Testimony to the NJ Senate Environment and Energy Committee in support of S2186 - Prohibits sale, distribution, or propagation of certain invasive plant species without permit from Department of Agriculture.

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Consensus Recommendations for Invasives Species Management Legislation

Prepared by Invasive Species subgroup: Sandra Chen, Emile DeVito, Jeanne Fox, Amy Greene, John Landau, Patricia Shanley, and Michael Van Cleff

The NJ Forest Task Force came to a very strong consensus that robust management of invasive species (including plants, vertebrate and invertebrate animals, and pathogens) is imperative to protect New Jersey’s public and private forests as well as agricultural production and urban landscapes.

* Accelerating environmental damages from invasive species in NJ are exacerbating negative global and local climate change impacts.
* Control of invasive species is necessary to maintain the climate defence ecosystem services required for New Jersey’s future.

We understand that two bills have been introduced by the legislature (Invasive Plant Regulation bill S2186/A3677 and Invasive Species Task Force bill A2629), but we ask that the recommendations below be considered to strengthen them, ideally beginning with amendments to Invasive Plant Regulation bill S2186/A3677. This bill to regulate the sale, distribution, and propagation of invasive plants can be a foundational building block for invasive species management by halting the continuing purposeful spread of harmful species and establishing best practice invasive species management governance.

New Jersey is one of only four states in the continental US and two states in the Northeast that have no commercial plant regulations (the other Northeast state is Rhode Island). But there is an opportunity and need for regional leadership– the average overlap of regulated species lists across neighboring states is only 17% with the highest amount of neighbor overlap being just above 50%.[[1]](#footnote-1) This neighbor-to-neighbor inconsistency seriously impairs the effectiveness of state regulations because invasive species spread widely and freely without any regard for state borders.

The New Jersey Forest Task Force recommendations for Invasives Species Legislation to bring NJ towards leadership are:

1. Adopt the definition established by the National Invasive Species Council -

“An invasive species is:

1) non-native (alien) to the ecosystem under consideration, and

2) whose introduction causes or is likely to cause economic or environmental harm or harm to human health.”

1. The foundational invasive species management bill, ideally an amended S2186, should legislatively re-establish a permanent and updated New Jersey Invasive Species Council (NJISC) to develop and manage a binding policy and process to regulate and manage invasive plants, vertebrate and invertebrate animals, and pathogens, operating with full public transparency and engagement.

An NJISC should be ‘in but not of’ the Department of Agriculture and DEP, with additional experts and stakeholders representing other interests including New Jersey Invasive Species Strike Team, New Jersey Nursery and Landscape Association, New Jersey Highlands Council, Pinelands Commission, New Jersey Agricultural Experiment Station, universities, ecologists, botanists, non-profit conservation groups and indigenous peoples.

The Invasives Species Council shall be authorized to:

* + Develop practical strategies and policy to collaboratively research, deploy, monitor, and promote invasive species control methods including but not limited to
		- Regulation of sale, distribution, and propagation
		- Integrated Pest Management methods
		- Biocontrols to mitigate existing widespread invasives
		- Application of deer herd reduction
		- Prescribed burns
		- Reducing unintended human-assisted spreading
		- Community outreach and engagement
	+ Define a robust, transparent regulatory protocol consistent with proven best practices, with one model being the regulatory protocol established in New York and recently adopted in Pennsylvania.
	+ Maximize the effectiveness and efficiency of invasive species management within the context of scarce resources of NJDEP and NJDA
		- Form partnerships with NJ organizations such as the New Jersey Invasive Species Strike Team (NJISST)
		- Harness volunteers, including youth volunteers to improve their connections to the natural world
		- Build multifaceted collaborations and cooperations with regional states and the Northeast Regional Invasive Species and Climate Control (NERISCC) consortium
	+ Promote and coordinate data from citizen-scientist mobile app and web-based tools and associated invasive species distribution databases
		- Includes EDDMaPs as managed by NJISST and other states, iMap Invasives as managed by New York State, and iNaturalist.
	+ Develop and manage the state strategic plan for invasive species control.
		- The first consideration should be to review the 2009 Invasive Species Strategic plan which is still largely relevant.
		- Re-adoption or adoption-with-updates should be done if it is determined to be the most timely and efficient approach.
		- The council should define a regular schedule to review the plan and update it as warranted
	+ Develop strategy and policy to slow the human-assisted spread of existing invasives through best practices adoption including
		- Firewood regulations
		- North America Invasives Species Management (NAISMA) “Play-Clean-Go” and “Weed Free Products” programs (Programs - NAISMA )
	+ Focus heavily on community outreach and education through partnerships and collaborations as well as direct outreach from NJDEP and NJDA
* Focus on channels, media and content investments specific to New Jersey
* Leverage existing and extensive outreach and training materials such as Penn State University extension, Lower Hudson PRISM and NJISST instead of spending time to recreate these resources.
1. Regarding regulation of the sale, distribution and propagation of invasive species:
	* The current proposed S2186 list of species to be regulated is acceptable as a quick start, but it is only a small and static sample of commercial invasive threats. The re-establishment of the NJISC should be authorized to proceed upon enactment of the law so that a more robust entity can immediately begin to evaluate the full suite of harmful invasive species.
	* Listing or de-listing an invasive species shall be an administrative (non-legislative) process to be initiated by the identification of specific species for regulation by NJISC. Identification for regulation shall be determined by NJISC original evaluation or by NJISC review of all species regulated by the states of NY, PA, CT, MD, DE or VA. The criteria to be considered include:

(1) the threat the species poses to native species in the State;

(2) the threat the species poses to any sensitive habitats or endangered or threatened species in the State;

(3) the threat the species poses to any historical, cultural, or infrastructure resources in the State; and

(4) the likelihood that the species will escape intended areas of use and propagate uncontrolled in the State.

(1-4 are per proposed S2186 section 4.b. with “areas of use” replacing “cultivated areas”)

* + - Requiring that any protocol must consider the inclusion of species already vetted and listed (including any sterile cultivars within one of those species that are already vetted and excepted) by neighboring states will:
			* Save significant time and work during the review process, allow New Jersey to benefit from the significant efforts of our neighboring states
			* Efficiently enforce the regional coordination often cited as critical to controlling invasive species
		- Because invasives species management becomes exponentially more difficult and improbable as the population of a species grows, the legislation should stipulate that newly emerging invasive species should be priorities for NJISC review and listing even though many of these species are not yet ‘obviously’ causing severe damage in natural areas.
			* This strategy fits well with the widely established invasive species management practice of “Early Detection / Rapid Response” (EDRR) to prevent harm while it is still practical and possible.
	+ A deadline of no more than 1 year should be mandated to create the first complete regulated invasive species list. The NJISC shall:
		- Designate for regulation the species listed in the proposed NJ S2186/A3677 as well as review for designation any species that are regulated in NY, PA, CT, MD, DE or VA . Not designating any species regulated in these states requires an active and fully documented decision.
		- Evaluate the 191 plant species and 97 other species listed as Widespread, Emerging, and Watch/Potential as of 2022 by the New Jersey Invasive Species Strike Team as candidates for regulation.
		- Continuing to evaluate and designate species for regulation, whether proposed in New Jersey or regulated in neighboring states, shall be an on-going responsibility of the council.
		- Allow the sale, distribution, and propagation of sterile cultivars of otherwise regulated species that are approved for sale in NY, PA, CT, DE, or VA and determined by the council to be safe for NJ.
		- Establish the policy and requirements for all permitted and regulatory exceptions.
		- Establish labeling and educational material requirements such as
			* Labeling and education material requirements regarding distribution and sale of excepted cultivars
			* Labeling of invasive plants being sold during their phase-out period
	+ The NJISC shall consider the impacts of species regulation decisions on the New Jersey nursery and landscape industry, including making reasonable efforts to minimize economic burdens.
		- The inventory life cycle for growers may be less than a year for annuals to a decade or more for trees.
		- The current proposed S2186 phase-out period of 24 months is an unfair and unnecessary economic burden for the nursery industry. We recommend building a dichotomy that emphasizes differences between newly emerging vs. already widespread species as well as the dichotomy between widely sold vs. not widely sold species. An example suggested phase-out period is provided below:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Pipeline FlushCategory | Annual Plants Timeline | Perennial HerbaceousPlantsTimeline | Woody Shrub Species Timeline | Tree Species Timeline |
| Species not widely planted or newly emerging species in natural areas | 1 yr | 2 yrs | 3yrs | 5 yrs |
| Widely planted species or already widespread species in natural areas | 2 yrs | 3 yrs | 5 yrs | 10 yrs |

