

1 Department of Natural Resources

2

3 Adopted Permanent Rules Relating to Ecologically Harmful Exotic
4 Species

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6 Rules as Adopted

7 6216.0100 PURPOSE.

8 The purpose of parts 6216.0100 to 6216.0600 is to prevent
9 the spread of ecologically harmful exotic species, and
10 undesirable exotic aquatic plants and wild animals, into and
11 within the state as authorized by Minnesota Statutes, sections
12 17.457, 18.316, 18.317, and 84.967 to 84.9692.

13 6216.0200 DEFINITIONS.

14 Subpart 1. **Scope.** For the purposes of parts 6216.0100 to
15 6216.0600, the terms used have the meanings given to them in
16 Minnesota Statutes, sections 17.457, 17.4984, 17.4985, 18.316,
17 18.317, 84.967 to 84.9692, and 97A.015, unless otherwise noted
18 in this part.

19 Subp. 2. **Commissioner.** "Commissioner" means the
20 commissioner of natural resources of Minnesota or the
21 commissioner's designated representative.

22 Subp. 3. **Department.** "Department" means the Minnesota
23 Department of Natural Resources.

24 Subp. 4. **Infested waters.** "Infested waters" means water
25 and water bodies identified by the commissioner as having
26 populations of select ecologically harmful exotic species such
27 as zebra mussel, Eurasian water milfoil, ruffe, spiny water
28 flea, or white perch.

29 Subp. 5. **Littoral area.** "Littoral area" means those areas
30 of a water body 15 feet or less in depth.

31 6216.0250 UNDESIRABLE EXOTIC SPECIES.

32 Subpart 1. **Designation.** The species in subparts 2 to 6 5
33 are undesirable exotic species because they pose a substantial
34 threat to native species in the state.

- 1 Subp. 2. Aquatic plants.
- 2 A. Eurasian water milfoil (*Myriophyllum spicatum*);
- 3 B. hydrilla (*Hydrilla verticillata*);
- 4 C. European frog-bit (*Hydrocharis morsus-ranae*);
- 5 D. flowering rush (*Butomus umbellatus*);
- 6 E. any variety, hybrid, or cultivar of purple
- 7 loosestrife (*Lythrum salicaria*, *Lythrum virgatum*, or
- 8 combinations thereof); and
- 9 F. water chestnut (*Trapa natans*).

10 Subp. 3. ~~Birds.---Mute-swan-(Cygnus-eior-)~~

11 ~~Subp.-4-~~ Fish.

- 12 A. grass carp (*Ctenopharyngodon idella*);
- 13 B. rudd (*Scardinius erythrophthalmus*);
- 14 C. round goby (*Neogobius melanostomus*);
- 15 D. ruffe (*Gymnocephalus cernua*);
- 16 E. sea lamprey (*Petromyzon marinus*); and
- 17 F. white perch (*Morone americana*).

18 Subp. 5- 4. Invertebrates.

- 19 A. rusty crayfish (*Orconectes rusticus*); and
- 20 B. zebra mussel species (all species of the genus
- 21 *Dreissena*).

22 Subp. 6- 5. Mammals.

- 23 A. Asian raccoon dog, also known as finnraccoon
- 24 (*Nyctereutes procyonoides*);
- 25 B. European rabbit (*Oryctolagus cuniculus*); and
- 26 C. any strain of nutria (*Mycocastor coypu*).

27 6216.0300 IDENTIFICATION, NOTICE, AND MARKING OF INFESTED WATERS
 28 AND LIMITED INFESTATIONS OF EURASIAN WATER MILFOIL.

29 Subpart 1. Identification of infested waters and notice.

30 The commissioner shall identify infested waters. The
 31 commissioner shall publish the names of identified water bodies
 32 in the State Register before May 1 of each year and provide
 33 notice through other available means where practical. The
 34 department shall post signs describing the infestation at all
 35 public accesses to identified water bodies. At any time the

1 commissioner may identify additional water bodies or identify
2 those water bodies which no longer are infested waters.

