

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, DALEY, SCHWEYER, O'BRIEN, GAINNEY, McCARTER, DEAN, BOYLE, FLYNN, DONATUCCI, KIM, KAVULICH, BARBIN, KORTZ AND MICCARELLI, MARCH 10, 2017

SENATOR VOGEL, AGRICULTURE AND RURAL AFFAIRS, IN SENATE, AS AMENDED, JUNE 20, 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           (2) THE TERM INCLUDES A DEPARTMENT, BOARD, COMMISSION,  
16           AGENCY AND INSTRUMENTALITY OF THE FEDERAL GOVERNMENT AND THE  
17           COMMONWEALTH 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 CHAPTER.

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

12 "TREATMENT MEASURE." A METHOD OF ERADICATING, MANAGING,  
13 REGULATING OR CONTROLLING NOXIOUS WEEDS OR CONTROLLED PLANTS  
14 UTILIZING BIOLOGICAL, CHEMICAL OR MECHANICAL MEANS OR A  
15 COMBINATION THEREOF.

16 "WIDELY ESTABLISHED." ESTABLISHED THROUGHOUT MULTIPLE  
17 COUNTIES OR MUNICIPALITIES OF THIS COMMONWEALTH.

18 SUBCHAPTER B

19 REGULATION AND ADMINISTRATION

20 SEC.

21 1511. DESIGNATION OF NOXIOUS WEEDS AND CONTROLLED PLANTS.

22 1512. PERMITS.

23 1513. GENERAL PERMITS.

24 1514. INDIVIDUAL PERMITS.

25 1515. PROHIBITED ACTS.

26 1516. NOXIOUS WEED CONTROL AREAS.

27 1517. CONTROL ORDERS.

28 1518. COMPLIANCE WITH ORDERS.

29 1519. NOXIOUS WEED LIST.

30 1520. FEES.

1 1521. POWERS AND DUTIES OF SECRETARY AND DEPARTMENT.

2 1522. STOP-SALE ORDERS.

3 1523. SEIZURE AND CONDEMNATION.

4 1524. APPEAL PROCESS.

5 1525. COOPERATION WITH OTHER ENTITIES.

6 1526. RULES AND REGULATIONS.

7 § 1511. DESIGNATION OF NOXIOUS WEEDS AND CONTROLLED PLANTS.

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

9 (1) THE CONTROLLED PLANT AND NOXIOUS WEED COMMITTEE IS  
10 ESTABLISHED IN THE DEPARTMENT AND SHALL HAVE THE POWERS OF A  
11 DEPARTMENTAL ADMINISTRATIVE BOARD.

12 (2) THE COMMITTEE SHALL BE COMPOSED OF:

13 (I) THE SECRETARY, WHO SHALL BE THE CHAIRPERSON OF  
14 THE COMMITTEE;

15 (II) THE SECRETARY OF CONSERVATION AND NATURAL  
16 RESOURCES;

17 (III) THE SECRETARY OF ENVIRONMENTAL PROTECTION;

18 (IV) THE SECRETARY OF TRANSPORTATION;

19 (V) THE EXECUTIVE DIRECTOR OF THE PENNSYLVANIA FISH  
20 AND BOAT COMMISSION AND THE EXECUTIVE DIRECTOR OF THE  
21 PENNSYLVANIA GAME COMMISSION;

22 (VI) THE CHAIRPERSON AND MINORITY CHAIRPERSON OF THE  
23 AGRICULTURE AND RURAL AFFAIRS COMMITTEE OF THE SENATE AND  
24 THE CHAIRPERSON AND MINORITY CHAIRPERSON OF THE  
25 AGRICULTURE AND RURAL AFFAIRS COMMITTEE OF THE HOUSE OF  
26 REPRESENTATIVES;

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

30 (A) ONE MEMBER OF A STATEWIDE GENERAL FARM

1           ORGANIZATION.

2           (B) ONE MEMBER REPRESENTING THE ORNAMENTAL, TURF  
3           AND HORTICULTURAL INDUSTRY.

4           (C) ONE MEMBER FROM AN INSTITUTION OF HIGHER  
5           EDUCATION WITHIN THIS COMMONWEALTH.

6           (3) EXCEPT FOR APPOINTED MEMBERS, WHO MAY BE REPRESENTED  
7           BY DESIGNEES SELECTED BY THE SECRETARY, MEMBERS MAY BE  
8           REPRESENTED BY A DESIGNEE SELECTED BY THE MEMBER.

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

12           (5) SUCCESSORS TO FILL EXPIRED TERMS OF APPOINTED  
13           MEMBERS SHALL BE APPOINTED BY THE SECRETARY. THE SECRETARY  
14           MAY APPOINT THE SAME MEMBER TO SUCCESSIVE TERMS.

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

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

20           (1) A MAJORITY OF THE COMMITTEE SHALL CONSTITUTE A  
21           QUORUM. A QUORUM OF THE COMMITTEE SHALL BE REQUIRED TO TAKE  
22           ANY ACTION. ALL ACTIONS OF THE COMMITTEE SHALL BE BY A  
23           MAJORITY VOTE.

