

IPAC Meeting Notes 4/11/2022

Participants:

Maile Neel: University of Maryland (UMD) Dean of College of Agriculture and Natural Resources

Kim Rice: Maryland Department of Agriculture (MDA)

Cathy Stragar: Maryland Department of Agriculture (MDA)

Steven Bell: Maryland Department of Agriculture (MDA) Nursery Inspector

Sarah Hilderbrand: Maryland Department of Natural Resources (DNR) Chesapeake and Coastal Services

Jennifer Vaccaro: Landscape architect and Partner in Sustainable Resource Management

Joel Bush: Maryland Department of Transportation (MDOT) Forester in office of Environmental Design

Kim brought the meeting to a start at 9:30AM on the virtual Google Meets platform and had participants introduce themselves since it's been two years between meetings.

Membership

Membership was the first item on the agenda for the committee to discuss. Kim went over the vacancies on the committee. Several vacancies were discussed.

1. DNR replacement vacancy. Sarah explained that there had been some quick turnover in that position which Colleen had filled. Hopefully the new person once they are hired will be a good candidate for it.
2. MDE representative vacancy. Kim will work with executive team to replace John Sullivan. The coming administration change can complicate some of these position changes.
3. Two Industry member vacancies. Kim has reached out to MNLGA, will follow-up.
4. NGO and Advocacy vacancy. Current member Deborah Landau Nature Conservancy did not respond for a request to attend, some uncertainty about her status on the committee. Jennifer suggests Alliance for the Chesapeake's Craig Highfield also CCLC might be good too if a replacement for this position is needed.
5. Consumer Vacancy. Because Christine Johnson is not responding, Kim asked participants for suggestions.

A total of six positions need to be filled.

Weed Risk Assessment Review

Water Lettuce (*Pistia stratiotes*, Linnaeus)

Water Hyacinth (*Pontederia crassipes*, Martius)

Water Wheel (*Aldrovanda vesiculosa*, Linnaeus)

Kim led the discussion of the three recently completed WRA's from Jay Killian listed above by detailing some of the limitations that MDA would face in enforcing and regulating these three aquatic plants. In particular the current regulatory goals do not include regulating aquatic plant retailers. MDA is limited to licensed nurseries that sell woody plant material, such as shrubs and trees. MDA is also limited by the amount of staff to enforce the Tier 2 listing. Most of the aquatic retailers are not licensed and very little enforcement would happen since a lack of a license is poor leverage for compliance. This would also only apply to plants in the trade.

Committee Discussion of regulatory issues with the 3 WRAs proposed:

Reviewing the law per request of the committee some of the wording is different and not inclusive, specifically says woody plants for plant protection but IPAC says retail. Below are some comments and questions generated.

How can the inspector enforce this? Jennifer-can we pursue changing the law or the regulatory language so that the plants will be regulated?

Several members describe the Tier 2 signage as educational. Is there value in raising consciousness? Even if we know no enforcement is possible? Is there still value in that designation?

Kim reminds the committee that all complaints must be followed up on, increasing the burden on existing staff to visit unlicensed retailers.

Steve, as the nursery inspector, shared that many of his peers agree that the Inspector can educate the grower but it's tough to enforce these laws if there is no teeth for compliance.

The committee was in agreement that the law may not have been thought through completely.

Do we need to look at the IPAC law to state they have to be licensed to be able to regulate? Kim was thanking Jay because he finished these WRA's and brought these points before us. Good conversation to have. And needs further conversation about Inspectors and purview.

Steve- I've only inspected two licensed aquatic plant sales locations and these inspections were done to provide phytosanitary certification for interstate wholesale plant shipments. And to my knowledge, neither of these licensed aquatic plant sellers offer for sale the aquatic plants that are currently being considered as invasive plants via Weed Risk Assessments.

Jennifer shared that she respects state boundaries, mission and resources. But reminded the committee that the spirit of the law is a conservation concern for trying to eradicate invasive plants. Trying to keep potential invasive plants from becoming a problem.

Kim- if we are going to do that we need to look at the IPAC law. This is still an ongoing discussion. I don't want to list plants that I can't regulate.

Maile agrees with Jennifer, spirit was to keep plants from being sold. I understand the traditional role of MDA, I would hate see it get down to just woody plants and have the law watered down. Somebody needs to recognize that this is beyond the current MDA staffing. And it seems that if there is a law which should be honored. Better to have the discussion than to just not try.

Kim suggests a second list of tier 1 and 2. Can you not require that sign? But nursery inspectors are going to be overwhelmed. Internally it's been a conversation. IPAC and enforcement have a disconnect.

