

***Idaho State Department of Agriculture
IDAPA 02.06.22 Noxious Weed Rules
July 14, 2017***

Present: Dennis Fix, Far West Garden Center; Seneca Hull, Franz Witte; Jonathan Oppenheimer, Idaho Conservation League; Angela Rossmann, Great Old Broads for Wilderness; W. Dallas Burkhalter, ISDA/Office of the Attorney General; Janis Perry, ISDA.

AGENDA ITEMS

WELCOME

The meeting convened at 1:40 pm.

The group started by discussing the ideas that had been shared by email to the rest of the group.

Jonathan Oppenheimer suggested:

1. Establish a pilot program wherein the following measures and practices could be applied during a 1 year pilot program period.
2. At the conclusion of the pilot program, ISDA, in association with the Yew working group, assess whether the measures are meeting the goal of reducing wildlife mortality associated with toxic Yew plants.
3. If mortality exceeds 50 documented wildlife deaths (in any 12 month period), the ISDA will reconvene the Yew Working Group, and reinitiate rulemaking to reconsider classification of Japanese and English Yew plants under existing noxious weed lists.
4. Consistent with Option B, require Japanese Yew and English Yew to be designated as “Poisonous Plants” and labeled at the point of sale.
5. Require garden and nursery retailers to impose a ~\$10/per plant surcharge on the sales of Japanese and English Yews to fund monitoring and support education efforts.
6. ISDA will support efforts by retailers to develop a statewide or individualized “Japanese/English Yew Buy-Back Program.”
7. ISDA will work with the Idaho Department of Fish and Game to establish a Yew Mortality Monitoring Program to determine when and where wildlife mortality occurs as a result of yew consumption.
8. ISDA will work with the IDFG to map high-risk areas (where yew may be present, where mortalities have occurred in the past, where wintering wildlife may be exposed to yew, and in suspected areas of conflict).
9. ISDA will work with the IDFG and other interests (county weed supervisors, conservation interests, homeowner associations) to provide information, materials and training on covering yew during winter months.
10. ISDA will track Yew sales determining point of sale and intended planting location, including plantings in high-risk areas in deer/elk/antelope winter range.
11. The establishment of a Yew Working Group consensus alternative does not preclude efforts on the part of wildlife and conservation advocates, or others, to pursue efforts at the county level to prohibit the sale of toxic yews in any county.

Angela Rossman expressed concern that we would ask Fish and Game and ISDA to do more. She suggested putting this in the hands of an NGO. Brian Brooks indicated that we are not trying to overburden them but could use their GIS systems for tracking. Angela also wanted assessment criteria and parameters defined.

Brian Brooks presented the proposal from the Idaho Wildlife Federation:

1. Require yew retailers impose a cost per plant (or % of sale) surcharge on every sale of Japanese and English Yew. Funds raised from this surcharge will implement education and outreach efforts on the effects of the plants. Revenues from surcharges will also fund a wildlife monitoring program which tracks wildlife mortality caused by yews.
2. ISDA supports retailers to develop a statewide buy-back program, encouraging property owners in the Wildland Urban Interface (WUI) to remove toxic yew plants.
3. ISDA will work with the Idaho Department of Fish and Game to establish priority maps where high-risk areas are highlighted where wintering wildlife are common next to private property, where yew deaths have been documented, etc. Maps will be consulted by retailer and consumer for every yew purchase made.
4. Consistent with Option B, require (or voluntary) poisonous plant label to be attached to yew plants and provide high-risk wildlife mortality map (mentioned in suggestion 3) to consumer.
5. Knowingly participating in activities that molest or waste wild animals is illegal in Idaho. Nurseries and other yew retailers, and Associations representing their interests, will collectively pay the same penalties for animal waste related to yew consumption that all Idaho citizens are subject to under Idaho Code 36-1404. (Would be like an insurance fund.)
6. Establish a yearlong pilot program for the above suggestions, or any suggestions that come from this working group. During this one year pilot program, ISDA will work with the Yew Working Group and provide yew retailers outreach regarding the program.
7. At conclusion of the one year pilot program ISDA will reconvene the Yew Working Group to assess and determine whether the measures of the program are meeting goals of reduced wildlife mortality associated with yews.
8. If another significant mortality event related to yews occurs from now on, ISDA will reconvene the Yew Working Group to reinitiate rulemaking to reconsider other options to reduce wildlife mortality.