24           (2) PRIOR TO TAKING ANY ACTION, THE COMMITTEE SHALL BE  
25           REQUIRED TO CONVENE A PUBLIC MEETING TO ELICIT COMMENTS FROM  
26           THE REGULATED COMMUNITY AND OTHER INTERESTED PARTIES. THE  
27           NOTICE AND AGENDA FOR A MEETING OF THE COMMITTEE SHALL  
28           CONTAIN A LIST OF THE PLANTS TO BE CONSIDERED FOR ADDITION TO  
29           OR DELETION FROM THE NOXIOUS WEED LIST OR CONTROLLED PLANT  
30           LIST. THE NOTICE AND AGENDA FOR A MEETING SHALL BE PUBLISHED

1 IN THE PENNSYLVANIA BULLETIN AT LEAST ONE WEEK PRIOR TO THE  
2 MEETING, EXCEPT IN THE CASE OF A SPECIAL MEETING OR  
3 RESCHEDULED MEETING AS ALLOWED UNDER 65 PA.C.S. § 709(A)  
4 (RELATING TO PUBLIC NOTICE). ALL MEETINGS SHALL BE OPEN TO  
5 THE PUBLIC AND SHALL COMPLY WITH THE REQUIREMENTS OF 65  
6 PA.C.S. CH. 7 (RELATING TO OPEN MEETINGS).

7 (3) THE COMMITTEE SHALL HAVE THE FOLLOWING POWERS AND  
8 DUTIES:

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

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

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

27 (IV) TO PUBLISH THE NOXIOUS WEED LIST AND THE  
28 CONTROLLED PLANT LIST AND ADDITIONS OR REMOVALS OR  
29 CHANGES THERETO AS A NOTICE IN THE PENNSYLVANIA BULLETIN.  
30 ANY ADDITIONS TO OR REMOVAL FROM THE NOXIOUS WEED LIST OR

1           THE CONTROLLED PLANT LIST SHALL BECOME EFFECTIVE 60 DAYS  
2           FROM PUBLICATION.

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

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

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

17           § 1512. PERMITS.

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

23           (1) FOR NOXIOUS WEEDS, THE DEPARTMENT MAY ISSUE  
24           INDIVIDUAL PERMITS. A PERMIT MAY ALLOW FOR THE CULTIVATION  
25           AND PROPAGATION OF A NOXIOUS WEED FOR RESEARCH AND  
26           EDUCATIONAL PURPOSES ONLY. THE DEPARTMENT SHALL ESTABLISH THE  
27           CRITERIA FOR A NOXIOUS WEED INDIVIDUAL PERMIT THROUGH THE  
28           ISSUANCE OF A TEMPORARY ORDER, AS SET FORTH IN SECTION  
29           1514(4) (RELATING TO INDIVIDUAL PERMITS).

30           (2) FOR CONTROLLED PLANTS, THE DEPARTMENT MAY ISSUE

1 INDIVIDUAL PERMITS OR GENERAL PERMITS. THE DEPARTMENT SHALL  
2 ESTABLISH THE CRITERIA FOR A CONTROLLED PLANT INDIVIDUAL  
3 PERMIT THROUGH THE ISSUANCE OF A TEMPORARY ORDER AS SPECIFIED  
4 UNDER SECTION 1514(4).

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

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

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

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

16 (II) INTENT TO MOVE THE LOCATION OF THE BUSINESS OR  
17 ENTITY OR THE LOCATION OF THE ACTIVITY SPECIFICALLY  
18 AUTHORIZED BY THE PERMIT.

19 (III) INTENT TO DISCONTINUE THE ACTIVITIES  
20 SPECIFICALLY AUTHORIZED BY THE PERMIT.

21 (2) UPON NOTIFICATION, THE DEPARTMENT MAY ENTER ONTO THE  
22 LAND AND PREMISES, INCLUDING BUILDINGS AND CONVEYANCES THAT  
23 WERE UTILIZED FOR OR WHERE THE PERMITTED ACTIVITY OF THE  
24 PERSON HOLDING OR REQUIRED TO HOLD A PERMIT UNDER THIS  
25 CHAPTER TOOK OR ARE TAKING PLACE, AND TO CONDUCT INSPECTIONS  
26 OF THE PREMISES AS ARE NECESSARY TO DETERMINE WHAT REMEDIAL,  
27 ERADICATION OR CONTAINMENT PRACTICES ARE NECESSARY PRIOR TO  
28 THE CLOSURE OR OTHER CHANGE OF STATUS OCCURRING.

29 (3) FAILURE TO NOTIFY THE DEPARTMENT OR OTHERWISE COMPLY  
30 WITH THE PROVISIONS OF THIS SUBSECTION SHALL BE A VIOLATION

1 OF THIS CHAPTER.

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

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

10 (2) IT IS NECESSARY TO PROTECT CROPS, LIVESTOCK,  
11 AGRICULTURAL LAND OR OTHER PROPERTY INCLUDING FOREST LAND AND  
12 BODIES OF WATER.