Sarah- Keeps coming back to education. One other thought is maybe aquaculture. Regulation involved with aquaculture. Pull that entity into this? She says she has been in some discussion about aquaculture and will try and reach out to someone in that area. A possible partnership with IPAC and MDA?

All agree this is a worthy idea to pursue and realize it will take some time. Changes in the regs to let entities work together. Maybe add them to the committee? Excellent Idea from Sarah, she will do some research.

For all three WRA's Maile had revisions and suggestions. Specifically about Water Hyacinth, which is not currently hardy in Maryland. She requests that Jay make a better connection between temperature requirements and its ability to become a persistent plant in Maryland. These can be destructive invasive plants in climates where they are persistent. That connection for both Water Hyacinth and Water Lettuce needs to be clearer. Disagreement on Tier 2 status for these plants as currently written.

Water Wheel is definitely a weed but Kim knows it's not in the retail trade. Maile thinks it's a very attractive plant for collectors because it's insectivorous. Is there an e trade for it? Need to sit down with Jay and figure that out.

There is a call to make things tier one especially if they are not in the trade or not hardy but potentially hardy, heading for the trade and potentially invasive to our area. Making a plant tier one before its being sold widely is less economic hardship than taking plants out of trade.

Need follow up with Jay and possible in person in six weeks.

Kim moved onto WRA's that were suggested and assigned two years ago. Need to put that list back out there. Find out about some of the less familiar folks on the list. Sarah and Cathy both felt a little rusty about the specifics of the protocol after so much time had passed since the initial training with Tony. Cathy will reach out to Tony to find out if something is online or recorded and if there is a climate prediction addition to the current WRA model.

Legislative Update

Kim - HB 15 and Senate Bill Seven are currently very close to being law. The sales tax portion of the law has been removed. An additional list of 75 plants from the publication Plant Invaders of the Mid Atlantic Natural Areas book will be used by the law and those will need to go through the WRA process.

Internally MDA looked at the 75 and found 30 that wouldn't need a WRA because they already had one or they are on the Maryland or Federal Noxious weed list or they are not sold (ie garlic mustard).

This is headed for the governor. But the funding has yet to be approved and is a separate part of the legislation. A fiscal note has been submitted to request two permanent positions and at least one other position for a total of three positions to implement these changes.

Request goes in August of this year, If all goes well and the Department of Budget and Management approves the fiscal note for the fiscal year starting July 2023, after time for hiring then these positions

should be filled in October of 2023. So even though the law, if it is adopted, will go into effect on October of 2022, the funding will not provide staff resources until October of 2023.

Kim will send out 1. The Mid Atlantic Publication, 2. Spreadsheet from MDA about plants 3. Links to the current legislation

Kim asked Sarah about DNR because there is part of the legislation that calls for a list of native plants that DNR will make available on it's website.

Kim asked Joel about his agency. He said they have all contractors choose and install plants from their MDOT/SHA approved list of plants. So any projects are restricted to the list of MDOT plants.

Maile asked about some flexibility for the possible MDA positions to support new plant laws. Could there be some flexibility in what they spend the majority of their time on. Could they spend the first couple of years on WRAs and then assist Nursery Inspection to help workload? This may be a possible strategy for those positions if Department of Budget and Management approve the positions.

Kim plans to call the next meeting in line with the traditional every other month schedule and try and get back to that frequency. Next meeting tentative for mid-June, possibly in person if we have new people on the committee.

Meeting ended 10:45

IPAC Minutes June 14th 9:30 AM in Annapolis at the MDA headquarters

Participants:

Maile Neel: University of Maryland (UMD) Dean of College of Agriculture and Natural Resources

Kim Rice: Maryland Department of Agriculture (MDA)

Cathy Stragar: MDA

Steve Bell: MDA Nursery Inspector

Sarah Hilderbrand: Maryland Department of Natural Resources (DNR) Chesapeake and Coastal Services

Jay Killian: Maryland DNR, Resource Assessment Service

Leslie Cario: Chesapeake Horticultural Services

Larry Hemming: Eastern Shore Nurseries

Kim brought the meeting to a start at 9:30AM. Participants introduced themselves.

Membership

Kim and the group discussed member vacancies to be filled.

DNR vacancy: Sara believes a new DNR Forester named Daniel Root will fill this position.

Requests are out and positions should be filled soon. The consumer position, the NGO position and the MDE position remain vacant.

