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States' Noxious Weed Statutes and Regulations:

*North Carolina*



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# A National Agricultural Law Center Research Publication

## States' Noxious Weed Statutes: North Carolina

### North Carolina General Statutes

#### Chapter 106 – Agriculture

#### Article 36 – Plant Pests

#### § 106-419. Plant pest defined

A plant pest is hereby defined to mean any insect, mite, nematode, other invertebrate animal, disease, noxious weed, plant or animal parasite in any stage of development which is injurious to plants and plant products.

#### § 106-420. Authority of Board of Agriculture to adopt regulations

The Board of Agriculture is hereby authorized to adopt reasonable regulations to implement and carry out the purposes of this Article as to eradicate, repress and prevent the spread of plant pests (i) within the State, (ii) from within the State to points outside the State, and (iii) from outside the State to points within the State. The Board of Agriculture shall adopt regulations for eradicating such plant pests as it may deem capable of being economically eradicated, for repressing such as cannot be economically eradicated, and for preventing their spread within the State. Regulations may provide for quarantine of areas. It may also adopt reasonable regulations for preventing the introduction of dangerous plant pests from without the State, and for governing common carriers in transporting plants, articles or things liable to harbor such pests into, from and within the State. The Board is authorized, in order to control plant pests, to adopt regulations governing the inspection, certification and movement of nursery stock, (i) into the State from outside the State, (ii) within the State, and (iii) from within the State to points outside the State. The Board is further authorized to prescribe and collect a schedule of fees to be collected for its nursery inspection, nursery dealer certification, narcissus bulb inspection, plant pest inspection, and plant pest certification activities.

#### § 106-421. Permitting uncontrolled existence of plant pests; nuisance; method of abatement

No person shall knowingly and willfully keep upon his premises any plant or plant product infested or infected by any dangerous plant pest, or permit dangerous plants or plant parasites to mature seed or otherwise multiply upon his land, except under such regulations as the Board of Agriculture may prescribe. All such infested or infected plants and premises are hereby declared public nuisances. The owner of such plants or premises shall, when notified to do so by the Commissioner of Agriculture, take



such measures as may be prescribed to eradicate such pests. The notice shall be in writing and shall be mailed to the usual or last known address, or left at the ordinary place of business, of the owner or his agent. If such person fails to comply with such notice within such reasonable time as the notice prescribes, the Commissioner of Agriculture, through his duly authorized agents, shall proceed to take such measures as shall be necessary to eradicate such pests, and shall compute the actual costs of labor and materials used in eradicating such pests, and the owner of the premises in question shall pay to the Commissioner of Agriculture such assessed costs. No damages shall be awarded the owner of such premises for entering thereon and destroying or otherwise treating any infected or infested plants or soil when done by the order of the Commissioner of Agriculture.

### **§ 106-421.1. Authority of Board of Agriculture to regulate plants**

The Board of Agriculture shall have the sole authority to prohibit the planting, cultivation, harvesting, disposal, handling, or movement of plants as defined in G.S. 106-202.12. This section shall not prevent the designation of plants as noxious aquatic weeds pursuant to Article 15 of Chapter 113A of the General Statutes, nor shall it prevent the adoption or enforcement of city or county ordinances regulating the appearance of property or the handling and collection of solid waste.

### **§ 106-422. Agents of Board; inspection**

The Commissioner of Agriculture shall be the agent of the Board in enforcing these regulations, and shall have authority to designate such employees of the Department as may seem expedient to carry out the duties and exercise the powers provided by this Article. Persons collaborating with the Division of Entomology may also be designated by the Commissioner of Agriculture as agents for the purpose of this Article. The Commissioner of Agriculture, and any duly authorized agent of the Commissioner, shall have the authority to inspect vehicles or other means of transportation and its cargo suspected of carrying plant pests and to enter upon and inspect any premises between the hours of sunrise and sunset during every working day of the year to determine the presence or absence of injurious plant pests. Any duly authorized agent of the Commissioner shall have authority to stop or cause to be stopped on any highway or other public place, by any law-enforcement officer at the request of said authorized agent of the Commissioner, any vehicle or other means of transportation that is being used, or that the representative of the Commissioner has reasonable grounds to believe is being used, to transport or move any plant, plant product or seed in violation of the provisions of this Article.