13 § 1513. GENERAL PERMITS.

14 GENERAL PERMITS MAY BE ISSUED FOR THE RESEARCH, MARKETING,  
15 RETAIL, WHOLESALE, TRANSPORT, STORAGE, WAREHOUSING, DISPLAY,  
16 DISTRIBUTION, CULTIVATION OR PROPAGATION OF CONTROLLED PLANTS  
17 UNDER THE FOLLOWING CIRCUMSTANCES:

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

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

25 (3) AN APPLICANT SEEKING A GENERAL PERMIT UNDER THIS  
26 SECTION SHALL INFORM THE DEPARTMENT OF THE APPLICANT'S  
27 INTENDED USE OF THE GENERAL PERMIT AND COMPLETE AN  
28 APPLICATION FOR APPROVAL TO OPERATE UNDER THE GENERAL PERMIT  
29 REQUIREMENTS. THE APPLICATION SHALL INCLUDE A WRITTEN PLAN  
30 ESTABLISHING THE PRACTICES AND METHODS THE APPLICANT WILL

1 UTILIZE IN ORDER TO ASSURE COMPLIANCE WITH THE GENERAL PERMIT  
2 REQUIREMENTS ESTABLISHED BY THE DEPARTMENT. IN ADDITION TO  
3 THE WRITTEN PLAN, THE APPLICATION SHALL STATE, AT A MINIMUM,  
4 ALL OF THE INFORMATION REQUIRED UNDER SECTION 1514(5) (I),  
5 (II), (III), (IV), (V), (VI), (VII) AND (VIII) (RELATING TO  
6 INDIVIDUAL PERMITS).

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

13 § 1514. INDIVIDUAL PERMITS.

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

16 (1) AN INDIVIDUAL PERMIT MAY BE ISSUED FOR ANY  
17 CONTROLLED PLANT WHERE:

18 (I) THE CONTROLLED PLANT HAS INDIVIDUAL  
19 CHARACTERISTICS AS TO MAKE IT DIFFICULT OR IMPOSSIBLE FOR  
20 THE DEPARTMENT TO REGULATE THROUGH A GENERAL SET OF  
21 REQUIREMENTS.

22 (II) THE LAND OR AREA ON WHICH THE CONTROLLED PLANT  
23 WILL BE CULTIVATED HAS CHARACTERISTICS AS WOULD MAKE IT  
24 DIFFICULT OR IMPOSSIBLE FOR THE DEPARTMENT TO REGULATE  
25 THE CONTROLLED PLANT.

26 (III) THE CONTROLLED PLANT IS HIGHLY REGULATED OR  
27 REQUIRES ADDITIONAL SCRUTINY BECAUSE OF A CHARACTERISTIC  
28 OF THE PLANT THAT WOULD BE HARD TO CONTROL UNDER A  
29 GENERAL PERMIT OR WHERE FEDERAL LAW PREEMPTS AND REQUIRES  
30 THE PERMITTING.

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

6           (3) THE DEPARTMENT MAY ESTABLISH THROUGH REGULATION OR A  
7 TEMPORARY ORDER, STANDARDS AND REQUIREMENTS ADDRESSING THE  
8 ISSUANCE AND CRITERIA OF AN INDIVIDUAL PERMIT FOR NOXIOUS  
9 WEEDS AND CONTROLLED PLANTS.

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

17           (I) THROUGH THE TEMPORARY ORDER, THE DEPARTMENT MAY  
18 ESTABLISH RESTRICTIONS AND STANDARDS, INCLUDING BONDING  
19 REQUIREMENTS, AS THE DEPARTMENT DETERMINES ARE NECESSARY  
20 TO:

21           (A) IDENTIFY THE SPECIFIC CHARACTERISTICS OF THE  
22 NOXIOUS WEED OR CONTROLLED PLANT OR THE CIRCUMSTANCES  
23 INCLUDING FEDERAL LAWS, REGULATIONS OR ORDERS, THAT  
24 REQUIRE THE ISSUANCE OF THE INDIVIDUAL PERMIT.

25           (B) ASSURE THE PERMIT HOLDER INSTITUTES PROPER  
26 CONTAINMENT, REMEDIATION AND ERADICATION CRITERIA TO  
27 PROTECT THE INTERESTS OF THE PUBLIC, THE NATIVE PLANT  
28 AND ANIMAL POPULATIONS IN THIS COMMONWEALTH AND THIS  
29 COMMONWEALTH'S FLORA, FAUNA AND NATURAL RESOURCES.

30           (C) ASSURE THE PERMIT HOLDER IS RESPONSIBLE FOR

1           AND HAS THE MEANS TO COVER ANY COSTS OF REMEDIATION,  
2           CONTAINMENT OR ERADICATION.

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

8           (II) THE DEPARTMENT SHALL PUBLISH THE TEMPORARY  
9           ORDER AS A NOTICE IN THE PENNSYLVANIA BULLETIN. A COPY OF  
10           THE ORDER SHALL ALSO BE DELIVERED TO THE PERSON SEEKING  
11           THE INDIVIDUAL PERMIT.