Minutes

Unanimous vote to accept the notes of April 11, 2022 meeting into the official record.

WRAs and Cultivar/ITP

Jay Killian discussed the origin, history and process of the following completed WRAs

Pontederia Crassipes – Water Hyacinth – Submitted by Jay Kilian, MD DNR

Aldrovanda vesiculosa – Waterwheel – Submitted by Jay Kilian, MD DNR

Pistia stratiotes – Water Lettuce – Submitted by Jay Kilian, MD DNR

DNR began aquatic species regulation in 2006 targeting mostly animal invasives such as zebra mussels and nutria but without a formal risk assessment or evidence-based process for inclusion. In 2010 two lists were created for regulation with a 1. Prohibited list for species that were not in Maryland and should be prohibited. And 2. For Invasive aquatics established in Maryland a Do not Transport list to stop the spread of those invasives. Five years ago, DNR adopted a risk-based assessment model for animals similar to the WRA. Began using the current IPAC WRA for aquatic invasive plants even though DNR has no actual regulatory authority over the sale and transport of plants.

These three WRA's were completed in November of 2021. The committee discussed again the regulatory gap that aquatic plants fall into. MDA regulates woody stock in nurseries that are licensed with the agency. These are not woody and sometimes sold in licensed nurseries but most often sold in specialty stores, pet stores or in nurseries MDA cannot regulate under existing law. All parties agreed that regulation would be difficult. Kim has requested the departments lawyers take a look at this.

Maile had some technical questions about the WRA's, especially on the modelling for climate adaptations, and wording to support Tier II designation. Jay and Maile agreed to meet in August to discuss and work out any concerns and questions about the WRAs.

If these are not yet established, should they be Tier I? Clarity on risk assessment seems vital especially for Water Hyacinth which is well established further south. Larry shared his experience of the weed in VA/NC and it's impact on fishing and boating.

Sara and Jay are still researching DNR aquaculture licensing personnel.

A question was brought up about already ranked plants. Can these be revisited? Kim replied yes, she thinks so if new range maps or evidence warrant that.

Given that Kim has not heard from the lawyers about MDA's ability or purview for regulating these aquatics and Maile and Jay will meet in August to go over WRA for final review these are considered pending.

Everyone agreed that these were invasive plants that should be addressed somehow and that it would be detrimental and a wasted opportunity if some solutions were not found. Seemingly a problem with separate entities not covering a real issue that is potentially damaging to business and environment.

ITP Review

ITP Review – Request from Syn-RG, LLC

Berberis thunbergii – Crimson Cutie® ('UCONNBTCP4N')

Berberis thunbergii – Lemon Cutie® ('UCONNBTB113')

Berberis thunbergii – Lemon Glow® ('UCONNBTB048')

Berberis thunbergii – Mr. Green Genes™ ('UCONNBTB039')

Kim Rice and Cathy Stragar completed the request to remove the listed *Berberis thunbergii* cultivars from Tier II status. All four will remain on the Tier II list with all other *Berberis thunbergii*. Despite producing sterile seed, they either had viable pollen or had not been evaluated for pollen viability or how that pollen viability will impact existing invasive stands of *Berberis thunbergii*. The committee accepted these ITP findings. Syn-RG is welcome to apply again with new evidence of pollen impacts.

Larry added that he sells very few *Berberis thunbergii* now. Steve still sees quite a few of these for sale. Larry also tries to steer customers away from planting the invasive near a sensitive area.

Maile asked about the Tier II signs and if these signs were in Spanish? Not in Spanish although Plant Protection offers many pest alerts in Spanish. Cathy wondered if the QR code could go to native plant options? Signs could be opportunity for education. Currently goes to IPAC landing page on MDA website. Signs are fixed in design and url destination because they are codified under the law. Maile found MD

Extension site for Native Plant choices and possibly that can be added to the IPAC landing page to assist consumers looking at Tier II in nurseries.

Legislative Update:

HB 15/SB 7

Kim stated that the bill has passed and will become law whether the governor signs it or not. One of the major ways it impacts IPAC is the addition of about 70 extra plants to the waiting list in need of WRA completions and enforcements. These plants were taken from a USFWS publication called Plant Invaders of the Mid Atlantic Natural Areas . Current resources for completing WRA's do not exist. In the original Invasive Plant law no funding was requested. Early WRAs were completed by Sylvan Kaufman and Kerry Kyde (DNR) who worked from specialty crop grant funding to cover their time. No money was set aside for the increased regulatory work of inspections, administration, and compliance issues. No further grant funding exists for WRAs.

