

CHAPTER 84D

INVASIVE SPECIES

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84D.01 DEFINITIONS.

Subdivision 1. **Terms.** For the purposes of this chapter, the following terms have the meanings given them.

Subd. 2. **Aquatic macrophyte.** "Aquatic macrophyte" means a macroscopic non-woody plant, either a submerged, floating leafed, floating, or emergent plant that naturally grows in water.

Subd. 2a. **Aquatic plant.** "Aquatic plant" means a plant, including algae and submerged, floating leafed, floating, or emergent plants, that naturally grows in water, saturated soils, or seasonally saturated soils.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of the Department of Natural Resources.

Subd. 4. **Department.** "Department" means the Department of Natural Resources.

Subd. 5. [Repealed, 2004 c 243 s 41]

Subd. 6. **Eurasian water milfoil.** "Eurasian water milfoil" means *Myriophyllum spicatum* and its hybrids.

Subd. 7. [Repealed, 2004 c 243 s 41]

Subd. 8. **Infested waters.** "Infested waters" means waters of the state designated by the commissioner under sections 84D.03, subdivision 1, and 84D.12.

Subd. 8a. **Introduce.** "Introduce" means to place, release, or allow the escape of a nonnative species into a free-living state.

Subd. 9. **Introduction.** "Introduction" means the placement, release, or escape of a nonnative species into a free-living state.

Subd. 9a. **Invasive species.** "Invasive species" means a nonnative species that can naturalize and:

(1) causes or may cause economic or environmental harm or harm to human health; or

(2) threatens or may threaten natural resources or the use of natural resources in the state.

Subd. 10. [Repealed, 1999 c 92 s 11]

Subd. 11. **Native species.** "Native species" means an animal or plant species naturally present and reproducing within this state or that naturally expands from its historic range into this state.

Subd. 12. **Naturalize.** "Naturalize" means to establish a self-sustaining population of nonnative species in the wild outside of its natural range.

Subd. 12a. **Nonnative species.** "Nonnative species" means a species that is not a native species.

Subd. 13. **Prohibited invasive species.** "Prohibited invasive species" means an invasive species that has been designated as a prohibited invasive species in a rule adopted by the commissioner under section 84D.12.

Subd. 14. **Purple loosestrife.** "Purple loosestrife" means *Lythrum salicaria*, *Lythrum virgatum*, or combinations thereof.

Subd. 15. **Regulated invasive species.** "Regulated invasive species" means an invasive species that has been designated as a regulated invasive species in a rule adopted by the commissioner under section 84D.12.

Subd. 16. **Transport.** "Transport" means to cause or attempt to cause a species to be carried or moved into or within the state, and includes accepting or receiving the species for transportation or shipment. Transport does not include the unintentional transport of a species within a water of the state or to a connected water of the state where the species being transported is already present.

Subd. 17. **Unlisted nonnative species.** "Unlisted nonnative species" means a nonnative species that has not been designated as a prohibited invasive species, a regulated invasive species, or an unregulated nonnative species in a rule adopted by the commissioner under section 84D.12.

Subd. 18. **Unregulated nonnative species.** "Unregulated nonnative species" means a nonnative species that has been designated as an unregulated nonnative species in a rule adopted by the commissioner under section 84D.12.

Subd. 19. **Watercraft.** "Watercraft" means a contrivance used or designed for navigation on water and includes seaplanes.

Subd. 20. **Waters of the state.** "Waters of the state" has the meaning given in section 97A.015, subdivision 54.

Subd. 21. **Wild animal.** "Wild animal" means a living creature, not human, wild by nature, endowed with sensation and power of voluntary motion.

Subd. 22. **Zebra mussel.** "Zebra mussel" means a species of the genus *Dreissena*.

History: 1996 c 385 art 1 s 1; 1999 c 92 s 2; 2004 c 243 s 4-14

84D.02 INVASIVE SPECIES MANAGEMENT PROGRAM FOR AQUATIC PLANTS AND WILD ANIMALS.