12           (III) THE PROVISIONS OF THE TEMPORARY ORDER SHALL BE  
13           APPLICABLE AS OF THE DATE OF ACTUAL OR CONSTRUCTIVE  
14           NOTICE OF THE TEMPORARY ORDER OR ANY LATER DATE SPECIFIED  
15           IN THE TEMPORARY ORDER. PUBLICATION OF THE TEMPORARY  
16           ORDER IN THE PENNSYLVANIA BULLETIN SHALL BE CONSTRUCTIVE  
17           NOTICE.

18           (IV) THE TEMPORARY ORDER SHALL REMAIN IN EFFECT FOR  
19           A PERIOD NOT TO EXCEED THE LENGTH OF TIME FOR WHICH THE  
20           INDIVIDUAL PERMIT WAS ISSUED, UNLESS THE PERMIT IS  
21           REISSUED OR EXTENDED.

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

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

29           (II) THE PHYSICAL LOCATION, INCLUDING A DETAILED  
30           PLOT MAP AND DESCRIPTION OF THE SITE TO BE PLANTED OR

1 SITE WHERE THE NOXIOUS WEED OR CONTROLLED PLANT WILL BE  
2 PROPAGATED, CULTIVATED, STORED OR DISTRIBUTED. THE  
3 DESCRIPTION OF THE LOCATION SHALL ALSO INCLUDE THE  
4 COUNTY, MUNICIPALITY AND THE NAME OF EACH ROAD BORDERING  
5 THE PHYSICAL LOCATION. THE PLOT MAP SHALL BE ATTACHED TO  
6 THE APPLICATION AND SHALL STATE THE GPS COORDINATES  
7 OUTLINING THE BOUNDARIES OF THE SITE AND OTHER IMPORTANT  
8 LANDMARKS.

9 (III) FOR A SELLER, DISTRIBUTOR, HOLDER OR  
10 DEPOSITORY OF PROPAGATION MATERIAL, THE NAME AND ADDRESS  
11 AND THE APPLICABLE FEDERAL OR COMMONWEALTH LICENSE OR  
12 CERTIFICATION NUMBER OR BOTH, WHERE APPLICABLE.

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

19 (V) THE IDENTITY OF THE INTENDED PLANT PARTS TO BE  
20 USED AND THE STAGE OF DEVELOPMENT AT PLANTING, INCLUDING  
21 SEED, RHIZOME AND CUTTING.

22 (VI) ATTESTATION THAT THE PLANT MATERIALS HAVE BEEN  
23 SELECTED FROM APPARENTLY DISEASE-FREE AND PEST-FREE  
24 SOURCES.

25 (VII) A DESCRIPTION OF THE PACKAGING AND BIOSECURITY  
26 SAFEGUARDS TO BE UTILIZED. PLANT MATERIAL SHALL BE  
27 PACKAGED AND SAFEGUARDED SUFFICIENTLY TO MAINTAIN  
28 ISOLATION FROM THE DOMESTIC ENVIRONMENT DURING  
29 TRANSPORTATION.

30 (VIII) AN ATTESTATION BY THE APPLICANT STATING THE

1 APPLICANT SHALL CONTINUE TO COMPLY WITH THE PERMIT  
2 REQUIREMENTS FOR THE DURATION OF TIME THE PLANT MATERIALS  
3 ARE IN THE PERMIT HOLDER'S POSSESSION AND THAT THE PERMIT  
4 HOLDER UNDERSTANDS AND AGREES TO THE FOLLOWING:

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

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

21 (C) IF THE PERMIT HOLDER ABANDONS, RELINQUISHES  
22 POSSESSION OR OWNERSHIP OF, CONTROL OVER OR  
23 RESPONSIBILITY FOR THE NOXIOUS WEED OR CONTROLLED  
24 PLANT IN A MANNER INCONSISTENT WITH THE PROVISIONS OF  
25 THIS CHAPTER, ALL PLANT MATERIAL REGULATED BY THE  
26 PERMIT SHALL BE DESTROYED IN A MANNER APPROVED BY THE  
27 DEPARTMENT. THE ORIGINAL PERMIT HOLDER SHALL CONTINUE  
28 TO BE RESPONSIBLE FOR THE NOXIOUS WEED OR CONTROLLED  
29 PLANT, THE COST OF DESTRUCTION AND ERADICATION OF THE  
30 NOXIOUS WEED OR CONTROLLED PLANT AND ANY PLANT

1           MATERIAL ASSOCIATED WITH THE NOXIOUS WEED OR  
2           CONTROLLED PLANT. THE ORIGINAL PERMIT HOLDER SHALL  
3           CONTINUE TO BE SUBJECT TO THE PENALTIES IMPOSED UNDER  
4           THIS CHAPTER.

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

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

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

27           (XII) A WRITTEN CONTINGENCY PLAN FOR EACH SITE FOR  
28           ERADICATION OR RECAPTURE IN THE EVENT OF AN UNAUTHORIZED  
29           ESCAPE OR INTRODUCTION OF THE NOXIOUS WEED OR CONTROLLED  
30           PLANT.