3 Subp. 2. Identification of limited infestations of
4 Eurasian water milfoil and notice. The commissioner shall
5 identify water bodies having limited infestations of Eurasian
6 water milfoil as defined in Minnesota Statutes, section 84.967,
7 subdivision 3. The commissioner shall publish the names of
8 identified water bodies in the State Register before May 1 of
9 each year and provide notice through other available means where
10 practical. The department shall post signs describing the
11 infestation at all public accesses to identified water bodies.
12 At any time the commissioner may identify additional water
13 bodies or identify those water bodies which no longer have
14 limited infestations.

15 Subp. 3. Delineation and markers for limited infestations
16 of Eurasian water milfoil. Areas of infestation of Eurasian
17 water milfoil where control is planned in water bodies
18 identified as having limited infestations shall be marked by the
19 commissioner, or other persons authorized by the commissioner,
20 using buoys or signs as specified in part 6110.1500, subpart 7.
21 A minimum of three buoys or signs must be used to delineate an
22 infested area, and placed at intervals of not more than 300 feet
23 apart. In addition, at least two buoys or signs shall be placed
24 at or near the shoreline to delineate an infested area if
25 adjacent to shore. Buoys or signs shall be removed after
26 control actions are completed.

27 6216.0400 RESTRICTED ACTIVITIES ON INFESTED WATERS AND WATERS
28 WITH LIMITED INFESTATIONS OF EURASIAN WATER MILFOIL.

29 Subpart 1. Prohibition of taking bait from infested
30 waters. The taking of wild animals from infested waters for
31 bait purposes is prohibited.

32 Subp. 2. Prohibition of sport gill netting for whitefish
33 and ciscoe in infested waters. If the commissioner identifies
34 waters that are open to sport gill netting for whitefish and
35 ciscoe as infested waters, the commissioner may close the gill

1 netting season for the identified water body or require that
2 gill nets used in the infested waters not be used in other water
3 bodies. The commissioner shall publish the names of identified
4 water bodies and new requirements or closures in the State
5 Register and provide notice through media releases and other
6 available means where practical. In addition, the commissioner
7 shall post notice of the restrictions at public access points to
8 identified water bodies.

9 **Subp. 3. Commercial fishing restrictions in infested**
10 **waters. Nets, traps, buoys, anchors, stakes, and lines used for**
11 **commercial fishing purposes that are used in infested waters**
12 **must be dried for a minimum of ten days or frozen for a minimum**
13 **of two days before they are used in noninfested waters. All**
14 **aquatic vegetation must be removed from nets and other equipment**
15 **when they are removed from infested waters. Commercial**
16 **operators must notify the department's regional or area**
17 **fisheries office or a conservation officer when removing nets**
18 **from infested waters and before resetting those nets in**
19 **noninfested waters.**

20 **Subp. 4. Prohibition on entry into delineated areas marked**
21 **for limited infestation of Eurasian water milfoil.**

22 **A. Entry by boaters, anglers, or other water users**
23 **and their equipment into marked areas of a water body where**
24 **limited infestations of Eurasian water milfoil have been**
25 **delineated in accordance with part 6126.0300 is prohibited,**
26 **except in emergency situations where property or human life is**
27 **endangered.**

28 **B. Enforcement, emergency, resource management, and**
29 **other government personnel or their agents may enter into waters**
30 **where limited infestations of Eurasian water milfoil have been**
31 **delineated in accordance with part 6216.0300 when performing**
32 **official duties. Owners or lessees of land adjacent to**
33 **delineated areas who do not have water access to their land**
34 **other than through the delineated area may use the shortest and**
35 **most direct route through the delineated area for such access.**

1 6216.0500 TRANSPORTATION AND APPROPRIATION OF WATER FROM
2 INFESTED WATERS.

3 Subpart 1. Transporting water and live fish from infested
4 waters. Water from infested waters may not be used to transport
5 fish. Live fish taken under a commercial fishing license may be
6 transported from infested waters to other waters or holding
7 facilities from May 1 to October 31 with a transportation permit
8 issued by the department pursuant to Minnesota Statutes, section
9 17.4985.

