



# Negotiated Rulemaking

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IDAPA 02.06.09

# Outline

- Early Detection Rapid Response update
- Petition to add Palmer amaranth
- Petition to add Myrtle spurge
- Turkish thistle considerations
- Discussions



# Early Detection Rapid Response Update

- 02. Statewide EDRR Noxious Weed List. 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.

# Early Detection Rapid Response Update

- 02. Statewide EDRR Noxious Weed List. Weeds listed in the EDRR list are; not known to exist in Idaho however have the potential 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.

Petition to add  
Palmer amaranth  
*Amaranthus palmerii*



**IDAHO STATE DEPARTMENT OF AGRICULTURE ("ISDA")  
PETITION TO INITIATE RULEMAKING**

All rulemaking petitions must substantially comply with IDAPA 04.11.01.820, which addresses petitions to initiate rulemaking as described by Section 67-5230, Idaho Code. The requirements have been laid out below. ISDA will consider all petitions and act to either initiate or deny rulemaking in accordance with I.C. § 67-5230(1) and IDAPA 04.11.01.821.

Please note that ISDA may only conduct rulemaking within the authority provided it by statute in order to govern the department's jurisdiction. See I.C. § 22-101(3). Prior to petitioning ISDA, please verify and understand the authority of ISDA as it relates to the petition's desired outcome. If a petition for rule change is outside of ISDA's legal authority, it will be denied.

Name of petitioner(s): Clarke Alder, MS, Weed Scientist, Amalgamated Sugar

Address of petitioner: 1951 South Saturn Way Suite 100, Boise, ID 83709

Phone number of petitioner: 208-989-7400

Email address of petitioner: calder@amalsugar.com

**Petitioner's interest in matter:**

I am a Research Agronomist and Weed Scientist working with 182,000 acres of sugarbeets in ID/OR.

Palmer amaranth is a substantial threat to weed control efforts in sugarbeet and other agronomic crops.

These pigweeds have been found in Idaho - can cause large yield losses.

**Describe the nature of the rule or amendment to the rule and the petitioner's suggested rule or amendment:** Please add Palmer amaranth (Amaranthus palmeri) to the state noxious weed list for EDRR and/or controlling and containing.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Name of the statute, order, rule or other controlling law:**  
Idaho State Noxious Weed Listing  
\_\_\_\_\_

**Factual allegations upon which the petitioner relies to support the proposed rulemaking:**

PA is native to the desert southwest and northern Mexico. It is a pigweed now adapted to agricultural systems.

PA has been known to be resistant to up to 11 modes of action, including groups 14, 9, and 2.

PA was discovered at a significant scale across southern ID and eastern OR in 2023 with 5 populations already in growers' fields. PA is an annual that can significantly decrease yields in many agronomic crops.