1           (XIII) AN ATTESTATION THAT THE APPLICANT SHALL  
2           COMPLY WITH ALL TERMS AND CONDITIONS CONTAINED IN THE  
3           PERMIT.

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

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

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

24          (9) BEFORE THE APPROVAL AND ISSUANCE OF AN INDIVIDUAL  
25          PERMIT, THE DEPARTMENT MAY ENTER ONTO AND INSPECT THE LAND  
26          AND PREMISES, INCLUDING BUILDINGS AND CONVEYANCES, THAT WILL  
27          BE UTILIZED FOR THE PURPOSE OF ENGAGING IN AN ACTIVITY  
28          AUTHORIZED BY THE PERMIT. THE INSPECTION SHALL BE LIMITED TO  
29          NORMAL BUSINESS HOURS.

30    § 1515. PROHIBITED ACTS.

1 (A) GENERAL COMPLIANCE.--IT SHALL BE A VIOLATION OF THIS  
2 CHAPTER TO FAIL TO COMPLY WITH ANY PROVISION OF THIS CHAPTER OR  
3 ANY REGULATION, PERMIT REQUIREMENT OR ORDER ESTABLISHED PURSUANT  
4 TO THIS CHAPTER.

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

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

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

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

21 (1) CONCEAL A NOXIOUS WEED OR CONTROLLED PLANT FROM  
22 INSPECTION; OR

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

26 § 1516. NOXIOUS WEED CONTROL AREAS.

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

28 (1) THE DEPARTMENT MAY ESTABLISH A NOXIOUS WEED CONTROL  
29 AREA THROUGH A CONTROL ORDER ISSUED BY THE DEPARTMENT UNDER  
30 SECTION 1517 (RELATING TO CONTROL ORDERS). THE ORDER SHALL BE

1 PUBLISHED IN THE PENNSYLVANIA BULLETIN AND DISSEMINATED TO  
2 PERSONS IN THE NOXIOUS WEED CONTROL AREA THAT WILL BE  
3 AFFECTED BY THE ORDER. A CONTROL ORDER SHALL REMAIN IN EFFECT  
4 UNTIL THE TIME AS IT IS RESCINDED BY THE DEPARTMENT.

5 (2) WITHIN THE NOXIOUS WEED CONTROL AREA, THE DEPARTMENT  
6 MAY PROHIBIT, WITHOUT INSPECTION, THE MOVEMENT, SHIPMENT OR  
7 TRANSPORTATION OF ANY NOXIOUS WEED OR OTHER MATERIAL CAPABLE  
8 OF CARRYING THE NOXIOUS WEED FROM THE AREA UNDER THE CONTROL  
9 ORDER.

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

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

19 § 1517. CONTROL ORDERS.

20 (A) NOXIOUS WEEDS.--

21 (1) THE DEPARTMENT MAY ISSUE A CONTROL ORDER REQUIRING A  
22 PERSON TO IMPLEMENT TREATMENT MEASURES FOR NOXIOUS WEEDS. THE  
23 CONTROL ORDER SHALL STATE THE GENERAL FACTUAL AND LEGAL BASIS  
24 FOR THE ACTION AND SHALL ADVISE THE AFFECTED PERSON THAT,  
25 WITHIN 15 DAYS OF RECEIPT OF THE CONTROL ORDER, THE AFFECTED  
26 PERSON MAY FILE WITH THE DEPARTMENT A WRITTEN REQUEST FOR AN  
27 ADMINISTRATIVE HEARING. THE HEARING SHALL BE CONDUCTED IN  
28 ACCORDANCE WITH 2 PA.C.S. (RELATING TO ADMINISTRATIVE LAW AND  
29 PROCEDURE).

30 (2) THE WRITTEN CONTROL ORDER OF THE DEPARTMENT SHALL BE

1 SERVED UPON THE AFFECTED PERSON BY PERSONAL SERVICE OR BY  
2 REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED.

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

7 (B) CONTROLLED PLANTS.--

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

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

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

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

1 § 1518. COMPLIANCE WITH ORDERS.

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

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

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

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

25 § 1519. NOXIOUS WEED LIST.

26 (A) CLASS A NOXIOUS WEEDS.--PREVENTING NEW INFESTATIONS AND  
27 ERADICATING EXISTING INFESTATIONS OF NOXIOUS WEEDS IN THE CLASS  
28 IS HIGH PRIORITY. THE FOLLOWING ARE CLASS A NOXIOUS WEEDS:

29 (1) AMARANTHUS PALMERI S. WATSON (COMMONLY KNOWN AS  
30 PALMER AMARANTH).