10 Subp. 2. Disposition of water used to transport fish from
11 infested waters. Water used to transport live fish from
12 infested waters pursuant to subpart 1, including water from
13 waters or facilities permitted to hold fish from infested
14 waters, may be disposed of only at sites approved in writing by
15 the commissioner.

16 Subp. 3. Persons leaving select infested waters. A person
17 leaving infested waters identified as having populations of
18 zebra mussel or spiny water flea including, but not limited to,
19 Minnesota waters of the the Mississippi River downstream of St.
20 Anthony Falls; Minnesota waters of Lake Superior including
21 waters of the St. Louis River downstream of the mouth of the
22 Cloquet River; waters of the Minnesota River downstream of
23 Shakopee; Island Lake Reservoir in St. Louis County; and the
24 Cloquet River downstream from Island Lake Reservoir, must drain
25 bait containers, other boating-related equipment holding water,
26 and livewells and bilges by removing the drain plug before
27 transporting the watercraft and associated equipment on public
28 roads.

29 Subp. 4. Diversion, appropriation, and transportation of
30 infested waters. Infested waters may not be transported on a
31 public road or off property riparian to infested waters except:

- 32 A. in emergencies, such as fire emergencies;
33 B. as specified in a water appropriation or public
34 ~~works~~ waters work permit issued by the commissioner pursuant to
35 Minnesota Statutes, chapter 103G; or
36 C. under a permit issued pursuant to this part.

1 Infested waters may not be diverted to other waters without
2 a permit issued pursuant to this part, or as authorized in a
3 public waters work permit or water appropriation permit issued
4 by the commissioner pursuant to Minnesota Statutes, chapter 103G.

5 Subp. 5. Fish hatchery or aquatic farm operations in
6 infested waters.

7 A. Natural lakes or wetland basins that are
8 identified as infested waters will not be licensed by the
9 department pursuant to Minnesota Statutes, section 17.4984, for
10 aquatic farms or pursuant to Minnesota Statutes, section
11 97C.211, as private fish hatcheries.

12 B. Artificial water basins that have populations of
13 undesirable exotic species may be used for aquatic farm or
14 private hatcheries under license by the department. Nets,
15 traps, buoys, stakes, and lines that have been used in such
16 artificial water basins must be dried for a minimum of ten days,
17 or frozen for a minimum of two days, before they are used in
18 noninfested waters. All aquatic plants must be removed from
19 nets and other equipment that are removed from the artificial
20 water basins.

21 C. The commissioner may license aquatic farm or
22 private fish hatchery facilities to use infested waters as a
23 source for the facilities' water. The commissioner may require
24 that the waters be treated to eliminate undesirable exotic
25 species.

26 D. Fish raised in artificial water basins that have
27 populations of undesirable exotic species, or in any facility
28 using infested water as a source, must be sold directly to a
29 wholesale buyer for processing, or for stocking in other waters
30 containing populations of undesirable exotic species, provided
31 it contains the same undesirable exotic species as the source
32 waters.

33 Subp. 6. Infested waters diversion or transportation
34 permits. Applications for permits issued pursuant to this part,
35 to divert or transport water from infested waters, shall be made
36 on forms obtained from the commissioner and shall contain

1 information as the commissioner may prescribe. The department
2 shall act upon the application within 90 days of receipt.
3 Failure on the part of the department to act upon the permit
4 within the required time shall not be construed as approval of
5 the application. Permits shall state all the conditions and
6 limitations upon which they are based. A permit may be modified
7 at any time by the department.

8 6216.0600 VIOLATIONS; CONFISCATIONS.

9 Unless a different penalty is prescribed, a violation of
10 parts 6216.0100 to 6216.0500 is a misdemeanor as set forth in
11 Minnesota Statutes, sections 18.317 and 84.9691. Where a
12 violation has occurred, the department may confiscate the exotic
13 species immediately upon discovery wherever found and, at the
14 department's discretion, destroy it. Where infested water is
15 being appropriated, or diverted or transported without a permit,
16 or otherwise contrary to the provisions of parts 6216.0100 to
17 6216.0600, the department may order that the activities cease.
18 Any expense or loss in connection with enforcement of the order
19 shall be borne by the permittee or responsible person.