIZED BY THE PERMIT, INCLUDING THE INTENDED SIZE OF  
16          THE AREA TO BE PLANTED AND THE INTENDED DATE OF PLANTING.

17          (XI) WHETHER THE NOXIOUS WEED OR CONTROLLED PLANT  
18          WILL BE FURTHER DISTRIBUTED, SOLD, TRANSPORTED,  
19          REPLANTED, USED FOR SEED OR OTHER PURPOSES. IF THE  
20          NOXIOUS WEED OR CONTROLLED PLANT WILL BE FURTHER  
21          DISTRIBUTED, SOLD, TRANSPORTED, REPLANTED, USED FOR SEED  
22          OR OTHER PURPOSES, THE PERMIT SHALL INCLUDE THE NAME AND  
23          ADDRESS OF THE PERSON AND LOCATION TO WHICH THE NOXIOUS  
24          WEED OR CONTROLLED PLANT WILL BE DISTRIBUTED, SOLD OR  
25          TRANSPORTED. IF SOLD OR DISTRIBUTED FOR FURTHER  
26          PROPAGATION, THE APPLICATION SHALL INCLUDE THE  
27          INFORMATION REQUIRED UNDER SUBPARAGRAPHS (I) AND (II) AND  
28          THE NAME AND ADDRESS OF THE PERSON TO WHICH THE NOXIOUS  
29          WEED OR CONTROLLED PLANT WAS SOLD OR DISTRIBUTED FOR THE  
30          USE.

1           (XII) A WRITTEN CONTINGENCY PLAN FOR EACH SITE FOR  
2           ERADICATION OR RECAPTURE IN THE EVENT OF AN UNAUTHORIZED  
3           ESCAPE OR INTRODUCTION OF THE NOXIOUS WEED OR CONTROLLED  
4           PLANT.

5           (XIII) AN ATTESTATION THAT THE APPLICANT SHALL  
6           COMPLY WITH ALL TERMS AND CONDITIONS CONTAINED IN THE  
7           PERMIT.

8           (6) THE SECRETARY MAY REQUEST, IN WRITING, ADDITIONAL  
9           INFORMATION, IF NECESSARY, FROM THE APPLICANT AFTER THE  
10          APPLICATION IS RECEIVED TO EVALUATE THE POTENTIAL RISK TO THE  
11          COMMONWEALTH. AN APPLICANT FOR AN INDIVIDUAL PERMIT MAY BE  
12          REQUIRED TO POST A BOND OR OTHER SECURITY INSTRUMENT IN A  
13          FORM SATISFACTORY TO THE SECRETARY IN AN AMOUNT THE SECRETARY  
14          DETERMINES.

15          (7) AN INDIVIDUAL PERMIT SHALL EXPIRE ON DECEMBER 31 OF  
16          EACH YEAR, UNLESS OTHERWISE SPECIFIED IN THE PERMIT. AN  
17          APPLICATION FOR RENEWAL OF AN INDIVIDUAL PERMIT MUST BE MADE  
18          BY OCTOBER 1 OF THE YEAR THE PERMIT EXPIRES. AN APPLICATION  
19          FOR RENEWAL SHALL DESCRIBE ANY CHANGE TO THE REQUIRED  
20          INFORMATION PREVIOUSLY SUBMITTED. FAILURE TO RENEW AN  
21          INDIVIDUAL PERMIT SHALL BE A VIOLATION OF THIS CHAPTER.

22          (8) GENERAL INFORMATION REGARDING PERMIT COMPLIANCE  
23          SHALL BE UPDATED ON A CALENDAR YEAR BASIS. UPDATED  
24          INFORMATION SHALL BE SUBMITTED TO THE DEPARTMENT NO LATER  
25          THAN JANUARY 10 OF EACH NEW CALENDAR YEAR. FAILURE TO SUBMIT  
26          THE REQUIRED INFORMATION WITHIN THE TIME PERIOD ESTABLISHED  
27          UNDER THIS PARAGRAPH SHALL BE A VIOLATION OF THIS CHAPTER.

28          (9) BEFORE THE APPROVAL AND ISSUANCE OF AN INDIVIDUAL  
29          PERMIT, THE DEPARTMENT MAY ENTER ONTO AND INSPECT THE LAND  
30          AND PREMISES, INCLUDING BUILDINGS AND CONVEYANCES, THAT WILL

1 BE UTILIZED FOR THE PURPOSE OF ENGAGING IN AN ACTIVITY  
2 AUTHORIZED BY THE PERMIT. THE INSPECTION SHALL BE LIMITED TO  
3 NORMAL BUSINESS HOURS.

4 § 1515. PROHIBITED ACTS.

5 (A) GENERAL COMPLIANCE.--IT SHALL BE A VIOLATION OF THIS  
6 CHAPTER TO FAIL TO COMPLY WITH ANY PROVISION OF THIS CHAPTER OR  
7 ANY REGULATION, PERMIT REQUIREMENT OR ORDER ESTABLISHED PURSUANT  
8 TO THIS CHAPTER.

9 (B) NOXIOUS WEEDS.--EXCEPT AS ESTABLISHED IN AN INDIVIDUAL  
10 PERMIT ALLOWING EDUCATIONAL OR RESEARCH PURPOSES, IT SHALL BE A  
11 VIOLATION OF THIS CHAPTER TO DISTRIBUTE, CULTIVATE OR PROPAGATE  
12 ANY NOXIOUS WEED WITHIN THIS COMMONWEALTH.

13 (C) CONTROLLED PLANTS.--IT SHALL BE A VIOLATION OF THIS  
14 CHAPTER TO RESEARCH, MARKET, HOLD, WAREHOUSE, RETAIL, WHOLESALE,  
15 TRANSPORT, DISPLAY, DISTRIBUTE, CULTIVATE OR PROPAGATE A  
16 CONTROLLED PLANT WITHOUT A PERMIT ISSUED BY THE DEPARTMENT.