- 1           (2) AMARANTHUS RUDIS (COMMONLY KNOWN AS COMMON  
2 WATERHEMP).
- 3           (3) AMARANTHUS TUBERCULATUS (COMMONLY KNOWN AS TALL  
4 WATERHEMP).
- 5           (4) AVENA STERILIS L. (COMMONLY KNOWN AS ANIMATED OAT).
- 6           (5) CUSCUTA SPP., EXCEPT FOR NATIVE SPECIES (COMMONLY  
7 KNOWN AS DODDER).
- 8           (6) GALEGA OFFICINALIS L. (COMMONLY KNOWN AS GOATS RUE).
- 9           (7) HERACLEUM MANTEGAZZIANUM SOMMIER & LEVIER (COMMONLY  
10 KNOWN AS GIANT HOGWEED).
- 11           (8) HYDRILLA VERTICILLATA (L.F.) ROYLE (COMMONLY KNOWN  
12 AS HYDRILLA).
- 13           (9) OPLISMENUS HIRTELLUS (L.) P. BEAUV. SUBSP.  
14 UNDULATIFOLIUS (COMMONLY KNOWN AS WAVYLEAF BASKETGRASS).
- 15           (10) OROBANCHE SPP., EXCEPT FOR NATIVE SPECIES (COMMONLY  
16 KNOWN AS BROOMRAPE).
- 17           (11) PUERARIA LOBATE (WILLD.) OHWI (COMMONLY KNOWN AS  
18 KUDZU).
- 19           (B) CLASS B NOXIOUS WEEDS.--THE DEPARTMENT MAY REQUIRE  
20 CONTROL OF CLASS B WEEDS TO CONTAIN AN INJURIOUS INFESTATION, OR  
21 MAY PROVIDE EDUCATION OR TECHNICAL CONSULTATION. THE FOLLOWING  
22 ARE CLASS B NOXIOUS WEEDS:
- 23           (1) CARDUUS NUTANS L. (COMMONLY KNOWN AS MUSK THISTLE).
- 24           (2) CIRSIUM ARVENSE L. (COMMONLY KNOWN AS CANADA  
25 THISTLE).
- 26           (3) CIRSIUM VULGARE L. (COMMONLY KNOWN AS BULL THISTLE).
- 27           (4) EXOTIC LYTHRUM SPECIES, INCLUDING LYTHRUM SALICARIA  
28 L. (COMMONLY KNOWN AS PURPLE LOOSESTRIFE), THE LYTHRUM  
29 SALICARIA COMPLEX AND LYTHRUM VIRGATUM L. (COMMONLY KNOWN AS  
30 EUROPEAN WAND LOOSESTRIFE), THEIR CULTIVARS AND ANY

1 COMBINATION THEREOF.

2 (5) PERSICARIA PERFOLIATA (L.) H. GRASS (FORMERLY KNOWN  
3 AS POLYGONUM PERFOLIATUM L.) (COMMONLY KNOWN AS MILE-A-MINUTE  
4 WEED).

5 (6) ROSA MULTIFLORA L. (COMMONLY KNOWN AS MULTIFLORA  
6 ROSE).

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

9 (8) SORGHUM HALEPENSE (L.) PERS. (COMMONLY KNOWN AS  
10 JOHNSON GRASS).

11 (9) CONIUM MACULATUM L. (COMMONLY KNOWN AS POISON  
12 HEMLOCK).

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

19 (D) COMMITTEE DETERMINATION.--ANY PLANT OR WEED DESIGNATED  
20 AS A NOXIOUS WEED UNDER THIS SECTION AND AS AUTHORIZED UNDER  
21 SECTION 1511 (RELATING TO DESIGNATION OF NOXIOUS WEEDS AND  
22 CONTROLLED PLANTS).

23 § 1520. FEES.

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

26 (1) GENERAL PERMIT, \$150 PER PERMIT WITH A \$50 ANNUAL  
27 RENEWAL FEE.

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

30 (3) INSPECTION FEES FOR FIELD LOCATIONS - \$50 INSPECTION

1 FEE FOR UP TO 10 ACRES, WITH A \$5 PER ACRE FEE FOR EACH  
2 ADDITIONAL ACRE UP TO A MAXIMUM FEE OF \$500.

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

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

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

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

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

10 (6) LABORATORY TESTING - FEES AS ESTABLISHED IN CHAPTER  
11 71 (RELATING TO SEED).

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

23 (C) PAYMENT OF FEES.--FEES SHALL BE PAID BY CHECK, MONEY  
24 ORDER OR ELECTRONIC PAYMENT MADE PAYABLE TO THE COMMONWEALTH OF  
25 PENNSYLVANIA. FAILURE TO PAY A FEE ON TIME SHALL BE A VIOLATION  
26 OF THIS CHAPTER. A LATE FEE OF \$25 SHALL BE ASSESSED FOR EVERY  
27 MONTH THAT A FEE IS PAST DUE.

28 § 1521. POWERS AND DUTIES OF SECRETARY AND DEPARTMENT.

29 (A) GENERAL RULE.--THE SECRETARY SHALL ENFORCE THIS CHAPTER  
30 AND MAY EMPLOY ALL PROPER MEANS FOR THE ENFORCEMENT OF THIS

1 CHAPTER, INCLUDING ISSUING NOTICES OF VIOLATION AND ORDERS,  
2 FILING VIOLATIONS FOR CRIMINAL PROSECUTION, SEEKING INJUNCTIVE  
3 RELIEF, IMPOSING CIVIL PENALTIES AND ENTERING INTO CONSENT  
4 AGREEMENTS.