**Citations of cases and/or statutory provisions that apply (optional):**  
\_\_\_\_\_  
\_\_\_\_\_



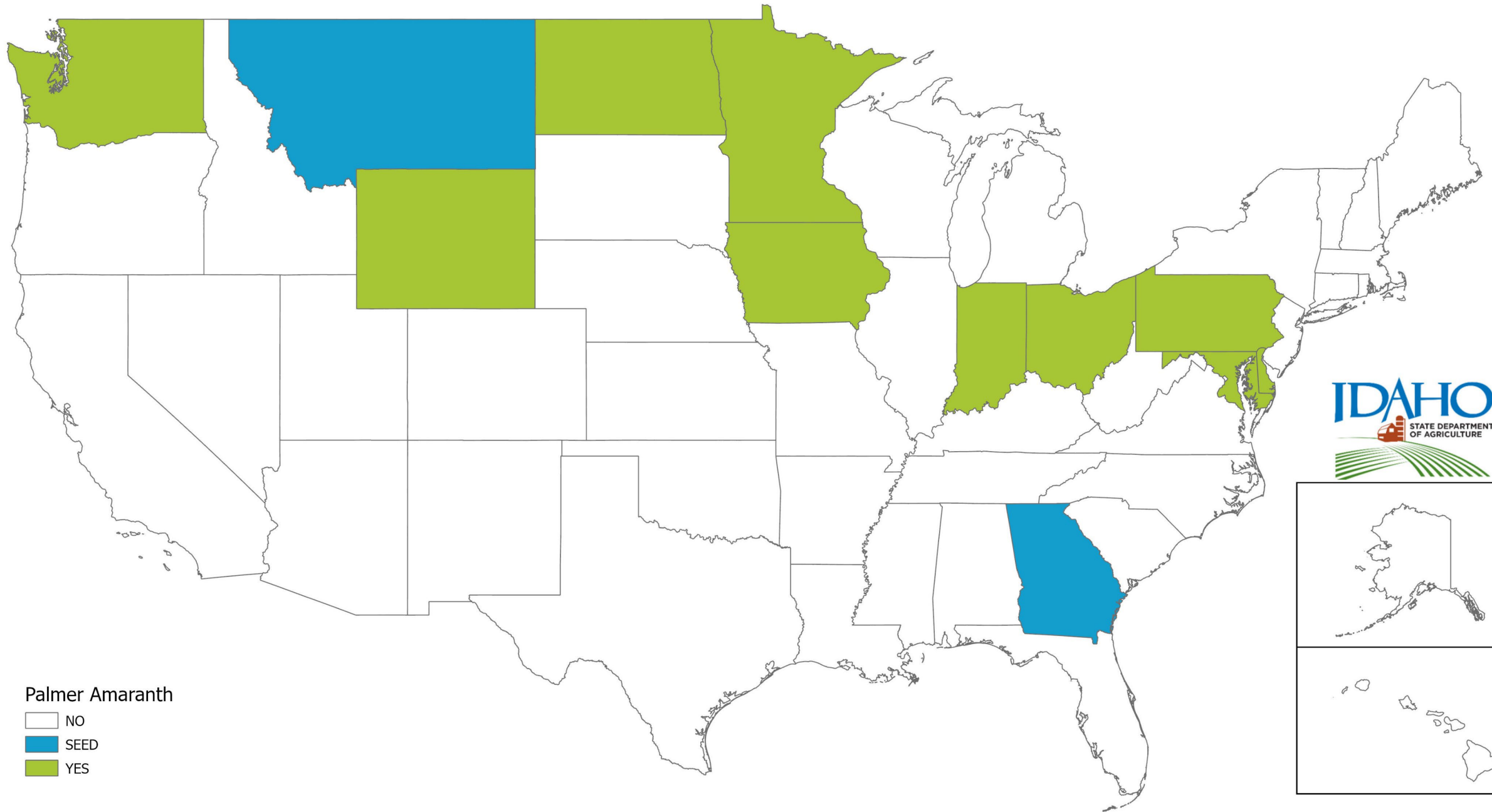


# Palmer Amaranth ID

- Summer Annual
- Can grow to 6-8ft tall
  - On average 2-3 inches per day
- Diamond shaped leaves
  - Petiole length is longer than leaf surface
- Male and female flowers are on separate plants
  - Clustered in a tight linear or sometimes branched terminal spikes up to 18 inches in length
- Prolific seeder 100,000 – 500,000 seeds per plant, which can remain for 3-5 years







# Palmer amaranth info

- Problematic species in Corn, Soybeans, Cotton, Sugar beet, & potatoes
  - Sited to reduce yields by 91% corn and 79% in Soybeans by USDA NRCS
  - Idaho grows 70% of hybrid temperate sweet corn seed
  - Idaho produces 20% of total US yields of sugar beets
  - Idaho produces 30% of US potatoes
- Has been documented most commonly as resistant to HRAC group 9- glyphosate, and HRAC group 2- Imidazolinones (Imazapyr), Pyrimidinyl benzoates (Pyrifthalid), Sulfonanilides, Sulfonylureas (Chlorsulfuron), Triazolinones (Flucarbazone-Na), Triazolopyrimidines (Metosulam)

# Considerations for or against listing

- If listed, what would be the financial impacts to producers and counties in Idaho should control be taken under the Noxious Weed Statute and Administrative Rule?
- Other species on the current list do have the ability to impact row crop yields however traditional control methods can be utilized. Palmer amaranth would pose more of an issue due to its resistance.
- Complications of phytosanitary certification of forage and small seed crops.
- No articles listing impacts to native rangelands. Majority of articles reference impacts to Agricultural row crop/cultivated fields, Gardens, & Flower beds.

# Considerations for or against listing

## Association of Official Seed Analysts

The seed is visually indistinguishable from many other *Amaranthus* species, which causes concern for identification. Due to this we advise extreme caution when reporting *Amaranthus* species. Seed analysts must take into consideration if possible the location of production, any available field inspection information, state where seed was produced, type of crop, etcetera when making species determination for *Amaranthus* contaminants. If the laboratory has no access to this type of information and it is impossible for the laboratory to definitively determine if the *Amaranthus* in question is or is not *Amaranthus palmerii*, it is imperative that any *Amaranthus* be listed as *Amaranthus sp.* and classified as noxious on a Report of Analysis when reporting an All States Noxious Weed Test. A disclaimer stating that the species cannot be determined and may be *Amaranthus palmerii* should be included with this. Inaccurate identification of *Amaranthus sp.* on a Report of Analysis may cause stop sales and further action by regulatory officials.



