

Dear Senators HARTGEN, Nichols, Semmelroth, and
Representatives ANDRUS, Raymond, Mathias:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the
Department of Agriculture:

IDAPA 02.06.09 - Rules Governing Invasive Species and Noxious Weeds - Proposed Rule (Docket
No. 02-0609-2402).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 12/02/2024. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 12/30/2024.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the
memorandum attached below.



Terri Kondeff
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Agricultural Affairs Committee and the House Agricultural Affairs Committee

FROM: Legislative Drafting Attorney - Alli Olson

DATE: November 13, 2024

SUBJECT: Department of Agriculture

IDAPA 02.06.09 - Rules Governing Invasive Species and Noxious Weeds - Proposed Rule (Docket No. 02-0609-2402)

Summary and Stated Reasons for the Rule

The Idaho Department of Agriculture submits notice of proposed rulemaking for the Rules Governing Invasive Species and Noxious Weeds, IDAPA 02.06.09. The Department states that the agency is proposing to reduce categorization of Turkish thistle from EDRR to Control category and to add EDRR language that was missed during the last rulemaking session.

Negotiated Rulemaking / Fiscal Impact

The Department states that negotiated rulemaking was conducted and notice was published in the July 3, 2024, Idaho Administrative Bulletin, Volume 24-7, pages 49-50. The Department also states that there are no associated fees nor fiscal impact to the General Fund.

Statutory Authority

The Department of Agriculture appears to have the authority to promulgate this rule pursuant to Section 22-2403, Idaho Code.

cc: Department of Agriculture
Lloyd Knight

*** PLEASE NOTE ***

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

Paul Headlee, Deputy Director Matt Drake, Manager Keith Bybee, Manager April Renfro, Manager Norma Clark, Manager
Legislative Services Office Research & Legislation Budget & Policy Analysis Legislative Audits Information Technology

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IDAPA 02 – IDAHO STATE DEPARTMENT OF AGRICULTURE
02.06.09 – RULES GOVERNING INVASIVE SPECIES AND NOXIOUS WEEDS
DOCKET NO. 02-0609-2402
NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-2403, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2024.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking.

The department received two separate petitions proposing new additions to the Noxious Weed List – one for Palmar amaranth and one for Myrtle spurge. Palmar amaranth is a weed species found in agricultural crop lands. Myrtle spurge is a landscaping species. Both species have either had an impact on agricultural production or present a threat to landscapes or native species. Both have degrees of prevalence in the state.

In addition, the agency is proposing to reduce categorization of Turkish thistle from EDRR to Control category and to add EDRR language that was missed during the last rulemaking session.

Two negotiated rulemaking meetings were held, and participation includes stakeholders from weed management agencies, cooperators, agricultural industry, and the general public. There was not consensus on the petitions for listing of the two species. Those species are not proposed to be listed in this Proposed Rule. No negative comments were submitted about the re-categorization of Turkish Thistle or adding the EDRR language.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

There is no change in fee or charge.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

There is no fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000).

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2024 Idaho Administrative Bulletin, [Volume 24-7, Pages 49 and 50](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

There are no changes to documents already incorporated by reference.

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(1), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. The following sections of the rule are broader in scope, more stringent than federal law or regulations, or regulate an activity not regulated by the federal government:

The federal government does not regulate state invasive species or noxious weeds within the state. This activity is defined in Title 22, Chapter 24, Idaho Code.

The detailed 22-101A analysis can be found on the agency's website at www.agri.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lloyd Knight at lloyd.knight@isda.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2024.

DATED this 2nd day of October, 2024.

Lloyd Knight
Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8615
Email: lloyd.knight@isda.idaho.gov.

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0609-2402
(Only Those Sections With Amendments Are Shown.)