17 (D) ABANDONMENT.--IT SHALL BE A VIOLATION OF THIS CHAPTER  
18 FOR A PERSON HOLDING OR REQUIRED TO HOLD OR COMPLY WITH A PERMIT  
19 REQUIREMENT OF THIS CHAPTER TO ABANDON A NOXIOUS WEED OR  
20 CONTROLLED PLANT SITE OR PREMISES WITHOUT FIRST NOTIFYING THE  
21 DEPARTMENT AND TAKING ACTIONS AS ARE NECESSARY OR ORDERED BY THE  
22 DEPARTMENT TO REMEDIATE THE SITE.

23 (E) CONCEALMENT OR MISREPRESENTATION.--IT SHALL BE UNLAWFUL  
24 FOR A PERSON TO:

25 (1) CONCEAL A NOXIOUS WEED OR CONTROLLED PLANT FROM  
26 INSPECTION; OR

27 (2) MAKE A FALSE DECLARATION OF ACREAGE, SQUARE FOOTAGE  
28 OR ANY OTHER INFORMATION REQUIRED TO COMPLY WITH THE PERMIT  
29 REQUIREMENTS OF THIS CHAPTER.

30 § 1516. NOXIOUS WEED CONTROL AREAS.

1 (A) GENERAL RULE.--THE FOLLOWING APPLY:

2 (1) THE DEPARTMENT MAY ESTABLISH A NOXIOUS WEED CONTROL  
3 AREA THROUGH A CONTROL ORDER ISSUED BY THE DEPARTMENT UNDER  
4 SECTION 1517 (RELATING TO CONTROL ORDERS). THE ORDER SHALL BE  
5 PUBLISHED IN THE PENNSYLVANIA BULLETIN AND DISSEMINATED TO  
6 PERSONS IN THE NOXIOUS WEED CONTROL AREA THAT WILL BE  
7 AFFECTED BY THE ORDER. A CONTROL ORDER SHALL REMAIN IN EFFECT  
8 UNTIL THE TIME AS IT IS RESCINDED BY THE DEPARTMENT.

9 (2) WITHIN THE NOXIOUS WEED CONTROL AREA, THE DEPARTMENT  
10 MAY PROHIBIT, WITHOUT INSPECTION, THE MOVEMENT, SHIPMENT OR  
11 TRANSPORTATION OF ANY NOXIOUS WEED OR OTHER MATERIAL CAPABLE  
12 OF CARRYING THE NOXIOUS WEED FROM THE AREA UNDER THE CONTROL  
13 ORDER.

14 (B) COMPLIANCE.--THE DEPARTMENT SHALL REQUIRE AN AFFECTED  
15 LANDOWNER OR LESSEE OR OTHER PERSON WITHIN THE NOXIOUS WEED  
16 CONTROL AREA TO COMPLY WITH THE PROVISIONS OF THE CONTROL ORDER  
17 WITHIN THE TIME FRAME INDICATED IN THE ORDER.

18 (C) PUBLICATION.--EVERY DESIGNATED NOXIOUS WEED CONTROL AREA  
19 AND ANY ACCOMPANYING CONTROL ORDER CREATED UNDER THIS SECTION  
20 AND SECTION 1517 SHALL BE PUBLISHED IN THE PENNSYLVANIA BULLETIN  
21 PURSUANT TO THE ACT OF JULY 31, 1968 (P.L.769, NO.240), REFERRED  
22 TO AS THE COMMONWEALTH DOCUMENTS LAW.

23 § 1517. CONTROL ORDERS.

24 (A) NOXIOUS WEEDS.--

25 (1) THE DEPARTMENT MAY ISSUE A CONTROL ORDER REQUIRING A  
26 PERSON TO IMPLEMENT TREATMENT MEASURES FOR NOXIOUS WEEDS. THE  
27 CONTROL ORDER SHALL STATE THE GENERAL FACTUAL AND LEGAL BASIS  
28 FOR THE ACTION AND SHALL ADVISE THE AFFECTED PERSON THAT,  
29 WITHIN 15 DAYS OF RECEIPT OF THE CONTROL ORDER, THE AFFECTED  
30 PERSON MAY FILE WITH THE DEPARTMENT A WRITTEN REQUEST FOR AN

1 ADMINISTRATIVE HEARING. THE HEARING SHALL BE CONDUCTED IN  
2 ACCORDANCE WITH 2 PA.C.S. (RELATING TO ADMINISTRATIVE LAW AND  
3 PROCEDURE).

4 (2) THE WRITTEN CONTROL ORDER OF THE DEPARTMENT SHALL BE  
5 SERVED UPON THE AFFECTED PERSON BY PERSONAL SERVICE OR BY  
6 REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED.

7 (3) THE CONTROL ORDER SHALL BECOME FINAL UPON THE  
8 EXPIRATION OF THE 15-DAY PERIOD FOR REQUESTING AN  
9 ADMINISTRATIVE HEARING, UNLESS A TIMELY REQUEST FOR A HEARING  
10 HAS BEEN FILED WITH THE DEPARTMENT.

11 (B) CONTROLLED PLANTS.--

12 (1) THE DEPARTMENT MAY ISSUE A CONTROL ORDER REQUIRING A  
13 CONTROLLED PLANT PERMIT HOLDER OR A PERSON REQUIRED TO HAVE  
14 THE PERMIT TO IMPLEMENT TREATMENT MEASURES FOR A CONTROLLED  
15 PLANT. THE DEPARTMENT MAY ISSUE A CONTROL ORDER FOR  
16 CONTROLLED PLANTS IF THE DEPARTMENT FINDS THAT A CONTROLLED  
17 PLANT IS GROWING ON ANY PREMISES OR PROPERTY WITHOUT A VALID  
18 PERMIT. THE ORDER SHALL STATE THE GENERAL FACTUAL AND LEGAL  
19 BASIS FOR THE ACTION AND ADVISE THE AFFECTED PERSON THAT  
20 WITHIN 15 DAYS OF RECEIPT OF THE ORDER, THE AFFECTED PERSON  
21 MAY FILE WITH THE DEPARTMENT A WRITTEN REQUEST FOR AN  
22 ADMINISTRATIVE HEARING. THE HEARING SHALL BE CONDUCTED IN  
23 ACCORDANCE WITH 2 PA.C.S.