# Additional Information

## **IDAPA 02.06.09- Rules Governing Invasive Species and Noxious Weeds**

- Contains the list of noxious weeds for the state of Idaho based on category
  - Prohibited
  - EDRR
  - Control
  - Contain
- Contains no designation for seed specific listings

## **IDAPA 02.06.01- Rules Governing the Production and Distribution of Seed**

- Is for Growers of bluegrass or rapeseed, sellers and distributors of seed
- Section 150.-Noxious Weeds
  - Has a table for prohibited noxious weeds seeds list (35 weeds)
  - Has a table for restricted noxious weed seeds (8 weeds)
  - Has a restricted noxious weed tolerance descriptions (7 tolerances set)

Petition to add  
Myrtle spurge  
*Euphorbia myrsinites*



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Name of petitioner(s): Paul Allen

Address of petitioner: 7961 W. Pocatello Creek Rd., Pocatello, Id. 83201

Phone number of petitioner: 208 241-5265

Email address of petitioner: pokyalen@hotmail.com

Petitioner's interest in matter:

Invasive species dominating & crowding out native plants & altering ecological landscapes

Describe the nature of the rule or amendment to the rule and the petitioner's suggested rule or amendment: Invasive Plant Species

Euphorbia myrsinites is an escaped landscaping ornamental which is seriously disrupting native plant communities in eastern Idaho. It can dominate local landscapes to the exclusion of other plants. It also can be a significant skin & eye irritant to humans. It should urgently be added to Idaho's noxious weed list.

Name of the statute, order, rule or other controlling law: Idaho Code 22:24

Factual allegations upon which the petitioner relies to support the proposed rulemaking:

Still localized but invasive of native landscapes in southern Idaho - (see distribution on iNaturalist link below) Bannock County has serious emerging problem. (Personal observations)

The infestations remain localized (for a few years) making it amenable to eradication if addressed promptly.

Citations of cases and/or statutory provisions that apply (optional):

Listed as noxious weed in Colorado & Washington States (& Oregon)

<https://www.nwcb.wa.gov/weeds/myrtle-spurge>

[https://www.inaturalist.org/observations?place\\_id=22&subview=map&taxon-id=82511](https://www.inaturalist.org/observations?place_id=22&subview=map&taxon-id=82511)

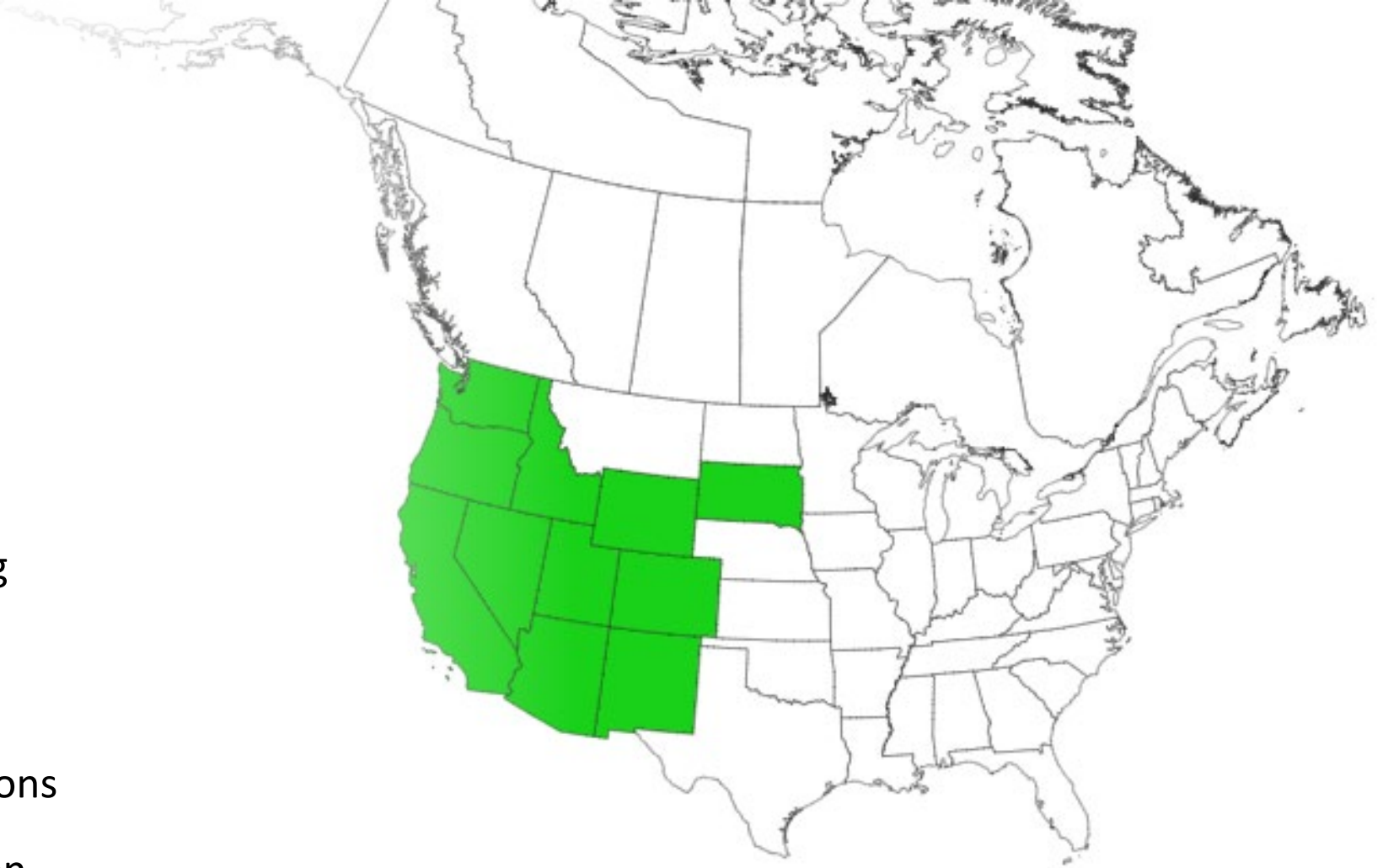
<https://www.weeds.org/pdf/myrtleSpurge.pdf>