5 (B) GENERAL POWERS AND DUTIES OF DEPARTMENT.--THE  
6 DEPARTMENT, IN CARRYING OUT THE PROVISIONS OF THIS CHAPTER AND  
7 IN ADDITION TO ALL OTHER AUTHORITY GRANTED TO THE SECRETARY AND  
8 THE DEPARTMENT BY THIS CHAPTER, SHALL HAVE THE AUTHORITY TO:

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

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

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

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

26 (5) IF THE DEPARTMENT IS DENIED ACCESS TO ANY BUILDING,  
27 CONVEYANCE, EQUIPMENT, LAND OR VEHICLE WHERE THE ACCESS WAS  
28 SOUGHT FOR THE PURPOSES AND UNDER THE AUTHORITY SET FORTH IN  
29 THIS CHAPTER, THE SECRETARY MAY APPLY TO ANY ISSUING  
30 AUTHORITY FOR A SEARCH WARRANT AUTHORIZING ACCESS TO THE

1 BUILDING, CONVEYANCE, EQUIPMENT, LAND OR VEHICLE FOR THAT  
2 PURPOSE. THE COURT MAY, UPON APPLICATION BY THE DEPARTMENT,  
3 ISSUE THE SEARCH WARRANT FOR THE PURPOSES REQUESTED.

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

10 (D) SEARCH WARRANTS.--

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

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

26 (3) IT SHALL BE SUFFICIENT PROBABLE CAUSE TO SHOW EITHER  
27 OF THE FOLLOWING:

28 (I) THAT, IN CASES INVOLVING A PERSON WHO HOLDS AN  
29 INDIVIDUAL PERMIT OR GENERAL PERMIT UNDER THIS CHAPTER,  
30 THE INSPECTOR, EMPLOYEE OR AGENT HAS BEEN REFUSED OR

1 DELAYED ENTRY FOR THE PURPOSE OF INSPECTION.

2 (II) THE INSPECTOR, EMPLOYEE OR AGENT HAS REASONABLE  
3 GROUND TO BELIEVE THAT A VIOLATION OF THIS CHAPTER OR  
4 REGULATIONS PROMULGATED OR ORDERS ISSUED UNDER THE  
5 AUTHORITY OF THIS CHAPTER HAS BEEN OR IS OCCURRING.

6 (E) INSPECTIONS AND SAMPLING AUTHORITY.--

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

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

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

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

21 § 1522. STOP-SALE ORDERS.

22 (A) GENERAL RULE.--THE DEPARTMENT MAY ISSUE AND ENFORCE A  
23 STOP-SALE ORDER TO ANY PERSON HOLDING OR REQUIRED TO HOLD A  
24 PERMIT UNDER THIS CHAPTER OR TO ANY PERSON WHERE A NOXIOUS WEED  
25 OR CONTROLLED PLANT EXISTS. THE STOP-SALE ORDER SHALL REQUIRE A  
26 PERSON TO HOLD, AT A DESIGNATED PLACE, ANY NOXIOUS WEED OR  
27 CONTROLLED PLANT. NOXIOUS WEEDS OR CONTROLLED PLANTS SUBJECT TO  
28 A STOP-SALE ORDER ISSUED UNDER THE AUTHORITY OF THIS SUBSECTION  
29 SHALL CONTINUE TO BE HELD AT THE DESIGNATED PLACE UNTIL THE  
30 DEPARTMENT IS NOTIFIED BY THE PERSON TO WHOM THE STOP-SALE ORDER

1 WAS DIRECTED THAT THE PRESCRIBED TREATMENT MEASURE OR ACTION HAS  
2 BEEN TAKEN AND A REINSPECTION OF THE PREMISES INDICATES THE  
3 TREATMENT MEASURE HAS BEEN COMPLETED AND WAS EFFECTIVE.

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

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

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

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

16 § 1523. SEIZURE AND CONDEMNATION.

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

29 (B) RELIEF.--IN THE EVENT THAT THE COURT FINDS THE NOXIOUS  
30 WEED OR CONTROLLED PLANT TO BE IN VIOLATION OF THIS CHAPTER, A

1 PERMIT, OR ANY REGULATION PROMULGATED OR ORDER ISSUED UNDER THIS  
2 CHAPTER, THE COURT SHALL ORDER THE CONDEMNATION OF THE NOXIOUS  
3 WEED OR CONTROLLED PLANT. UPON EXECUTION OF THE COURT ORDER, THE  
4 CONDEMNED NOXIOUS WEED OR CONTROLLED PLANT SHALL BE DISPOSED OF  
5 IN ANY MANNER CONSISTENT WITH THE LAWS OF THIS COMMONWEALTH.

6 § 1524. APPEAL PROCESS.

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

14 § 1525. COOPERATION WITH OTHER ENTITIES.

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

21 § 1526. RULES AND REGULATIONS.