24 (2) THE WRITTEN CONTROL ORDER OF THE DEPARTMENT SHALL BE  
25 SERVED UPON THE AFFECTED PERSON BY PERSONAL SERVICE OR BY  
26 REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED.

27 (3) THE CONTROL ORDER SHALL BECOME FINAL UPON THE  
28 EXPIRATION OF THE 15-DAY PERIOD FOR REQUESTING AN  
29 ADMINISTRATIVE HEARING, UNLESS A TIMELY REQUEST FOR A HEARING  
30 HAS BEEN FILED WITH THE DEPARTMENT.

1 (C) DESCRIPTION OF SITUATION IN ORDER.--THE CONTROL ORDER  
2 SHALL DESCRIBE THE NOXIOUS WEED OR CONTROLLED PLANT SITUATION  
3 THAT EXISTS AND PRESCRIBE THE REQUIRED TREATMENT MEASURES AND  
4 THE DATE BY WHICH THE MEASURES MUST BE COMPLETED.

5 § 1518. COMPLIANCE WITH ORDERS.

6 (A) GENERAL RULE.--A PERSON SUBJECT TO A CONTROL ORDER  
7 ISSUED UNDER SECTION 1517 (RELATING TO CONTROL ORDERS) SHALL  
8 COMPLY WITH THE CONTROL ORDER WITHIN THE TIME FRAME SPECIFIED IN  
9 THE CONTROL ORDER OR, IF APPEALED, THE TIME FRAME ESTABLISHED IN  
10 THE FINAL ADJUDICATION OF THE SECRETARY. THE COST OF THE  
11 TREATMENT MEASURES SHALL BE BORNE BY THE PERSON SUBJECT TO THE  
12 CONTROL ORDER.

13 (B) NOTICE AND DUTY OF MUNICIPALITY.--

14 (1) IF THE PERSON SUBJECT TO THE CONTROL ORDER FAILS TO  
15 COMPLY WITH THE CONTROL ORDER, THE DEPARTMENT SHALL NOTIFY  
16 THAT PERSON AND THE MUNICIPALITY WITHIN WHICH THE PERSON  
17 RESIDES OR WHERE THE PERSON'S PROPERTY IS LOCATED BY  
18 CERTIFIED MAIL. AFTER RECEIPT OF THE NOTICE, THE APPROPRIATE  
19 OFFICIALS OF THE MUNICIPALITY SHALL TAKE THE NECESSARY STEPS  
20 TO CARRY OUT THE TREATMENT MEASURES ESTABLISHED IN THE  
21 CONTROL ORDER WITHIN THE TIME FRAME SPECIFIED IN THE  
22 NOTIFICATION BY THE DEPARTMENT.

23 (2) A MUNICIPALITY WHICH ACTS TO CONTROL A NOXIOUS WEED  
24 OR CONTROLLED PLANT ON A NONCOMPLYING PERSON'S PROPERTY MAY  
25 RECOVER THE EXPENSES AND COSTS INCURRED BY THE MUNICIPALITY  
26 IN CARRYING OUT THE TREATMENT MEASURES ESTABLISHED IN THE  
27 CONTROL ORDER FROM THE PERSON WHO IS THE SUBJECT OF THE  
28 DEPARTMENT'S CONTROL ORDER.

29 § 1519. NOXIOUS WEED LIST.

30 (A) CLASS A NOXIOUS WEEDS.--PREVENTING NEW INFESTATIONS AND

1 ERADICATING EXISTING INFESTATIONS OF NOXIOUS WEEDS IN THE CLASS  
2 IS HIGH PRIORITY. THE FOLLOWING ARE CLASS A NOXIOUS WEEDS:

3 (1) AMARANTHUS PALMERI S. WATSON (COMMONLY KNOWN AS  
4 PALMER AMARANTH).

5 (2) AMARANTHUS RUDIS (COMMONLY KNOWN AS COMMON  
6 WATERHEMP).

7 (3) AMARANTHUS TUBERCULATUS (COMMONLY KNOWN AS TALL  
8 WATERHEMP).

9 (4) AVENA STERILIS L. (COMMONLY KNOWN AS ANIMATED OAT).

10 (5) CUSCUTA SPP., EXCEPT FOR NATIVE SPECIES (COMMONLY  
11 KNOWN AS DODDER).

12 (6) GALEGA OFFICINALIS L. (COMMONLY KNOWN AS GOATS RUE).

13 (7) HERACLEUM MANTEGAZZIANUM SOMMIER & LEVIER (COMMONLY  
14 KNOWN AS GIANT HOGWEED).

15 (8) HYDRILLA VERTICILLATA (L.F.) ROYLE (COMMONLY KNOWN  
16 AS HYDRILLA).

17 (9) OPLISMENUS HIRTELLUS (L.) P. BEAUV. SUBSP.  
18 UNDULATIFOLIUS (COMMONLY KNOWN AS WAVYLEAF BASKETGRASS).

19 (10) OROBANCHE SPP., EXCEPT FOR NATIVE SPECIES (COMMONLY  
20 KNOWN AS BROOMRAPE).

21 (11) PUERARIA LOBATE (WILLD.) OHWI (COMMONLY KNOWN AS  
22 KUDZU).

23 (B) CLASS B NOXIOUS WEEDS.--THE DEPARTMENT MAY REQUIRE  
24 CONTROL OF CLASS B WEEDS TO CONTAIN AN INJURIOUS INFESTATION, OR  
25 MAY PROVIDE EDUCATION OR TECHNICAL CONSULTATION. THE FOLLOWING  
26 ARE CLASS B NOXIOUS WEEDS:

27 (1) CARDUUS NUTANS L. (COMMONLY KNOWN AS MUSK THISTLE).

28 (2) CIRSIUM ARVENSE L. (COMMONLY KNOWN AS CANADA  
29 THISTLE).