### **§ 106-423.1. Criminal penalties; violation of laws or regulations**

If anyone shall attempt to prevent inspection of his premises as provided in the preceding sections, or shall otherwise interfere with the Commissioner of Agriculture, or any of his agents, while engaged in the performance of his duties under this Article, or shall violate any provisions of this Article or any regulations of the Board of Agriculture adopted pursuant to this Article, he shall be guilty of a Class 3 misdemeanor. Each day's violation shall constitute a separate offense.



## North Carolina Administrative Code

### Title 02 – Agriculture and Consumer Services

#### Chapter 48 – Plant Industry

#### Section 1700 - State Noxious Weeds

#### 02 NCAC 48A .1701 Definitions

The following definitions shall apply to this Section:

- (1) Administrator. The Plant Pest Administrator of the North Carolina Department of Agriculture and Consumer Services, Plant Industry Division;
- (2) Board. The North Carolina Board of Agriculture;
- (3) Certificate. A document issued by a specialist to allow the movement of noncontaminated regulated articles to any destination;
- (4) Class A. Any noxious weed on the Federal Noxious Weed List or any noxious weed that is not native to the state, not currently known to occur in the state, and poses a threat to the state;
- (5) Class B. Any noxious weed that is not native to the state, is present in fewer than 20 counties statewide, and poses a threat to the state;
- (6) Class C. Any noxious weed not meeting the definition of a Class A or Class B noxious weed for which the Commissioner has determined that eradication is not feasible;
- (7) Commissioner. The Commissioner of the North Carolina Department of Agriculture and Consumer Services or his authorized representative;
- (8) Compliance Agreement. A written agreement between a person engaged in growing, handling, or moving regulated articles, and the North Carolina Department of Agriculture and Consumer Services, Plant Industry Division;
- (9) Infestation. The presence of a noxious weed in any stage of development;
- (10) Noxious Weed. Any plant in any stage of development, including parasitic plants whose presence whether direct or indirect, is detrimental to crops or other desirable plants, livestock, land, or other property, or is injurious to the public health;
- (11) Limited Permit. A document issued by a specialist to allow the movement of noncertified regulated articles to a specified destination for special handling, utilization, or processing, or for treatment;
- (12) Regulated Article. Any noxious weed or any article described in this Section which is capable of carrying a noxious weed;
- (13) Regulated Area. Any state or territory or any portion thereof of the United States described in this Section which is infested with a noxious weed;
- (14) Scientific Permit. A document issued by the Administrator to authorize the movement of regulated articles to a specified destination for scientific purposes;
- (15) Specialist. Any authorized employee of the North Carolina Department of Agriculture and Consumer Services, Plant Industry Division, or any other person authorized by the Commissioner of Agriculture to enforce the provisions of this Section.



## 02 NCAC 48A .1702 Noxious Weeds

(a) Class A Noxious Weeds. The North Carolina Board of Agriculture hereby establishes the following list of Class A Noxious Weeds:

- (1) All weeds listed in 7 C.F.R. 360.200 which is hereby incorporated by reference including subsequent amendments and editions. A full list of Federal Noxious Weeds may be found at: [http://www.access.gpo.gov/nara/cfr/waisidx\\_07/7cfr360\\_07.html](http://www.access.gpo.gov/nara/cfr/waisidx_07/7cfr360_07.html);
- (2) Elodea, African – Lagarosiphon spp. (all species);
- (3) Fern, Water – Salvinia spp. (all except *S. minima*);
- (4) Floating Heart, Crested – *Nymhoides cristata*;
- (5) Floating Heart, Yellow – *Nymphoides peltata*;
- (6) Stonecrop, Swamp – *Crassula helmsii*;
- (7) Water-chestnut – *Trappa* spp.; and
- (8) Water Snowflake – *Nymphoides indica*.