Bob DiGrazia proposed:

1. Immediate Ban until
2. Rule making can determine cause of action still
3. Statewide ban or hopefully allowing local municipalities to ban or ban on all interfaces of conflict
4. I support as a hunter solution or option C
5. Further and I agree legislative action to prevent unlicensed landscape business with no liability to continue with no consequences and that should be extended to Nursery's who do so
6. Remember the University of Idaho has a five year program for a Bachelor of Science in Landscape. This under cuts those who receive these degrees and the University of Idaho
7. Those who violate this rule making should be held accountable as to poaching

The group agreed that it had no authority to handle unlicensed landscape businesses.

Angela Rossman asked if the nurseries would consider not selling yew plants during the pilot year. Seneca Hull indicated that she could not see that happening. Dennis Fix asked Angela if she had sent in comments. Angela stated that her petition spoke for her position and she was verbalizing her thoughts. She did advocate for public awareness, but felt that a moratorium on sales was important.

Seneca Hull stated that yew plants have been around for 2000 years. She is completely on board with educating people about them. She indicated that we don't want to see animals die. 90% of where they are planted, it is not a problem.

Angela Rossman reminded the group that a bull ate cuttings from a ditch and died. Dennis Fix indicated that even if yew were not sold, this could still happen.

Seneca indicated that the Yew Awareness information will be available on the INLA website and on their consumer website. INLA will also conduct seminars in January 2018 and at the Flower and Garden Show. Also information will be in their newsletters. She stated that they will work with Fish & game on mapping big game hot spot areas.

Jonathan Oppenheimer asked if the tag that Seneca proposed would be the same as Option B. She said it would be voluntary and indicated that there are many more poisonous plants to start a list.

Angela Rossman asked how do we verify compliance. She commented that one county wanted to stop the sale of yew but was now in the middle of a struggle because other county members did not agree.

In regards to the poisonous plant list, Dennis Fix commented that next plant, next year. He did not see where it would stop.

Brian Brooks wanted to set yew apart.

Seneca Hull suggested that someone could go to the growers, like Monrovia, to see how to label plants and encourage them to label plant tags with more information.

Jonathan Oppenheimer asked what % of nurseries are INLA members. Seneca said in the Boise area a good majority, probably 75%. Angela stated that Boise is setting an example for new yews with CC&Rs requiring the planting of no new yews. Jonathan encouraged the group to consider mappy where wildlife come into contact with people.

Angela Rossman stated that the noxious weed rule is not perfect, but it is what we have been given.

Jonathan Oppenheimer stated that is ISDA decided not to prohibit the sale, is the intent of today's meeting to do what? To establish a surcharge? INLA is supportive?

Dallas Burkhalter explained the procedure was to see if a compromise that the group could agree upon. The comment period ends July 15. ISDA has the option to proceed with a rule or withdraw. The Director will make the decision.

Angela Rossman stated that the other petitioner would not withdraw her petition even though she had not been involved in negotiated rulemaking.

Seneca Hull stated that if a portion of the license fee that would go to research would fund this endeavor, she felt the nursery folks could reach agreement. If a moratorium on yew sales, it would not happen. She indicated that a surcharge would be harder to police than a fee added to the license.

Angela Rossman felt we need to help people be informed. However, since a consensus could not be reached, the decision will fall to ISDA.

The meeting concluded at 3:20 pm.

Respectfully submitted by Janis Perry.