30 (3) CIRSIUM VULGARE L. (COMMONLY KNOWN AS BULL THISTLE).

1           (4) EXOTIC LYTHRUM SPECIES, INCLUDING LYTHRUM SALICARIA  
2 L. (COMMONLY KNOWN AS PURPLE LOOSESTRIFE), THE LYTHRUM  
3 SALICARIA COMPLEX AND LYTHRUM VIRGATUM L. (COMMONLY KNOWN AS  
4 EUROPEAN WAND LOOSESTRIFE), THEIR CULTIVARS AND ANY  
5 COMBINATION THEREOF.

6           (5) PERSICARIA PERFOLIATA (L.) H. GRASS (FORMERLY KNOWN  
7 AS POLYGONUM PERFOLIATUM L.) (COMMONLY KNOWN AS MILE-A-MINUTE  
8 WEED).

9           (6) ROSA MULTIFLORA L. (COMMONLY KNOWN AS MULTIFLORA  
10 ROSE).

11           (7) SORGHUM BICOLOR L. MOENCH (COMMONLY KNOWN AS  
12 SHATTERCANE).

13           (8) SORGHUM HALEPENSE (L.) PERS. (COMMONLY KNOWN AS  
14 JOHNSON GRASS).

15           (9) CONIUM MACULATUM L. (COMMONLY KNOWN AS POISON  
16 HEMLOCK).

17       (C) CLASS C NOXIOUS WEEDS.--PREVENTING INTRODUCTION AND  
18 ERADICATING INFESTATIONS OF NOXIOUS WEEDS IN THIS CLASS IS THE  
19 HIGHEST PRIORITY. CLASS C NOXIOUS WEEDS ARE ANY FEDERAL NOXIOUS  
20 WEEDS LISTED IN 7 CFR 360.200 (RELATING TO DESIGNATION OF  
21 NOXIOUS WEEDS) NOT ESTABLISHED IN THIS COMMONWEALTH WHICH ARE  
22 NOT REFERENCED ABOVE.

23       (D) COMMITTEE DETERMINATION.--ANY PLANT OR WEED DESIGNATED  
24 AS A NOXIOUS WEED UNDER THIS SECTION AND AS AUTHORIZED UNDER  
25 SECTION 1511 (RELATING TO DESIGNATION OF NOXIOUS WEEDS AND  
26 CONTROLLED PLANTS).  
27 § 1520. FEES.

28       (A) GENERAL RULE.--THE FOLLOWING FEES, WHICH SHALL BE  
29 DEPOSITED INTO THE ACCOUNT, ARE ESTABLISHED:

30           (1) GENERAL PERMIT, \$150 PER PERMIT WITH A \$50 ANNUAL

1 RENEWAL FEE.

2 (2) INDIVIDUAL PERMIT, \$250 PER PERMIT WITH A \$100  
3 ANNUAL RENEWAL FEE.

4 (3) INSPECTION FEES FOR FIELD LOCATIONS - \$50 INSPECTION  
5 FEE FOR UP TO 10 ACRES, WITH A \$5 PER ACRE FEE FOR EACH  
6 ADDITIONAL ACRE UP TO A MAXIMUM FEE OF \$500.

7 (4) INSPECTION FEES FOR GREENHOUSES - GREENHOUSE  
8 LOCATIONS SHALL BE ASSESSED A FEE BASED ON SQUARE FOOTAGE AS  
9 FOLLOWS:

10 (I) \$50 FOR LESS THAN 5,000 SQUARE FEET.

11 (II) \$100 FOR 5,000-25,000 SQUARE FEET.

12 (III) \$150 IF GREATER THAN 25,000 SQUARE FEET.

13 (5) PLANT IDENTIFICATION - \$40 PER SAMPLE.

14 (6) LABORATORY TESTING - FEES AS ESTABLISHED IN CHAPTER  
15 71 (RELATING TO SEED).

16 (B) ADJUSTMENT OF FEES.--THE DEPARTMENT MAY PROMULGATE  
17 REGULATIONS TO FIX, ADJUST, ASSESS AND COLLECT, OR CAUSE TO BE  
18 COLLECTED, FEES AS ESTABLISHED IN THIS CHAPTER. THE FEES SHALL  
19 BE LARGE ENOUGH TO MEET THE REASONABLE EXPENSES INCURRED BY THE  
20 DEPARTMENT OR ITS AGENTS IN ADMINISTERING THIS CHAPTER,  
21 INCLUDING ISSUING PERMITS, CONDUCTING INSPECTIONS AND CARRYING  
22 OUT NECESSARY TESTING. IF THE SECRETARY DETERMINES THAT MONEY  
23 DERIVED FROM ALL AUTHORIZED FEES ARE EITHER GREATER OR LESS THAN  
24 THAT REQUIRED TO ADMINISTER THIS CHAPTER, THE SECRETARY MAY  
25 REDUCE OR INCREASE THE FEES SO AS TO MAINTAIN REVENUES  
26 SUFFICIENT TO ADMINISTER THIS CHAPTER.

27 (C) PAYMENT OF FEES.--FEES SHALL BE PAID BY CHECK, MONEY  
28 ORDER OR ELECTRONIC PAYMENT MADE PAYABLE TO THE COMMONWEALTH OF  
29 PENNSYLVANIA. FAILURE TO PAY A FEE ON TIME SHALL BE A VIOLATION  
30 OF THIS CHAPTER. A LATE FEE OF \$25 SHALL BE ASSESSED FOR EVERY

1 MONTH THAT A FEE IS PAST DUE.

2 § 1521. POWERS AND DUTIES OF SECRETARY AND DEPARTMENT.

3 (A) GENERAL RULE.--THE SECRETARY SHALL ENFORCE THIS CHAPTER  
4 AND MAY EMPLOY ALL PROPER MEANS FOR THE ENFORCEMENT OF THIS  
5 CHAPTER, INCLUDING ISSUING NOTICES OF VIOLATION AND ORDERS,  
6 FILING VIOLATIONS FOR CRIMINAL PROSECUTION, SEEKING INJUNCTIVE  
7 RELIEF, IMPOSING CIVIL PENALTIES AND ENTERING INTO CONSENT  
8 AGREEMENTS.