(b) Class B Noxious Weeds. The North Carolina Board of Agriculture hereby establishes the following list of Class B Noxious Weeds:

- (1) Bushkiller – *Cayratia japonica* Thunb.;
- (2) Fieldcress, Yellow – *Rorippa sylvestris* (L.) Bess.;
- (3) Lythrum – Any *Lythrum* species not native to North Carolina;
- (4) Mile-a-Minute – *Persicaria perfoliata* (L.) H. Gross;
- (5) Puncturevine – *Tribulus terrestris* L.;
- (6) Thistle, Canada – *Cirsium arvense* (L.) Scop.;
- (7) Thistle, Musk – *Carduus nutans* L.;
- (8) Thistle, Plumeless – *Carduus acanthoides* L.;
- (9) Vitex, Beach – *Vitex rotundifolia* L.f.;
- (10) Watermilfoil, Eurasian – *Myriophyllum spicatum* L.; and
- (11) Waterprimrose, Uruguay – *Ludwigia hexapetala* (Hook & Arn.) Zardini, Gu & Raven.



(c) Class C Noxious Weeds. The North Carolina Board of Agriculture hereby establishes the following list of Class C Noxious Weeds: Bittersweet, Oriental - *Celastrus orbiculatus* Thunb.

## 02 NCAC 48A .1703 Regulated Areas

- (a) Except as permitted in 02 NCAC 48A .1705 and .1706, the following is prohibited:
- (1) The movement of Beach Vitex (*Vitex rotundifolia* L.F.) or any regulated article infested with Beach Vitex from the following counties: Brunswick, Carteret, Currituck, Dare, Hyde, New Hanover, Onslow, Pender;
  - (2) The movement of Bushkiller (*Cayratia japonica* Thunb.) or any regulated article infested with Bushkiller from the following counties: Davidson, Forsyth, Mecklenburg;
  - (3) The movement of Canada Thistle [*Cirsium arvense* (L.) Scop.] or any regulated article infested with Canada Thistle from the following counties: Ashe, Avery, Haywood, Mitchell, Northampton, Yancey;
  - (4) The movement of Class A, B, or C noxious weeds or any regulated article infested with Class A, B, or C noxious weeds into North Carolina;
  - (5) The movement of a Class A noxious weed or any regulated article infested with any Class A noxious weed is prohibited within the state;
  - (6) The movement of Eurasian Watermilfoil (*Myriophyllum spicatum* L.) or any regulated article infested with Eurasian Watermilfoil from the following counties: Halifax, Northampton, Perquimans, Tyrrell, Warren;
  - (7) The movement of Mile-a-Minute (*Persicaria perfoliata* (L.) H. Gross) or any regulated article infested with Mile-a-Minute from that portion of Alleghany County East of Highway 113 beginning at the Virginia border to the junction with Highway 18 and Northwest of Highway 18 beginning at the junction with Highway 113 all the way to the junction with U.S. Highway 21 in Sparta and West of Highway 21 to the North Carolina border with Virginia;
  - (8) The movement of Musk Thistle (*Carduus nutans* L.) or any regulated article infested with Musk Thistle from the following counties: Buncombe, Cleveland, Chatham, Gaston, Henderson, Lincoln, Madison, Randolph, Rowan, Rutherford;
  - (9) The movement of Plumeless Thistle (*Carduus acanthoides* L.) or any regulated article infested with Plumeless Thistle from the following counties: Haywood, Jackson, Madison, Watauga;
  - (10) The movement of Puncturevine (*Tribulus terrestris* L.) or any regulated article infested with Puncturevine from the following county: New Hanover;



(11) The movement of any *Lythrum* species not native to North Carolina or any regulated article infested with any nonnative *Lythrum* species from the following counties: Forsyth, Watauga;

(12) The movement of Uruguay Waterprimrose [*Ludwigia hexapetala* (Hook & Arn.) Zardini, Gu & Raven] or any regulated article infested with Uruguay Waterprimrose from the following counties: Bladen, Brunswick, Columbus, Durham, Granville, Hyde, New Hanover, Orange, Rowan, Wake, Warren;

(13) The movement of Yellow Fieldcress [*Rorippa sylvestris* (L.) Bess.] or any regulated article infested with Yellow Fieldcress from the following county: Orange;

(14) The movement of Oriental Bittersweet (*Celastrus orbiculatus* Thunb.) or any regulated article infested with Oriental Bittersweet from the following counties: Alleghany, Ashe, Avery, Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, Mitchell, Swain, Transylvania, Watauga, Wilkes, Yancey;

(15) The sale or distribution of any Class A or B noxious weed; and (16) The sale or distribution of any Class C noxious weed outside a regulated area.