22 THE DEPARTMENT MAY PROMULGATE RULES AND REGULATIONS AND  
23 ESTABLISH AND ENFORCE ORDERS NECESSARY FOR ADMINISTRATION AND  
24 IMPLEMENTATION OF THIS CHAPTER IN ACCORDANCE WITH THE ACT OF  
25 JULY 31, 1968 (P.L.769, NO.240), REFERRED TO AS THE COMMONWEALTH  
26 DOCUMENTS LAW, THE ACT OF OCTOBER 15, 1980 (P.L.950, NO.164),  
27 KNOWN AS THE COMMONWEALTH ATTORNEYS ACT, AND THE ACT OF JUNE 25,  
28 1982 (P.L.633, NO.181), KNOWN AS THE REGULATORY REVIEW ACT.

29 SUBCHAPTER C

30 ENFORCEMENT

1 SEC.

2 1541. UNLAWFUL CONDUCT.

3 1542. INTERFERENCE WITH INSPECTOR, AGENT OR EMPLOYEE OF  
4 DEPARTMENT.

5 1543. ENFORCEMENT AND PENALTIES.

6 1544. INJUNCTIVE RELIEF.

7 1545. DE MINIMIS VIOLATIONS.

8 § 1541. UNLAWFUL CONDUCT.

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

12 § 1542. INTERFERENCE WITH INSPECTOR, AGENT OR EMPLOYEE OF  
13 DEPARTMENT.

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

21 § 1543. ENFORCEMENT AND PENALTIES.

22 (A) CRIMINAL PENALTIES.--UNLESS OTHERWISE SPECIFIED, A  
23 PERSON WHO VIOLATES A PERMIT, A PROVISION OF THIS CHAPTER OR A  
24 RULE OR REGULATION ADOPTED PURSUANT TO THIS CHAPTER OR ANY ORDER  
25 ISSUED UNDER THIS CHAPTER:

26 (1) FOR THE FIRST OFFENSE, COMMITS A SUMMARY OFFENSE AND  
27 MAY, UPON CONVICTION, BE SENTENCED FOR EACH OFFENSE TO PAY A  
28 FINE OF NOT LESS THAN \$100 AND COSTS OF PROSECUTION OR TO  
29 UNDERGO IMPRISONMENT FOR A TERM WHICH SHALL BE FIXED AT NOT  
30 MORE THAN 90 DAYS, OR BOTH.

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

8 (B) CIVIL PENALTIES.--

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

21           (2) NO CIVIL PENALTY SHALL BE ASSESSED UNLESS THE PERSON  
22 ASSESSED THE PENALTY HAS BEEN GIVEN NOTICE AND AN OPPORTUNITY  
23 FOR A HEARING ON THE ASSESSMENT IN ACCORDANCE WITH THE  
24 PROVISIONS OF 2 PA.C.S. CHS. 5 SUBCH. A (RELATING TO PRACTICE  
25 AND PROCEDURE OF COMMONWEALTH AGENCIES) AND 7 SUBCH. A  
26 (RELATING TO JUDICIAL REVIEW OF COMMONWEALTH AGENCY ACTION).  
27 § 1544. INJUNCTIVE RELIEF.

28           IN ADDITION TO ANY OTHER REMEDIES PROVIDED FOR IN THIS  
29 CHAPTER, THE ATTORNEY GENERAL, AT THE REQUEST OF THE SECRETARY,  
30 MAY INITIATE, IN COMMONWEALTH COURT OR THE COURT OF COMMON PLEAS

1 OF THE COUNTY IN WHICH THE DEFENDANT RESIDES OR HAS A PLACE OF  
2 BUSINESS, AN ACTION IN EQUITY FOR AN INJUNCTION TO RESTRAIN ANY  
3 AND ALL VIOLATIONS OF THIS CHAPTER, A PERMIT, ORDER, OR THE  
4 RULES AND REGULATIONS PROMULGATED UNDER THIS CHAPTER.

5 § 1545. DE MINIMIS VIOLATIONS.

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

12 SUBCHAPTER D

13 MISCELLANEOUS PROVISIONS

14 SEC.

15 1561. DISPOSITION OF FUNDS.

16 1562. PREEMPTION.

17 § 1561. DISPOSITION OF FUNDS.

18 (A) PLANT PEST MANAGEMENT ACCOUNT.--MONEY RECEIVED FROM  
19 PERMITTING FEES, CONTROL WORK REIMBURSEMENT, FINES AND PENALTIES  
20 UNDER THIS CHAPTER SHALL BE PAID INTO THE PLANT PEST MANAGEMENT  
21 ACCOUNT.

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

24 (1) FEDERAL FUNDS APPROPRIATED TO THE DEPARTMENT FOR  
25 PURPOSES OF THIS CHAPTER.

26 (2) STATE FUNDS APPROPRIATED TO THE DEPARTMENT FOR  
27 PURPOSES OF THIS CHAPTER.

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

30 § 1562. PREEMPTION.

1        ALL LOCAL LAWS CONTRARY TO THIS CHAPTER ARE PREEMPTED.

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

6        SECTION 3.    REPEALS ARE AS FOLLOWS:

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

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 THE ADDITION OF 3 PA.C.S. CH. 15.

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