# Myrtle Spurge

*Euphorbia  
mysrinites*

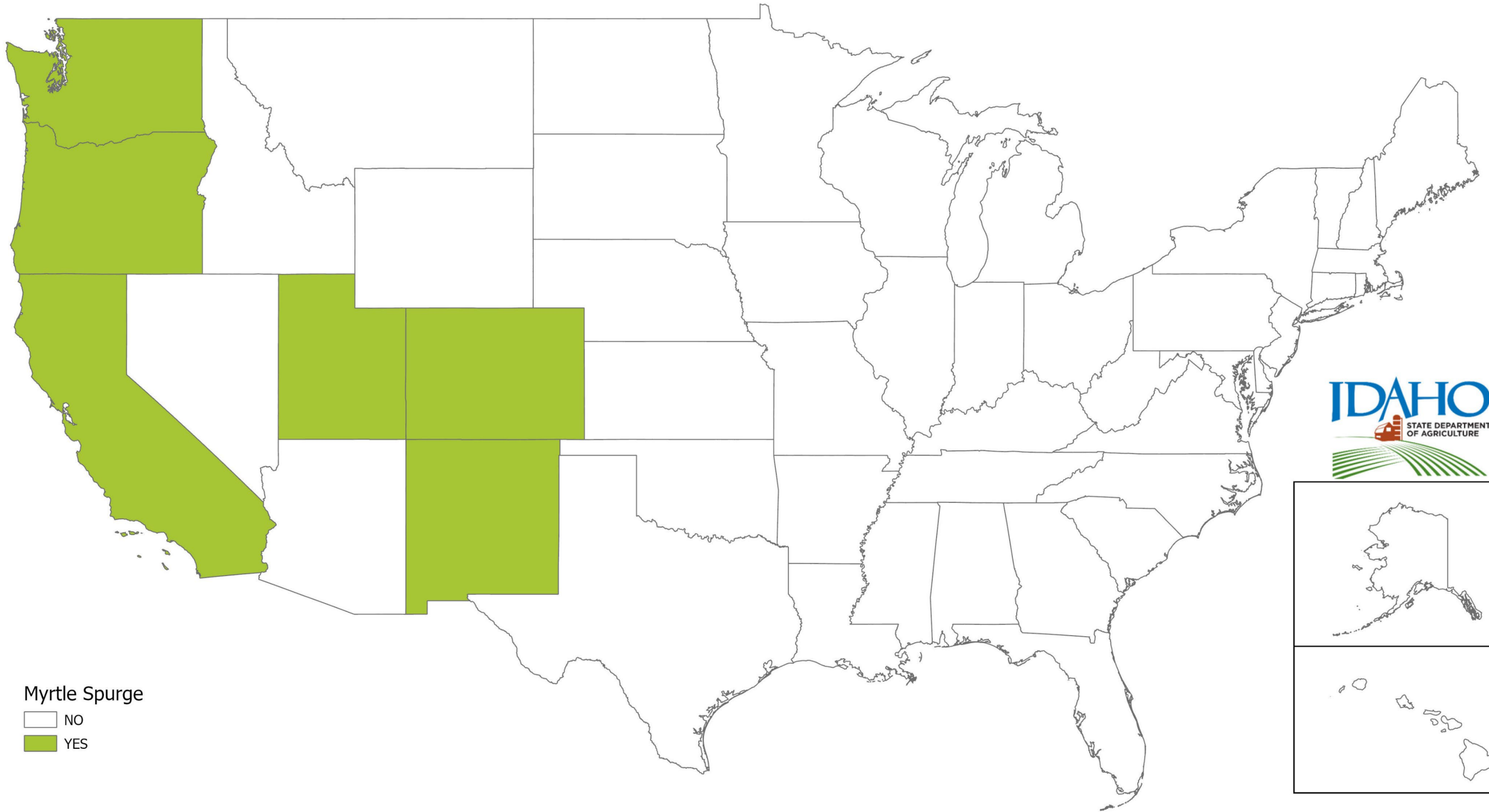
- Native to Eurasia
- Most commonly seen as an escaped ornamental planting
- Plant can cause skin and eye irritation and is toxic if consumed.
- Idaho counties with infestations recorded: Latah, Nez Perce, Idaho, Lemhi, Payette, Canyon, Ada, Jerome, Minidoka, Bannock, and Bear Lake (EDDMapS)