(b) Other regulated areas. The Commissioner shall designate as a regulated area any state or portion of a state in which there is reasonable cause to believe that a noxious weed exists, and there is a need to prevent its introduction, spread or dissemination in North Carolina.

## **02 NCAC 48A .1704 Regulated Articles**

The following articles are regulated under the provisions of this Section:

(1) Soil, compost, peat, humus, muck, decomposed manure, sand, and gravel, either separately or mixed with other articles; except that potting soil commercially prepared and free of noxious weed seed, packaged and shipped in original containers is not a regulated article;

(2) Nursery stock including growing media (houseplants grown in a home and not for sale are excluded);

(3) Grass sod;

(4) Used mechanized soil-moving equipment, cultivating equipment and harvesting machinery, except when decontaminated and cleaned free of soil;

(5) Hay, straw, or other material of a similar nature;





(6) Any means of conveyance of any noxious weed when such conveyance is determined by the Administrator to present a hazard of spread of noxious weeds and the person in possession of such conveyance has been so notified.

## **02 NCAC 48A .1705 Conditions Governing the Movement of Regulated Articles**

(a) A certificate or permit must accompany the movement of regulated articles from regulated areas into North Carolina.

(b) A certificate or permit must accompany the movement of regulated articles from a regulated area in North Carolina to a non-regulated area in North Carolina.

## **02 NCAC 48A .1706 Issuance of Certificates and Limited Permits**

(a) Certificates may be issued by a specialist for the movement of regulated articles under the following conditions:

(1) In the judgment of the specialist, they have not been exposed to infestations;

(2) They have been examined by the specialist and found to be free of noxious weeds;

(3) They have been treated under the direction of the specialist with control measures effective under the conditions applied;

(4) They have been grown, produced, stored, or handled in such manner that, in the judgment of the specialist, designated noxious weeds would not be transmitted by movement of the article.

(b) Limited permits may be issued by a specialist for the movement of noncertified regulated articles to specified destinations for limited handling, utilization, processing or treatment when the specialist determines no hazard of spread of noxious weeds exists.

(c) Scientific permits may be issued by the Administrator to allow the movement of noxious weeds in any living stage and any regulated articles for scientific purposes under such conditions as may be prescribed in each specific case by the Plant Pest Administrator. Scientific permits are issued pursuant to 02 NCAC 48A .1300.

(d) Certificates or limited permits, which ensure the pest-free premises for the following:

(1) Nurseries growing seedlings for afforestation or reforestation purposes; and

(2) Sod farms producing sod for establishment of ornamental turf, shall be issued by an inspector for intrastate and interstate shipments of conifer seedlings, hardwood seedlings and sod. To ensure pest-free premises, forest seedling nurseries and sod farms designated for crop production may be fumigated or treated with a fumigant such as methyl bromide or other pesticide registered with the United States Environmental Protection Agency. Each shipment originating from another





state shall be accompanied by a certificate or limited permit issued by the state of origin to verify fumigation or other treatments.

(e) As a condition of issuance of certificates or limited permits for the movement of regulated articles, any person engaged in purchasing, assembling, exchanging, handling, processing, utilizing, treating, or moving such articles shall sign a compliance agreement stipulating that he will maintain such safeguards against the establishment and spread of infestation and comply with such conditions as to the maintenance of identity, handling and subsequent movement of such articles, and the cleaning and treatment of means of conveyance and containers used in the transportation of such articles, as may be required by the specialist.

### **02 NCAC 48A .1707 Cancellation of Certificates and Limited Permits**

Any certificate, limited permit, scientific permit, or compliance agreement which has been issued or authorized may be canceled by the specialist if he determines that the holder has not complied with conditions for its use.

### **02 NCAC 48A .1708 Inspection and Disposal**

Any specialist is authorized to stop and inspect, any person or means of conveyance moving within or from the State of North Carolina upon probable cause to believe that such means of conveyance or articles are infested with a noxious weed; and, such specialist is authorized to seize, treat, destroy, or otherwise dispose of articles found to be moving in violation of these Rules.