9 (B) GENERAL POWERS AND DUTIES OF DEPARTMENT.--THE  
10 DEPARTMENT, IN CARRYING OUT THE PROVISIONS OF THIS CHAPTER AND  
11 IN ADDITION TO ALL OTHER AUTHORITY GRANTED TO THE SECRETARY AND  
12 THE DEPARTMENT BY THIS CHAPTER, SHALL HAVE THE AUTHORITY TO:

13 (1) ISSUE AND ENFORCE A WRITTEN CONTROL ORDER TO ANY  
14 PERSON IN POSSESSION OF A NOXIOUS WEED OR CONTROLLED PLANT.

15 (2) ISSUE AND ENFORCE WRITTEN PERMITS AND PERMIT  
16 REQUIREMENTS TO ANY PERSON WHO WISHES TO RESEARCH, MARKET,  
17 HOLD, WAREHOUSE, RETAIL, WHOLESALE, PROPAGATE, TRANSPORT,  
18 CULTIVATE OR DISTRIBUTE A NOXIOUS WEED OR CONTROLLED PLANT  
19 UNDER THE TERMS AND CONDITIONS AS ARE REASONABLY REQUIRED TO  
20 CARRY OUT THE PROVISIONS OF THIS CHAPTER.

21 (3) UTILIZE ANY ENFORCEMENT TOOL AUTHORIZED BY THIS  
22 CHAPTER TO CONTROL, REMEDIATE, CONTAIN OR ERADICATE A NOXIOUS  
23 WEED OR CONTROLLED PLANT.

24 (4) RECOVER, FROM THE NONCOMPLYING PERSON OR LANDOWNER,  
25 EXPENSES AND COSTS INCURRED IN THE ENFORCEMENT AND COMPLIANCE  
26 ACTIONS. THE DEPARTMENT MAY IMPOSE ADDITIONAL CIVIL OR  
27 CRIMINAL PENALTIES FOR FAILURE TO COMPLY. THE PENALTIES SHALL  
28 INCLUDE THE REASONABLE COST OF ERADICATION AND COMPLIANCE  
29 EXPENSES INCURRED BY THE DEPARTMENT.

30 (5) IF THE DEPARTMENT IS DENIED ACCESS TO ANY BUILDING,

1 CONVEYANCE, EQUIPMENT, LAND OR VEHICLE WHERE THE ACCESS WAS  
2 SOUGHT FOR THE PURPOSES AND UNDER THE AUTHORITY SET FORTH IN  
3 THIS CHAPTER, THE SECRETARY MAY APPLY TO ANY ISSUING  
4 AUTHORITY FOR A SEARCH WARRANT AUTHORIZING ACCESS TO THE  
5 BUILDING, CONVEYANCE, EQUIPMENT, LAND OR VEHICLE FOR THAT  
6 PURPOSE. THE COURT MAY, UPON APPLICATION BY THE DEPARTMENT,  
7 ISSUE THE SEARCH WARRANT FOR THE PURPOSES REQUESTED.

8 (C) RIGHT OF ENTRY AND INSPECTION.--IN THE PERFORMANCE OF  
9 THE DUTIES REQUIRED BY THIS CHAPTER, THE DEPARTMENT AND ITS  
10 INSPECTORS, EMPLOYEES AND AGENTS SHALL HAVE ACCESS, DURING  
11 REASONABLE HOURS, TO INSPECT THE LAND AND PREMISES AND ANY AREAS  
12 OF THE LAND AND PREMISES, INCLUDING BUILDINGS AND CONVEYANCES,  
13 THAT ARE OR WILL BE UTILIZED FOR PERMITTED ACTIVITIES.

14 (D) SEARCH WARRANTS.--

15 (1) IF AN INSPECTOR, EMPLOYEE OR AGENT OF THE DEPARTMENT  
16 HAS PROBABLE CAUSE TO BELIEVE A NOXIOUS WEED OR CONTROLLED  
17 PLANT EXISTS ON A PROPERTY OR PREMISES, THE DEPARTMENT'S  
18 INSPECTOR, EMPLOYEE OR AGENT MAY, UPON OATH OR AFFIRMATION,  
19 DECLARE BEFORE A COURT OF COMPETENT JURISDICTION THAT THE  
20 INSPECTOR, EMPLOYEE OR AGENT HAS PROBABLE CAUSE TO BELIEVE  
21 THAT NOXIOUS WEEDS OR CONTROLLED PLANTS EXIST ON THE LAND OR  
22 PREMISES.

23 (2) UPON REVIEW OF THE DECLARATION, THE COURT MAY ISSUE  
24 A SEARCH WARRANT FOR THE PROPERTY OR PREMISES. THE SEARCH  
25 WARRANT SHALL DESCRIBE THE PROPERTY OR PREMISES, WHICH MAY BE  
26 SEARCHED UNDER AUTHORITY OF THE SEARCH WARRANT, BUT NEED NOT  
27 DESCRIBE THE EXACT OR ALL POSSIBLE NOXIOUS WEEDS OR  
28 CONTROLLED PLANTS THAT EXIST OR MAY EXIST ON THE PROPERTY OR  
29 PREMISES.

30 (3) IT SHALL BE SUFFICIENT PROBABLE CAUSE TO SHOW EITHER

1 OF THE FOLLOWING:

2 (I) THAT, IN CASES INVOLVING A PERSON WHO HOLDS AN  
3 INDIVIDUAL PERMIT OR GENERAL PERMIT UNDER THIS CHAPTER,  
4 THE INSPECTOR, EMPLOYEE OR AGENT HAS BEEN REFUSED OR  
5 DELAYED ENTRY FOR THE PURPOSE OF INSPECTION.