MDA will submit a budget with a request for 3 permanent staff to meet the requirements of the law successfully. Kim reiterated that there are no guarantees that the budget request will be granted. But if it is granted, then the money would not be available until July 2023 though the law would be in place on October 1, 2022, But very little will change for implementation until there is a budget in place and staff have been hired if the request is accepted. MDA already receives multiple complaint emails about Tier II signage not present in nurseries (usually big box stores selling plants).

Maile asked about the list of plants and Kim agreed to send it out to the committee.

USDA Training

Cathy reported that she had contacted Tony Koop with USDA about the possibility of WRA trainings this year and he had responded quickly but that he was not doing trainings this year. He did not have any recordings of past trainings but thought it was a good idea to make them in the future and hopes to hold trainings in the future.

USFWS Grant Proposal

Sara stated that DNR is in the process of working on an application for a USFWS Invasive Species grant. Tricky to figure out how best to approach it. Not strictly management or prevention but seemingly a blended approach with MDA to build capacity for IPAC. Had some good momentum but kind of slowed. Kim has looked at it and the addition of IPAC makes sense, especially if those funds could help with the funding gap. Hopefully it will be submitted on June 22nd.

Miscellaneous Discussions

Steve talked about the large operations of on-line retailers in Maryland. Finally able to get them to comply.

Next meeting scheduled for September 20th at 9:30 at Annapolis.

IPAC Minutes September 20th, 2022, 9:30 AM On Google Meets Platform

Participants:

Maile Neel: University of Maryland (UMD) Dean of College of Agriculture and Natural Resources

Kim Rice: Maryland Department of Agriculture (MDA)

Cathy Stragar: MDA

Steve Bell: MDA Nursery Inspector

Leslie Cario: Chesapeake Horticultural Services

Larry Hemming: Eastern Shore Nurseries

Jennifer Vaccaro: Landscape architect and Partner in Sustainable Resource Management

Brent Cassell: Leyland Landscaping

Kim brought the meeting to a start at 9:30AM.

Membership

Kim updated the group on the three vacancies for the IPAC committee that remain.

The vacancy for the Maryland Department of the Environment (MDE) representative can wait until January or February due to a new administration coming in. The new administration will appoint the MDE staffer just as the outgoing administration had done.

The NGO representative for IPAC is still vacant and the Alliance of the Chesapeake Bay contact has not responded to multiple emails. Kim asked for new candidates.

The Consumer representative is also vacant and anyone who has a candidate in mind should contact Kim. Kim stated that the filled positions are not up on Website yet because the entire State site is under revision.

Minutes

After a revision to Leslie Cario's name the minutes for the June 15th, 2022 meeting were accepted into record.

WRAs

Kim met with the MDA's attorney general about the three invasive aquatic plants that Jay Killian had created WRAs for: *Pontederia Crassipes* – Water Hyacinth, *Aldrovanda vesiculosa* – Waterwheel and *Pistia stratiotes* – Water Lettuce, and the attorneys cited the existing law, which only regulates terrestrial plants and not aquatic plants as the reason MDA cannot include these WRAs into IPAC. The wording and the scope of the law follow the Nursery regulations closely. This is on purpose because MDA only regulates nurseries that sell terrestrial (woody plant) material. Kim relayed that after talking with Jay, he recognized the loophole and Jay will talk to some folks about changing something on their end at DNR. If nothing else, the WRA's were a good test for the clarity of the law.

Steve Bell on Noncompliant Nursery

Maryland has begun enforcement action on a noncompliant nursery due to three years of refusing to display Tier II signs on specified plants for sale at their retail branch. These are plants that have Maryland Tier II designation as invasives. Fines are levied for each species that has not been properly signed with the Tier II designation. Fines are 500 dollars per species without a Tier sign. Steve noted a long history with the nursery being difficult about compliance. Steve always returned and got helpful employees and would leave signs and lists. He'd come back in, and signs would be up for a week maybe two, but as soon as the owners saw them they threw them out and got very angry. Steve has reached out multiple times to the owners and received either a hostile response or no response

The enforcement timeline consists of three letters with 30 days to respond and comply. The first letter has been sent. No reply had occurred. After the third letter the fines will be assessed and charged. If the nursery does not pay the fine, then the fine will come out of their Maryland taxes.

The Nursery is still doing State contract work but not complying with the Invasive species law. There seems to be no penalty for this. The committee had questions about the identity of the Nursery but because the state is in the enforcement process that was not divulged. Although a Freedom of Information Request could be made. There were suggestions to list non-compliant business on the website. Would need to add to regulations.