* + Penalties imposed by NJDA should involve fines sufficient to stop and prevent violation.
		- NJDA may give a warning or small fine for a first offense, but fines must escalate to many thousands of dollars for subsequent offenses.
	+ Regulated species are permanently listed, requiring an administrative action to change a specific listing status. New listings may be added on an ongoing basis. To assure currency, the full regulated species list should be reviewed by NJISC at minimum of every three years. This will allow consideration of newly emerging invasive species, including species that are beginning to spread due to a warming climate.
1. To cost-effectively increase the pool of NJ Invasives Species Management Resources, legislation should allow for the creation of one or more formal public/private partnerships similar to the New York State PRISM’s (Partnerships in Regional Invasives Species Management, e.g. LowerHudson PRISM).

Partner Groups should include organizations such as:

* + - New Jersey Invasive Species Strike Team
		- NY/NJ Trail Conference (this organization hosts Lower Hudson PRISM with headquarters in Mahwah New Jersey)
		- County Park Commissions
		- NJ Land Conservancies
		- Rutgers Environmental Stewards, NJ Forestry Association Woodland Stewards and other citizen-steward organizations
		- New Jersey Youth Corp and other youth-engagement organizations
		- NJ Native Plant Society

Sources:

1. Beaury, E.M., E.J. Fusco, J.M. Allen, and B.A. Bradley (2021) “Invasive plant regulations in the United States are reactive and inconsistent”,Journal of Applied Ecology

**Neighboring State Information**

**New York**

New York Regulation:

https://www.dec.ny.gov/docs/lands\_forests\_pdf/isprohibitedplants2.pdf

Report to Legislators: https://www.dec.ny.gov/docs/lands\_forests\_pdf/invasive062910.pdf

NY Invasive Species Council: https://www.dec.ny.gov/animals/6989.html

Specifics and background information: https://www.dec.ny.gov/animals/99141.html

**Pennsylvania**

Pennsylvania Invasive Species Council - https://www.agriculture.pa.gov/Plants\_Land\_Water/PlantIndustry/GISC/Pages/default.aspx

PA invasives plan - https://www.agriculture.pa.gov/Plants\_Land\_Water/PlantIndustry/GISC/Documents/PISC%205%20Year%20Plan.pdf

PA legislation - https://www.legis.state.pa.us/cfdocs/legis/li/uconsCheck.cfm?act=46&sessInd=0&yr=2017

They utilized the species evaluation system established by New York and are considering adding species to the regulated list.

http://cedatareporting.pa.gov/reports/powerbi/Public/AG/PI/PBI/PISC%20Invasive%20Species

https://woodyinvasives.org/regulatory-information/pennsylvania/

**Connecticut Regulation**

https://cipwg.uconn.edu/ct-state-invasive-plant-laws/#

**Delaware Regulation**

https://whyy.org/articles/ban-on-invasive-plants-great-win-for-delaware-conservation/

https://legis.delaware.gov/json/BillDetail/GenerateHtmlDocument?legislationId=48260&legislationTypeId=1&docTT

**Virginia Regulation**

https://vnps.org/action-alert-phasing-out-the-propagation-and-sale-of-invasive-plants/

**Maryland Regulation**

Maryland Invasive Plants Prevention and Control

1. [↑](#footnote-ref-1)