6 (II) THE INSPECTOR, EMPLOYEE OR AGENT HAS REASONABLE  
7 GROUND TO BELIEVE THAT A VIOLATION OF THIS CHAPTER OR  
8 REGULATIONS PROMULGATED OR ORDERS ISSUED UNDER THE  
9 AUTHORITY OF THIS CHAPTER HAS BEEN OR IS OCCURRING.

10 (E) INSPECTIONS AND SAMPLING AUTHORITY.--

11 (1) THE DEPARTMENT, THROUGH ITS INSPECTORS, EMPLOYEES  
12 AND AGENTS, MAY INSPECT ANY LAND, PREMISES, BUILDINGS,  
13 VEHICLES, VESSELS, ARTICLES, LOCATIONS, MACHINERY,  
14 CONVEYANCES OR OTHER PLACES OF A PERSON HOLDING A PERMIT  
15 UNDER THIS CHAPTER.

16 (2) THE DEPARTMENT MAY INSPECT ANY RECORDS REQUIRED TO  
17 BE KEPT UNDER AN INDIVIDUAL PERMIT OR GENERAL PERMIT AND ANY  
18 ATTENDANT ORDERS AND REGULATIONS.

19 (3) THE DEPARTMENT MAY COLLECT SAMPLES AND TAKE PICTURES  
20 OF ANY NOXIOUS WEEDS OR CONTROLLED PLANTS.

21 (F) DELEGATION.--THE SECRETARY MAY DELEGATE ANY POWER OR  
22 DUTY UNDER THIS CHAPTER TO AN AGENT ACTING ON BEHALF OF THE  
23 DEPARTMENT, WITH THE EXCEPTION OF THE POWERS AND DUTIES OF THE  
24 COMMITTEE.

25 § 1522. STOP-SALE ORDERS.

26 (A) GENERAL RULE.--THE DEPARTMENT MAY ISSUE AND ENFORCE A  
27 STOP-SALE ORDER TO ANY PERSON HOLDING OR REQUIRED TO HOLD A  
28 PERMIT UNDER THIS CHAPTER OR TO ANY PERSON WHERE A NOXIOUS WEED  
29 OR CONTROLLED PLANT EXISTS. THE STOP-SALE ORDER SHALL REQUIRE A  
30 PERSON TO HOLD, AT A DESIGNATED PLACE, ANY NOXIOUS WEED OR

1 CONTROLLED PLANT. NOXIOUS WEEDS OR CONTROLLED PLANTS SUBJECT TO  
2 A STOP-SALE ORDER ISSUED UNDER THE AUTHORITY OF THIS SUBSECTION  
3 SHALL CONTINUE TO BE HELD AT THE DESIGNATED PLACE UNTIL THE  
4 DEPARTMENT IS NOTIFIED BY THE PERSON TO WHOM THE STOP-SALE ORDER  
5 WAS DIRECTED THAT THE PRESCRIBED TREATMENT MEASURE OR ACTION HAS  
6 BEEN TAKEN AND A REINSPECTION OF THE PREMISES INDICATES THE  
7 TREATMENT MEASURE HAS BEEN COMPLETED AND WAS EFFECTIVE.

8 (B) OFFICIAL MARKING OF NOXIOUS WEEDS AND CONTROLLED PLANTS  
9 SUBJECT TO A STOP-SALE ORDER.--

10 (1) NOXIOUS WEEDS AND CONTROLLED PLANTS UNDER A STOP-  
11 SALE ORDER SHALL BE CLEARLY IDENTIFIED AND, WHERE  
12 PRACTICABLE, CONSPICUOUSLY MARKED.

13 (2) IT SHALL BE UNLAWFUL FOR A PERSON TO REMOVE MARKINGS  
14 PLACED BY THE DEPARTMENT FOR THIS PURPOSE UNLESS INSTRUCTED  
15 BY THE DEPARTMENT TO DO SO.

16 (C) VIOLATION OF A STOP-SALE ORDER.--IT SHALL BE UNLAWFUL TO  
17 VIOLATE A STOP-SALE ORDER ISSUED UNDER THIS SECTION. THE  
18 DEPARTMENT MAY IMPOSE ANY AND ALL PENALTIES AUTHORIZED UNDER  
19 THIS CHAPTER FOR A VIOLATION OF THE ORDER.

20 § 1523. SEIZURE AND CONDEMNATION.

21 (A) GENERAL RULE.--WHERE THE DISTRIBUTION, TRANSPORTATION,  
22 CULTIVATION, PROPAGATION, MARKETING, RETAIL, WHOLESALE, HOLDING,  
23 WAREHOUSING, RESEARCH OR EDUCATIONAL PRACTICES OF A NOXIOUS WEED  
24 OR CONTROLLED PLANT IS NOT IN COMPLIANCE WITH THE PROVISIONS OF  
25 THIS CHAPTER, A PERMIT, OR ANY REGULATION PROMULGATED OR ORDER  
26 ISSUED UNDER THIS CHAPTER, THE DEPARTMENT, IN ADDITION TO ANY  
27 OTHER ACTION AUTHORIZED UNDER THIS CHAPTER, MAY FILE A COMPLAINT  
28 BEFORE A COURT OF COMPETENT JURISDICTION IN THE AREA IN WHICH  
29 THE NOXIOUS WEED OR CONTROLLED PLANT IS LOCATED, OR BEFORE THE  
30 COMMONWEALTH COURT, REQUESTING THE INJUNCTIVE RELIEF AS

1 NECESSARY TO PREVENT HARM AND REQUESTING AN ORDER OF SEIZURE AND  
2 CONDEMNATION BE ISSUED.

3 (B) RELIEF.--IN THE EVENT THAT THE COURT FINDS THE NOXIOUS  
4 WEED OR CONTROLLED PLANT TO BE IN VIOLATION OF THIS CHAPTER, A  
5 PERMIT, OR ANY REGULATION PROMULGATED OR ORDER ISSUED UNDER THIS  
6 CHAPTER, THE COURT SHALL ORDER THE CONDEMNATION OF THE NOXIOUS  
7 WEED OR CONTROLLED PLANT. UPON EXECUTION OF THE COURT ORDER, THE  
8 CONDEMNED NOXIOUS WEED OR CONTROLLED PLANT SHALL BE DISPOSED OF  
9 IN ANY MANNER CONSISTENT WITH THE LAWS OF THIS COMMONWEALTH.