02.06.09 – RULES GOVERNING INVASIVE SPECIES AND NOXIOUS WEEDS

220. NOXIOUS WEEDS - DESIGNATIONS.

The weeds listed on the Statewide Prohibited Genera, EDRR, Containment, and Control lists are hereby officially designated and published as noxious. (3-15-22)

01. Statewide Prohibited Genera Noxious Weed List. (3-15-22)

a. All plants and plant parts in the genera of: *Cytisus*, *Genista*, *Spartium*, and *Chamaecytisus* additionally including “all” subtaxa of these plant genera are prohibited in Idaho. (3-15-22)

b. Weeds listed in the Prohibited Genera list may exist in varying populations throughout the state. The concentration of these weeds is at a level where control and/or eradication may be possible. A written plan for weeds on the Statewide Prohibited Genera Noxious Weed List shall be developed by the control authority that specifies active control methods to reduce known populations in not more than five (5) years. The plan shall be available to the Department upon request. (3-15-22)

02. Statewide EDRR Noxious Weed List. Weeds listed in the EDRR list are not known to exist in Idaho, however, have the potential to become established, or are known to exist in Idaho in small enough infestations that eradication is possible. If any of the listed plants (Subsection 220.02) are found to occur in Idaho, they shall be reported to the Department within ten (10) days following positive identification by the University of Idaho or other

qualified authority as approved by the Director. These weeds shall be eradicated during the same growing season as identified.

	Common Name	Scientific Name
1.	Brazilian Elodea	<i>Egeria densa</i>
2.	Cogongrass	<i>Imperata cylindrica</i>
3.	Common/European Frogbit	<i>Hydrocharis morsus-ranae</i>
4.	Fanwort	<i>Cabomba caroliniana</i>
5.	Feathered Mosquito Fern	<i>Azolla pinnata</i>
6.	Giant Hogweed	<i>Heracleum mantegazzianum</i>
7.	Giant Salvinia	<i>Salvinia molesta</i>
8.	Goatsrue	<i>Galega officinalis</i>
9.	Hydrilla	<i>Hydrilla verticillata</i>
10.	Iberian Starthistle	<i>Centaurea iberica</i>
11.	Policeman’s Helmet	<i>Impatiens glandulifera</i>
12.	Purple Starthistle	<i>Centaurea calcitrapa</i>
13.	Squarrose Knapweed	<i>Centaurea triumfetti</i>
14.	Starry Stonewort	<i>Nitellopsis obtusa</i>
15.	Syrian Beancaper	<i>Zygophyllum fabago</i>
16.	Tall Hawkweed	<i>Hieracium piloselloides</i>
17.	Turkish Thistle	<i>Carduus cinereus</i>
18. 7.	Variable-Leaf-Milfoil	<i>Myriophyllum heterophyllum</i>
19. 8.	Water Chestnut	<i>Trapa natans</i>
20. 19.	Water Hyacinth	<i>Eichhornia crassipes</i>
24. 0.	Yellow Devil Hawkweed	<i>Hieracium glomeratum</i>
22. 1.	Yellow Floating Heart	<i>Nymphoides pelata</i>

(7-1-24)()

03. Statewide Control Noxious Weed List. Weeds listed in the control list are known to exist in varying populations throughout the state. The concentration of these weeds is at a level where control or eradication, or both, may be possible. A written plan for weeds on the Statewide Control Noxious Weed List shall be developed by the control authority that specifies active control methods to reduce known populations in not more than five (5) years. The plan shall be available to the Department upon request.

	Common Name	Scientific Name
1.	Black Henbane	<i>Hyoscyamus niger</i>
2.	Bohemian Knotweed	<i>Polygonum X bohemicum</i>

	Common Name	Scientific Name
3.	Common Crupina	<i>Crupina vulgaris</i>
4.	Common Reed (Phragmites)	<i>Phragmites australis</i>
5.	Dyer's Woad	<i>Isatis tinctoria</i>
6.	Eurasian Watermilfoil	<i>Myriophyllum spicatum</i> (and hybrids)
7.	Flowering Rush	<i>Butomus umbellatus</i>
8.	Giant Knotweed	<i>Polygonum sachalinense</i>
9.	Japanese Knotweed	<i>Polygonum cuspidatum</i>
10.	Johnsongrass	<i>Sorghum halepense</i>
11.	Matgrass	<i>Nardus stricta</i>
12.	Meadow Knapweed	<i>Centaurea debeauxii</i>
13.	Mediterranean Sage	<i>Salvia aethiopsis</i>
14.	Musk Thistle	<i>Carduus nutans</i>
15.	Orange Hawkweed	<i>Hieracium aurantiacum</i>
16.	Parrotfeather Milfoil	<i>Myriophyllum aquaticum</i>
17.	Perennial Sowthistle	<i>Sonchus arvensis</i>
18.	Russian Knapweed	<i>Acroptilon repens</i>
19.	Scotch Broom	<i>Cytisus scoparius</i>
20.	Small Bugloss	<i>Anchusa arvensis</i>
21.	Turkish Thistle	<i>Carduus cinereus</i>
24.	Vipers Bugloss	<i>Echium vulgare</i>
23.	Yellow Hawkweed	<i>Hieracium caespitosum</i>

