

TITLE 4.AGRICULTURE

Part 1. TEXAS DEPARTMENT OF AGRICULTURE

Chapter 19. QUARANTINES AND NOXIOUS PLANTS

Subchapter T. NOXIOUS PLANTS

4 TAC §19.300

The Texas Department of Agriculture (the department) proposes new §19.300, concerning a list of noxious plants. Proposed new §19.300 is necessary to implement the establishment of a noxious plant list in accordance with the passage of Senate Bill 854, 78th Texas Legislature, 2003, which amended the Texas Agriculture Code (the Code), §71.151. Amendments to the Code, §71.151 require the department by rule to publish a list of noxious plant species that have serious potential to cause economic or ecological harm to the state. The department has consulted with representatives from the agriculture industry, the horticulture industry, the Texas Cooperative Extension, the Texas Department of Transportation, the State Soil and Water Conservation Board, and the Texas Department of Parks and Wildlife in the preparation of this list. The department has considered scientific data and the economic impact of each plant species listed. Proposed new §19.300 establishes a list of noxious plants for Texas.

David Kostroun, assistant commissioner for regulatory programs, has determined that for the first five years the new section is in effect, there will be no fiscal implications for state or local government for the administration and enforcement of the new section.

Mr. Kostroun has also determined that for each year of the first five years the new section is in effect, the public benefit anticipated as a result of enforcing and administering the new section will be the recognition of plants in Texas that may cause economic or ecological harm to the state. By law, the noxious plants listed may not be sold, distributed or imported in Texas. There is an anticipated cost to individuals, micro-businesses or small businesses acting as nurseries that are required to comply with the new section. Salt cedar, a listed noxious plant, may be sold at some nurseries and there will be a fiscal impact on nurseries that sell or import salt cedars, however, because the department does not maintain information on the number of locations selling the plants and the quantity of plants sold annually, nor is the information available from other sources, the department is unable to provide an estimate of anticipated costs to affected nurseries at this time.

Comments on the proposal may be submitted to David Kostroun, assistant commissioner for regulatory programs, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711, and must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The new section is proposed under the Texas Agriculture Code (the code), §12.016, which provides the department with the authority to adopt rules as necessary for carrying out the department's duties under the code, Chapter 71; and the code §71.151, which authorizes the department to publish a list of noxious plant species that have serious potential to cause economic or ecological harm to the state.

The code that will be affected by the proposal is the Texas Agriculture Code, Chapter 71.

§19.300.Noxious Plant List.

(a) The following plants have serious potential to cause economic or ecological harm to the state.

Figure: 4 TAC §19.300(a)

(b) Unless permitted by the Texas Department of Parks and Wildlife Code §66.007 or by the Texas Department of Agriculture, a person commits an offense under the Texas Agriculture Code, §71.152, if the person sells, distributes or imports into the state the plants listed in subsection (a) of this section in any live form.

(c) For the purpose of this section, the term "distributes" does not include the accidental or unintentional movement of noxious plant material in the course of legitimate construction activities or agricultural activities, including but not limited to, re-seeding, transportation of agricultural products and the movement of farm or earth moving equipment.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 18, 2004.

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Deputy General Counsel

Texas Department of Agriculture

Earliest possible date of adoption: November 28, 2004

For further information, please call: (512) 463-4075

Figure: 4 TAC §19.300(a)

Common Name	<i>Botanical Name</i>
alligatorweed	<i>Alternanthera philoxeroides</i>
balloonvine	<i>Cardiospermum halicacabum</i>
Brazilian peppertree	<i>Schinus terebinthifolius</i>
broomrape	<i>Orobanche ramosa</i>
camelthorn	<i>Alhagi camelorum</i>
Chinese tallow tree	<i>Triadica sebiferum</i>
deeprooted sedge	<i>Cyperus entrerianus</i>
distaff thistle	<i>Carthamus lanatus</i>
Eurasian watermilfoil	<i>Myriophyllum spicatum</i>
giant duckweed	<i>Spirodela oligorrhiza</i>
giant reed	<i>Arundo donax</i>

hedge bindweed	<i>Calystegia sepium</i>
hydrilla	<i>Hydrilla verticillata</i>
itchgrass	<i>Rottboellia cochinchinensis</i>
Japanese dodder	<i>Cuscuta japonica</i>
kudzu	<i>Pueraria montana</i> var. <i>lobata</i>
lagarosiphon	<i>Lagarosiphon major</i>
paperbark	<i>Melaleuca quinquenervia</i>
purple loosestrife	<i>Lythrum salicaria</i>
rooted waterhyacinth	<i>Eichhornia azurea</i>
Saltcedar	<i>Tamarix</i> spp.
Salvinia	<i>Salvinia</i> spp.
Serrated tussock	<i>Nassella trichotoma</i>
Torpedograss	<i>Panicum repens</i>
Tropical soda apple	<i>Solanum viarum</i>
water spinach	<i>Ipomoea aquatica</i>
water trumpet	<i>Cryptocoryne beckettii</i>
waterhyacinth	<i>Eichhornia crassipes</i>
waterlettuce	<i>Pistia stratiotes</i>