Subdivision 1. **Establishment.** The commissioner shall establish a statewide program to prevent and curb the spread of invasive species of aquatic plants and wild animals. The program must provide for coordination among governmental entities and private organizations to the extent practicable. The commissioner shall seek available federal funding and grants for the program.

Subd. 2. **Purple loosestrife and Eurasian water milfoil programs.** (a) The program required in subdivision 1 must include specific programs to curb the spread and manage the growth of purple loosestrife and Eurasian water milfoil. These programs must include:

(1) compiling inventories and monitoring the growth of purple loosestrife and Eurasian water milfoil in the state, for which the commissioner may use volunteers;

(2) publication and distribution of informational materials to boaters and lakeshore owners;

(3) cooperative research with the University of Minnesota and other public and private research facilities to study the use of nonchemical control methods, including biological control methods; and

(4) managing the growth of Eurasian water milfoil and purple loosestrife in coordination with appropriate local units of government, special purpose districts, and lakeshore associations, to include providing requested technical assistance.

(b) The commissioners of agriculture and transportation shall cooperate with the commissioner to establish, implement, and enforce the purple loosestrife program.

Subd. 3. **Management plan.** The commissioner shall prepare and maintain a long-term plan, which may include specific plans for individual species and actions, for the statewide management of invasive species of aquatic plants and wild animals. The plan must address:

(1) coordinated detection and prevention of accidental introductions;

(2) coordinated dissemination of information about invasive species of aquatic plants and wild animals among resource management agencies and organizations;

- (3) a coordinated public education and awareness campaign;
- (4) coordinated control of selected invasive species of aquatic plants and wild animals on lands and public waters;
- (5) participation by lake associations, local citizen groups, and local units of government in the development and implementation of local management efforts;
- (6) a reasonable and workable inspection requirement for watercraft and equipment including those participating in organized events on the waters of the state;
- (7) the closing of points of access to infested waters, if the commissioner determines it is necessary, for a total of not more than seven days during the open water season for control or eradication purposes;
- (8) maintaining public accesses on infested waters to be reasonably free of aquatic macrophytes; and
- (9) notice to travelers of the penalties for violation of laws relating to invasive species of aquatic plants and wild animals.

Subd. 4. **Inspection of watercraft.** The commissioner shall train and authorize personnel to inspect, for a minimum of 10,000 hours during the open water season, watercraft and associated equipment, including weed harvesters, for aquatic macrophytes and aquatic invasive species as the watercraft and equipment leave or are removed from waters of the state during the open water season.

Subd. 5. **Regional cooperation.** The commissioner shall seek cooperation with other states and Canadian provinces for the purposes of management and control of invasive species of aquatic plants and wild animals.

Subd. 6. **Annual report.** By January 15 each year, the commissioner shall submit a report on invasive species of aquatic plants and wild animals to the legislative committees having jurisdiction over environmental and natural resource issues. The report must include:

- (1) detailed information on expenditures for administration, education, management, inspections, and research;
- (2) an analysis of the effectiveness of management activities conducted in the state, including chemical control, harvesting, educational efforts, and inspections;
- (3) information on the participation of other state agencies, local government units, and interest groups in control efforts;
- (4) information on the progress made in the management of each species; and
- (5) an assessment of future management needs.

History: 1996 c 385 art 1 s 2; 1999 c 92 s 3; 2004 c 243 s 15-19

84D.03 INFESTED WATERS; RESTRICTED ACTIVITIES.

Subdivision 1. **Infested waters; restricted activities.** (a) The commissioner shall designate a water of the state as an infested water if the commissioner determines that the water contains a population of an aquatic invasive species that could spread to other waters if use of the water and related activities are not regulated to prevent this.

(b) When determining which invasive species comprise infested waters, the commissioner shall consider:

- (1) the extent of a species distribution within the state;
- (2) the likely means of spread for a species; and
- (3) whether regulations specific to infested waters containing a specific species will effectively reduce that species' spread.