10 § 1524. APPEAL PROCESS.

11 AN ADMINISTRATIVE APPEAL SHALL BE TAKEN AND HEARING CONDUCTED  
12 IN ACCORDANCE WITH THE PROVISIONS OF 2 PA.C.S. CHS. 5 SUBCH. A  
13 (RELATING TO PRACTICE AND PROCEDURE OF COMMONWEALTH AGENCIES)  
14 AND 7 SUBCH. A (RELATING TO JUDICIAL REVIEW OF COMMONWEALTH  
15 AGENCY ACTION). A PERSON MUST FILE AN APPEAL OF AN ENFORCEMENT  
16 ACTION BY THE DEPARTMENT WITHIN 15 DAYS OF THE DATE OF THE  
17 ENFORCEMENT ACTION.

18 § 1525. COOPERATION WITH OTHER ENTITIES.

19 THE DEPARTMENT MAY COOPERATE AND ENTER INTO AGREEMENTS WITH  
20 ANY INDIVIDUAL, PERSON, ORGANIZATION OR FEDERAL, STATE, COUNTY,  
21 OR MUNICIPAL AGENCY FOR THE PURPOSE OF IMPLEMENTING THE  
22 PROVISIONS OF THIS CHAPTER. THE DEPARTMENT MAY ASSIST IN THE  
23 ENFORCEMENT OF ANY FEDERAL NOXIOUS WEED QUARANTINE ESTABLISHED  
24 UNDER FEDERAL ACT OR REGULATIONS.

25 § 1526. RULES AND REGULATIONS.

26 THE DEPARTMENT MAY PROMULGATE RULES AND REGULATIONS AND  
27 ESTABLISH AND ENFORCE ORDERS NECESSARY FOR ADMINISTRATION AND  
28 IMPLEMENTATION OF THIS CHAPTER IN ACCORDANCE WITH THE ACT OF  
29 JULY 31, 1968 (P.L.769, NO.240), REFERRED TO AS THE COMMONWEALTH  
30 DOCUMENTS LAW, THE ACT OF OCTOBER 15, 1980 (P.L.950, NO.164),

1 KNOWN AS THE COMMONWEALTH ATTORNEYS ACT, AND THE ACT OF JUNE 25,  
2 1982 (P.L.633, NO.181), KNOWN AS THE REGULATORY REVIEW ACT.

3 SUBCHAPTER C

4 ENFORCEMENT

5 SEC.

6 1541. UNLAWFUL CONDUCT.

7 1542. INTERFERENCE WITH INSPECTOR, AGENT OR EMPLOYEE OF  
8 DEPARTMENT.

9 1543. ENFORCEMENT AND PENALTIES.

10 1544. INJUNCTIVE RELIEF.

11 1545. DE MINIMIS VIOLATIONS.

12 § 1541. UNLAWFUL CONDUCT.

13 IT SHALL BE UNLAWFUL FOR A PERSON TO FAIL TO COMPLY WITH OR  
14 TO CAUSE OR ASSIST IN THE VIOLATION OF A PERMIT, AN ORDER OR  
15 PROVISION OF THIS CHAPTER OR ANY ATTENDANT REGULATION.

16 § 1542. INTERFERENCE WITH INSPECTOR, AGENT OR EMPLOYEE OF  
17 DEPARTMENT.

18 A PERSON WHO WILLFULLY OR INTENTIONALLY INTERFERES WITH AN  
19 INSPECTOR, EMPLOYEE OR AGENT OF THE DEPARTMENT IN THE  
20 PERFORMANCE OF THE INSPECTOR'S, EMPLOYEE'S OR AGENT'S DUTIES OR  
21 ACTIVITIES AUTHORIZED UNDER THIS CHAPTER COMMITS A MISDEMEANOR  
22 OF THE THIRD DEGREE AND SHALL, UPON CONVICTION, BE SUBJECT TO A  
23 TERM OF IMPRISONMENT OF NOT MORE THAN ONE YEAR OR A FINE OF NOT  
24 MORE THAN \$2,500, OR BOTH.

25 § 1543. ENFORCEMENT AND PENALTIES.

26 (A) CRIMINAL PENALTIES.--UNLESS OTHERWISE SPECIFIED, A  
27 PERSON WHO VIOLATES A PERMIT, A PROVISION OF THIS CHAPTER OR A  
28 RULE OR REGULATION ADOPTED PURSUANT TO THIS CHAPTER OR ANY ORDER  
29 ISSUED UNDER THIS CHAPTER:

30 (1) FOR THE FIRST OFFENSE, COMMITS A SUMMARY OFFENSE AND

1 MAY, UPON CONVICTION, BE SENTENCED FOR EACH OFFENSE TO PAY A  
2 FINE OF NOT LESS THAN \$100 AND COSTS OF PROSECUTION OR TO  
3 UNDERGO IMPRISONMENT FOR A TERM WHICH SHALL BE FIXED AT NOT  
4 MORE THAN 90 DAYS, OR BOTH.

5 (2) FOR A SUBSEQUENT OFFENSE COMMITTED WITHIN THREE  
6 YEARS OF A PRIOR CONVICTION FOR A VIOLATION OF THIS CHAPTER  
7 OR A RULE, REGULATION OR ORDER MADE PURSUANT TO THIS CHAPTER,  
8 COMMITTS A MISDEMEANOR OF THE SECOND DEGREE AND SHALL, UPON  
9 CONVICTION, BE SENTENCED TO PAY A FINE OF NOT LESS THAN \$500  
10 AND COSTS OF PROSECUTION OR TO IMPRISONMENT FOR NOT MORE THAN  
11 TWO YEARS, OR BOTH.