(7-1-24)()

04. **Statewide Containment Noxious Weed List.** Weeds listed in the containment noxious weeds list are known to exist in various populations throughout the state. Weed control efforts may be directed at reducing or eliminating new or expanding weed populations while known and established weed populations, as determined by the weed control authority, may be managed by any approved weed control methodology, as determined by the weed control authority.

	Common Name	Scientific Name
1.	Canada Thistle	<i>Cirsium arvense</i>
2.	Curlyleaf Pondweed	<i>Potamogeton crispus</i>
3.	Dalmatian Toadflax	<i>Linaria dalmatica ssp. dalmatica</i>
4.	Diffuse Knapweed	<i>Centaurea diffusa</i>
5.	Field Bindweed	<i>Convolvulus arvensis</i>

	Common Name	Scientific Name
6.	Hoary Alyssum	<i>Berteroa incana</i>
7.	Houndstongue	<i>Cynoglossum officinale</i>
8.	Jointed Goatgrass	<i>Aegilops cylindrica</i>
9.	Leafy Spurge	<i>Euphorbia esula</i>
10.	Milium	<i>Milium vernale</i>
11.	Oxeye Daisy	<i>Leucanthemum vulgare</i>
12.	Perennial Pepperweed	<i>Lepidium latifolium</i>
13.	Plumeless Thistle	<i>Carduus acanthoides</i>
14.	Poison Hemlock	<i>Conium maculatum</i>
15.	Puncturevine	<i>Tribulus terrestris</i>
16.	Purple Loosestrife	<i>Lythrum salicaria</i>
17.	Rush Skeletonweed	<i>Chondrilla juncea</i>
18.	Saltcedar	<i>Tamarix</i> spp.
19.	Scotch Thistle	<i>Onopordum acanthium</i>
20.	Spotted Knapweed	<i>Centaurea stoebe</i>
21.	Tansy Ragwort	<i>Senecio jacobaea</i>
22.	White Bryony	<i>Bryonia alba</i>
23.	Whitetop (Hoary Cress)	<i>Cardaria draba</i>
24.	Yellow Flag Iris	<i>Iris pseudocorus</i>
25.	Yellow Starthistle	<i>Centaurea solstitialis</i>
26.	Yellow Toadflax	<i>Linaria vulgaris</i>

(3-15-22)

05. Designation of Articles Capable of Disseminating Noxious Weeds. The following articles are designated by the Director as capable of disseminating noxious weeds: (3-15-22)

- a.** Construction equipment, road building and maintenance equipment, and implements of husbandry. (3-15-22)
- b.** Motorized vehicles such as, all-terrain vehicles, motorcycles, and other off-road vehicles and non-motorized vehicles such as bicycles and trailers. (3-15-22)
- c.** Grain and seed. (3-15-22)
- d.** Hay, straw and other material of similar nature. (3-15-22)
- e.** Nursery stock including plant material propagated for the support of aquarium, pet, or horticultural activities. (3-15-22)
- f.** Feed and seed screenings. (3-15-22)
- g.** Fence posts, fencing and railroad ties. (3-15-22)

- h.** Sod. (3-15-22)
- i.** Manure, fertilizers and material of similar nature. (3-15-22)
- j.** Soil, sand, mulch, and gravel. (3-15-22)
- k.** Boats, personal watercraft, watercraft trailers, and items of a similar nature. (3-15-22)