(c) The presence of common carp and curly-leaf pondweed shall not be the basis for designating a water as infested.

Subd. 2. [Repealed, 1999 c 92 s 11]

Subd. 3. **Bait harvest from infested waters.** (a) The taking of wild animals from infested waters for bait or aquatic farm purposes is prohibited, except as provided in paragraph (b).

(b) In waters that are designated as infested waters, except those designated because they contain prohibited invasive species of fish, the taking of wild animals may be permitted for:

(1) commercial taking of wild animals for bait and aquatic farm purposes according to a permit issued under section 84D.11, subject to rules adopted by the commissioner; and

(2) bait purposes for noncommercial personal use in waters that contain Eurasian water milfoil, when the infested waters are designated solely because they contain Eurasian water milfoil and if the equipment for taking is limited to cylindrical minnow traps not exceeding 16 inches in diameter and 32 inches in length.

Subd. 4. Commercial fishing restrictions in infested and noninfested waters. (a) All nets, traps, buoys, anchors, stakes, and lines used for commercial fishing or turtle, frog, or crayfish harvesting in infested waters, designated because the waters contain invasive fish or invertebrates, may not be used in noninfested waters. If a commercial licensee operates in both noninfested waters and infested waters designated because the waters contain invasive fish or invertebrates, all nets, traps, buoys, anchors, stakes, and lines used for commercial fishing or turtle, frog, or crayfish harvesting in noninfested waters must be tagged with tags provided by the commissioner, as specified in the commercial licensee's license or permit, and may not be used in infested waters designated because the waters contain invasive fish or invertebrates.

(b) In infested waters designated solely because the waters contain Eurasian water milfoil, all nets, traps, buoys, anchors, stakes, and lines used for commercial fishing or turtle, frog, or crayfish harvesting must be dried for a minimum of ten days or frozen for a minimum of two days before they are used in noninfested waters. Commercial operators must notify the department's regional or area fisheries office or a conservation officer when removing nets or equipment from infested waters and before resetting those nets or equipment in noninfested waters. All aquatic macrophytes must be removed from nets and other equipment when the nets and equipment are removed from infested waters.

History: 1996 c 385 art 1 s 3; 1999 c 92 s 4,5; 2004 c 243 s 20

84D.04 CLASSIFICATION OF NONNATIVE SPECIES.

Subdivision 1. **Classes.** The commissioner shall, as provided in this chapter, classify nonnative species of aquatic plants and wild animals according to the following categories:

(1) prohibited invasive species, which may not be possessed, imported, purchased, sold, propagated, transported, or introduced except as provided in section 84D.05;

(2) regulated invasive species, which may not be introduced except as provided in section 84D.07;

(3) unlisted nonnative species, which are subject to the classification procedure in section 84D.06; and

(4) unregulated nonnative species, which are not subject to regulation under this chapter.

Subd. 2. **Criteria.** The commissioner shall consider the following criteria in classifying a nonnative species of aquatic plants or wild animals under this chapter:

(1) the likelihood of introduction of the species if it is allowed to enter or exist in the state;

(2) the likelihood that the species would naturalize in the state were it introduced;

(3) the magnitude of potential adverse impacts of the species on native species and on outdoor recreation, commercial fishing, and other uses of natural resources in the state;

(4) the ability to eradicate or control the spread of the species once it is introduced in the state; and

(5) other criteria the commissioner deems appropriate.

History: 1996 c 385 art 1 s 4; 2004 c 243 s 21

84D.05 PROHIBITED INVASIVE SPECIES.