12 (B) CIVIL PENALTIES.--

13 (1) IN ADDITION TO ANY OTHER REMEDY AVAILABLE AT LAW OR  
14 IN EQUITY FOR A VIOLATION OF THIS CHAPTER, THE DEPARTMENT MAY  
15 ASSESS A CIVIL PENALTY OF NOT MORE THAN \$10,000, PLUS COST OF  
16 REMEDICATION, CONTAINMENT OR ERADICATION, UPON A PERSON FOR  
17 EACH VIOLATION OF THIS CHAPTER, A PERMIT, OR A REGULATION  
18 PROMULGATED OR ORDER ISSUED UNDER THE AUTHORITY OF THIS  
19 CHAPTER. THE CIVIL PENALTY ASSESSED SHALL BE PAYABLE TO THE  
20 DEPARTMENT FOR DEPOSIT INTO THE ACCOUNT. THE PENALTY AMOUNT  
21 SHALL BE COLLECTIBLE IN ANY MANNER PROVIDED BY LAW FOR THE  
22 COLLECTION OF DEBT, INCLUDING REFERRING ANY COLLECTION MATTER  
23 TO THE OFFICE OF ATTORNEY GENERAL, WHICH SHALL RECOVER THE  
24 AMOUNT BY ACTION IN THE APPROPRIATE COURT.

25 (2) NO CIVIL PENALTY SHALL BE ASSESSED UNLESS THE PERSON  
26 ASSESSED THE PENALTY HAS BEEN GIVEN NOTICE AND AN OPPORTUNITY  
27 FOR A HEARING ON THE ASSESSMENT IN ACCORDANCE WITH THE  
28 PROVISIONS OF 2 PA.C.S. CHS. 5 SUBCH. A (RELATING TO PRACTICE  
29 AND PROCEDURE OF COMMONWEALTH AGENCIES) AND 7 SUBCH. A  
30 (RELATING TO JUDICIAL REVIEW OF COMMONWEALTH AGENCY ACTION).

1 § 1544. INJUNCTIVE RELIEF.

2 IN ADDITION TO ANY OTHER REMEDIES PROVIDED FOR IN THIS  
3 CHAPTER, THE ATTORNEY GENERAL, AT THE REQUEST OF THE SECRETARY,  
4 MAY INITIATE, IN COMMONWEALTH COURT OR THE COURT OF COMMON PLEAS  
5 OF THE COUNTY IN WHICH THE DEFENDANT RESIDES OR HAS A PLACE OF  
6 BUSINESS, AN ACTION IN EQUITY FOR AN INJUNCTION TO RESTRAIN ANY  
7 AND ALL VIOLATIONS OF THIS CHAPTER, A PERMIT, ORDER, OR THE  
8 RULES AND REGULATIONS PROMULGATED UNDER THIS CHAPTER.

9 § 1545. DE MINIMIS VIOLATIONS.

10 NOTHING IN THIS CHAPTER SHALL BE CONSTRUED AS REQUIRING THE  
11 DEPARTMENT TO REPORT A VIOLATION OR TO INSTITUTE SEIZURE  
12 PROCEEDINGS OR OTHER ENFORCEMENT ACTIONS UNDER THIS CHAPTER AS A  
13 RESULT OF DE MINIMIS VIOLATIONS OF THIS CHAPTER IF THE  
14 DEPARTMENT CONCLUDES THAT THE PUBLIC INTEREST WILL BE BEST  
15 SERVED BY A SUITABLE NOTICE OF VIOLATION OR WARNING IN WRITING.

16 SUBCHAPTER D

17 MISCELLANEOUS PROVISIONS

18 SEC.

19 1561. DISPOSITION OF FUNDS.

20 1562. PREEMPTION.

21 § 1561. DISPOSITION OF FUNDS.

22 (A) PLANT PEST MANAGEMENT ACCOUNT.--MONEY RECEIVED FROM  
23 PERMITTING FEES, CONTROL WORK REIMBURSEMENT, FINES AND PENALTIES  
24 UNDER THIS CHAPTER SHALL BE PAID INTO THE PLANT PEST MANAGEMENT  
25 ACCOUNT.

26 (B) SUPPLEMENTS.--THE ACCOUNT MAY BE SUPPLEMENTED BY MONEY  
27 RECEIVED FROM THE FOLLOWING SOURCES:

28 (1) FEDERAL FUNDS APPROPRIATED TO THE DEPARTMENT FOR  
29 PURPOSES OF THIS CHAPTER.

30 (2) STATE FUNDS APPROPRIATED TO THE DEPARTMENT FOR

1 PURPOSES OF THIS CHAPTER.

2 (3) GIFTS AND OTHER CONTRIBUTIONS FROM PUBLIC OR PRIVATE  
3 SOURCES FOR PURPOSES OF THIS CHAPTER.

4 § 1562. PREEMPTION.

5 ALL LOCAL LAWS CONTRARY TO THIS CHAPTER ARE PREEMPTED.

6 SECTION 2. THE REGULATIONS UNDER 7 PA. CODE §§ 111.22  
7 (RELATING TO PROHIBITED NOXIOUS WEED SEEDS) AND 111.23 (RELATING  
8 TO RESTRICTED NOXIOUS WEED SEEDS) ARE ABROGATED INSOFAR AS THEY  
9 ARE INCONSISTENT WITH THE ADDITION OF 3 PA.C.S. CH. 15.

10 SECTION 3. REPEALS ARE AS FOLLOWS:

11 (1) THE GENERAL ASSEMBLY DECLARES THAT THE REPEALS UNDER  
12 PARAGRAPHS (2) AND (3) ARE NECESSARY TO EFFECTUATE THE  
13 ADDITION OF 3 PA.C.S. CH. 15.

14 (2) THE ACT OF APRIL 7, 1982 (P.L.228, NO.74), KNOWN AS  
15 THE NOXIOUS WEED CONTROL LAW, IS REPEALED.

16 (3) 3 PA.C.S. CH. 71 IS REPEALED INSOFAR AS IT IS  
17 INCONSISTENT WITH THE ADDITION OF 3 PA.C.S. CH. 15.

18 SECTION 4. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.