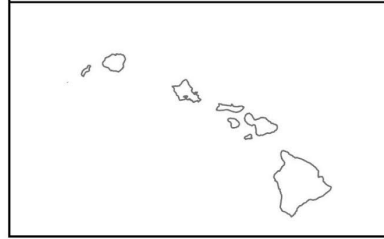
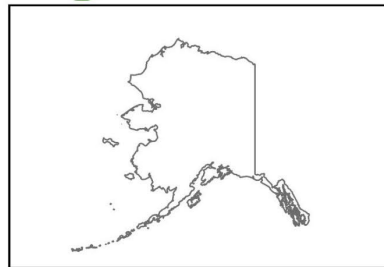
# Myrtle Spurge ID

- Perennial or biennial
- Can grow between 6 – 12 inches
- Leaves grow in alternate tight spirals, are thick and grey-blue in color, have a waxy appearance and are oval to wedge shaped.
- Flowers are a neon yellow-green with yellow bract and grow in clusters
  - Each seed pod produces 3 seeds that resemble peach pits
- Most commonly grows in disturbed areas and waste places.



Myrtle Spurge

- NO
- YES



# Considerations for or against listing

- Myrtle spurge is sold commonly as an ornamental planting (also called donkey tail spurge).
- Although there are cases where Myrtle spurge has invaded into rangeland settings, most control efforts would need to be toward ornamental settings.
- When introduced to rangeland setting due to disturbance it can quickly outcompete native species and degrade native range (Washington Noxious Weed Control Board)
- Plant is receptive to chemical and mechanical control methods, no bio control currently available for this species

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

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

**02. Statewide EDRR Noxious Weed List.** 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.

**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.

**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.

# Turkish thistle considerations

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- Turkish thistle was listed as an Early Detection Rapid Response Species temporarily in 2020 and officially in 2021.
- Work on this species has been conducted by ISDA, Idaho County, and the Wallowa-Wittman Forest Service.
- Each year has resulted in more being found:
  - 2020: 2 sites estimated at 20 acres or less, contained in Hells Canyon
  - 2022: 5 sites estimated at 280 acres, in both Hells Canyon and Salmon River Canyon
  - 2023: 15 sites estimated at 340 acres, in both Hells Canyon and Salmon River Canyon possible suspect sites outside of canyons
  - 2024: More intensive survey conducted in Hells Canyon finding thousands of acres. Found Northeast of Grangeville and South of Kooskia



# Turkish thistle considerations

- As there are now thousands of acres confirmed of Turkish thistle, with potentially more as surveys increase, is now the time to consider changing from EDRR to Control category?
- How would a change in category effect ongoing work on this species?



# Discussion-

- Early Detection Rapid Response update-
  - Accept/reject?
- Petition to add Palmer amaranth-
  - Accept/reject?
  - Noxious weed Category?
  - Noxious weed Seed?
- Petition to add Myrtle spurge-
  - Accept/reject?
  - Noxious weed Category?
- Turkish thistle considerations-
  - Modify category?



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