Subdivision 1. **Prohibited activities.** A person may not possess, import, purchase, sell, propagate, transport, or introduce a prohibited invasive species, except:

- (1) under a permit issued by the commissioner under section 84D.11;
- (2) in the case of purple loosestrife, as provided by sections 18.75 to 18.88;
- (3) under a restricted species permit issued under section 17.457;
- (4) when being transported to the department, or another destination as the commissioner may direct, in a sealed container for purposes of identifying the species or reporting the presence of the species;

(5) when being transported for disposal as part of a harvest or control activity under a permit issued by the commissioner according to section 103G.615, when being transported for disposal as specified under a commercial fishing license issued by the commissioner according to section 97A.418, 97C.801, 97C.811, 97C.825, 97C.831, or 97C.835, or when being transported as specified by the commissioner;

(6) when the specimen has been lawfully acquired dead and, in the case of plant species, all seeds are removed or are otherwise secured in a sealed container;

(7) in the form of herbaria or other preserved specimens;

(8) when being removed from watercraft and equipment, or caught while angling, and immediately returned to the water from which they came; or

(9) as the commissioner may otherwise prescribe by rule.

Subd. 2. **Seizure.** Under section 97A.221, the commissioner may seize or dispose of all specimens of prohibited invasive species unlawfully possessed, imported, purchased, sold, propagated, transported, or introduced in the state.

History: 1996 c 385 art 1 s 5; 2004 c 243 s 22

84D.06 UNLISTED NONNATIVE SPECIES.

Subdivision 1. **Process.** A person may not introduce an unlisted nonnative aquatic plant or wild animal species unless:

(1) the person has notified the commissioner in a manner and form prescribed by the commissioner;

(2) the commissioner has made the classification determination required in subdivision 2 and designated the species as appropriate; and

(3) the introduction is allowed under the applicable provisions of this chapter.

Subd. 2. **Classification.** (a) If the commissioner determines that a species for which a notification is received under subdivision 1 should be classified as a prohibited invasive species, the commissioner shall:

(1) adopt a rule under section 84D.12, subdivision 3, designating the species as a prohibited invasive species; and

(2) notify the person from which the notification was received that the species is subject to section 84D.04.

(b) If the commissioner determines that a species for which a notification is received under subdivision 1 should be classified as an unregulated nonnative species, the commissioner shall:

(1) adopt a rule under section 84D.12, subdivision 3, designating the species as an unregulated nonnative species; and

(2) notify the person from which the notification was received that the species is not subject to regulation under this chapter.

(c) If the commissioner determines that a species for which a notification is received under subdivision 1 should be classified as a regulated invasive species, the

commissioner shall notify the applicant that the species is subject to the requirements in section 84D.07.

History: 1996 c 385 art 1 s 6; 2004 c 243 s 23

84D.07 REGULATED INVASIVE SPECIES.

Except as provided in rules adopted under section 84D.12, subdivision 2, clause (1), a person may not introduce a regulated invasive species without a permit issued by the commissioner.

History: 1996 c 385 art 1 s 7; 2004 c 243 s 24

84D.08 ESCAPE OF NONNATIVE AND INVASIVE SPECIES.

(a) A person that allows or causes the introduction of an animal that is a prohibited invasive, regulated invasive, or unlisted nonnative species shall, within 24 hours after learning of the introduction, notify the commissioner, a conservation officer, or another person designated by the commissioner. The person shall make every reasonable attempt to recapture or destroy the introduced animal. If the animal is a prohibited invasive species, the person is liable for the actual costs incurred by the department in capturing or controlling, or attempting to capture or control, the animal and its progeny. If the animal is a regulated invasive species, the person is liable for these costs if the introduction was in violation of the person's permit issued under section 84D.11.

(b) A person that complies with this section is not subject to criminal penalties under section 84D.13 for the introduction.

History: 1996 c 385 art 1 s 8; 2004 c 243 s 25

84D.09 AQUATIC MACROPHYTES.

Subdivision 1. **Transportation prohibited.** A person may not transport aquatic macrophytes on any state forest road as defined by section 89.001, subdivision 14, any road or highway as defined in section 160.02, subdivision 26, or any other public road, except as provided in this section.