Notably this is the only nursery that completely refuses to comply. Other nurseries are in compliance and attempt to recognize the law.

Steve has photos throughout the years and detailed inspection reports for the years as MDA attempted to bring this business into compliance.

A multi person regulatory party will again visit the nursery as enforcement proceeds.

Budget

Kim has requested three additional permanent staff to help with IPAC enforcement and expansion. Two positions for researching and preparing Weed Risk Assessments (WRAs) and one nursery inspector for IPAC compliance. Committee had a question about when we will know if the budget is approved. Kim explained that usually the governor would approve the budget but this year for the first time the legislature approves the budget. April will probably be when MDA receives an answer for the budget request. We have a strong justification with the addition of many plants added this year in the new law. And if it's not approved this year, Kim will continue to submit the positions for approval.

Before the meeting adjourned, we had a discussion of possible candidates for committee vacancies. The group asked for clarification on what is the Consumer member qualification. Someone who is well versed in plants. Leslie and Jennifer recommended Stacey Wildberger master watershed steward and president of the cape conservation corps (?). We could recruit from the Master Naturalist and Master Gardener groups. For the NGO the Forester for the Alliance is someone Jennifer can contact, and she will email Kim. Steve knows a Dave Parker from the CBF for the NGO and he will reach out to him.

Next meeting is November 15th . 9:30 will decide virtual or in person.

IPAC Minutes November 15th , 2022, 9:30 AM On Google Meets Platform

Participants:

Maile Neel: University of Maryland (UMD) College of Agriculture and Natural Resources

Kim Rice: Maryland Department of Agriculture, Plant Protection & Weed Management (MDA, PPWM)

Cathy Stragar: MDA, PPWM

Steve Bell: MDA, PPWM Nursery Inspector

Larry Hemming: Eastern Shore Nurseries

Sarah Hilderbrand: Maryland Department of Natural Resources (DNR) Chesapeake and Coastal Services

Daniel Root: Maryland Department of Natural Resources (DNR) Forester

Laura Mulvaney: Consumer Representative

Roberta Cowan: MDOT representative for John Krouse

Kim brought the meeting to a start at 9:30AM.

Membership and Minutes

Kim updated the group on remaining open positions for the council.

The vacancy for the Maryland Department of the Environment (MDE) representative can wait until January or February because the new administration will appoint the MDE staffer just as the outgoing administration had done.

The NGO representative for IPAC is still vacant and the Alliance of the Chesapeake Bay contact has not responded to multiple emails. Kim asked for new candidates and for Steve or Sara to contact candidates.

New member for consumer position Lara Mulvaney welcomed to the committee.

Minutes were unanimously accepted for the September meeting and Kim mentioned that she is working to get those on the website.

Concerns

Jennifer, via email, brought up a plant of concern. *Caryatia japonica* or *Causonis japonica*, Bushkiller, which is a vine. At least one site in Maryland has this in Cape St. Claire. Not in the trade at this time but not a lot of knowledge about this plant. Not widespread yet so good to look into how the plant is establishing. We'll take some time to see what committee members can find out about the plant and continue the discussion in the next meeting.

Steve Bell Update on Noncompliant Nursery

After the second compliance letter was drafted and sent out with the 2,000 dollar fine the nursery contacted both Steve and Kim to work with becoming and continuing compliance with the existing law. Took a lot of time and work on the part of the lawyers and Kim and Steve's three years of patience but the process worked. Working relations are better with the business manager and the company has

begun to communicate civilly and regularly with MDA. Steve will visit the nursery in the coming months for a site inspection for compliance.

Plant Invaders Book and other miscellaneous items.

As part of the amended law the Plant Invaders of the Mid-Atlantic will be incorporated into the Maryland list. Sarah sent out a digital link for the latest edition of the book. Was some discussion of how the formal process of evaluating the new plants is done. Kim stated that Weed Risk Assessments (WRA) would need to be written for each plant. This would take more training and money, hopefully the budget that Kim submitted for the two positions to support the law would be approved. Not all of the plants will need a WRA. Some are already listed, some are noxious weeds and some are not in the trade or are aquatic plants and not regulated by the current law.

DNR was unable to get a grant application submitted but Sarah will check about deadlines for next cycle of funding and see if that is a possibility.

The next meeting date was set for **January 17th** which is the third Thursday of the month and will be a continuance of the bi monthly schedule for the committee. The meeting will be virtual unless otherwise needed.

Meeting adjourned at 10:45 AM.