Subd. 2. **Exceptions.** Unless otherwise prohibited by law, a person may transport aquatic macrophytes:

- (1) that are duckweeds in the family Lemnaceae;
- (2) for disposal as part of a harvest or control activity conducted under an aquatic plant management permit pursuant to section 103G.615, under permit pursuant to section 84D.11, or as specified by the commissioner;
- (3) for purposes of constructing shooting or observation blinds in amounts sufficient for that purpose, provided that the aquatic macrophytes are emergent and cut above the waterline;
- (4) when legally purchased or traded by or from commercial or hobbyist sources for aquarium, wetland or lakeshore restoration, or ornamental purposes;
- (5) when harvested for personal or commercial use if in a motor vehicle;
- (6) to the department, or another destination as the commissioner may direct, in a sealed container for purposes of identifying a species or reporting the presence of a species;
- (7) when transporting commercial aquatic plant harvesting equipment to a suitable location for purposes of cleaning any remaining aquatic macrophytes;
- (8) that are wild rice harvested under section 84.091; or
- (9) in the form of fragments of emergent aquatic macrophytes incidentally transported in or on watercraft or decoys used for waterfowl hunting during the waterfowl season.

History: 1996 c 385 art 1 s 9; 1999 c 92 s 6; 2004 c 243 s 26

84D.10 PROHIBITED ACT; WATERCRAFT.

Subdivision 1. **Launching prohibited.** A person may not place or attempt to place into waters of the state a watercraft, a trailer, or plant harvesting equipment that has aquatic macrophytes, zebra mussels, or prohibited invasive species attached except as provided in this section.

Subd. 2. **Exceptions.** Unless otherwise prohibited by law, a person may place into the waters of the state a watercraft or trailer with aquatic macrophytes:

- (1) that are duckweeds in the family Lemnaceae;
- (2) for purposes of shooting or observation blinds in amounts sufficient for that purpose, if the aquatic macrophytes are emergent and cut above the waterline;
- (3) that are wild rice harvested under section 84.091; or
- (4) in the form of fragments of emergent aquatic macrophytes incidentally transported in or on watercraft or decoys used for waterfowl hunting during the waterfowl season.

Subd. 3. **Removal and confinement.** A conservation officer or other licensed peace officer may order:

- (1) the removal of aquatic macrophytes or prohibited invasive species from a trailer or watercraft before it is placed into waters of the state;
- (2) confinement of the watercraft at a mooring, dock, or other location until the watercraft is removed from the water; and
- (3) removal of a watercraft from waters of the state to remove prohibited invasive species if the water has not been designated by the commissioner as being infested with that species.

History: 1996 c 385 art 1 s 10; 1999 c 92 s 7; 2004 c 243 s 27,28

84D.11 PERMITS.

Subdivision 1. **Prohibited invasive species.** The commissioner may issue a permit for the propagation, possession, importation, purchase, or transport of a prohibited invasive species for the purposes of disposal, control, research, or education.

Subd. 2. **Regulated invasive species.** The commissioner may issue a permit for the introduction of a regulated invasive species.

Subd. 2a. **Harvest of bait from infested waters.** The commissioner may issue a permit to allow the harvest of bait from waters that are designated as infested waters, except those designated because they contain prohibited invasive species of fish. The permit shall include conditions necessary to avoid spreading aquatic invasive species. Before receiving a permit, a person annually must satisfactorily complete aquatic invasive species-related training provided by the commissioner.

Subd. 3. **Standard.** The commissioner may issue a permit under this section only if the commissioner determines that the permitted activity would not pose an unreasonable risk of harm to natural resources or their use in the state. The commissioner may deny, issue with conditions, modify, or revoke a permit under this section as necessary to ensure that the proposed activity will not pose an unreasonable risk of harm to natural resources or their use in the state.

Subd. 4. **Appeal of permit decision.** A permit decision may be appealed as a contested case under chapter 14.

History: 1996 c 385 art 1 s 11; 1999 c 92 s 8; 2004 c 243 s 29-31

84D.12 RULES.

Subdivision 1. **Required rules.** The commissioner shall adopt rules:

- (1) designating infested waters, prohibited invasive species, regulated invasive species, and unregulated nonnative species of aquatic plants and wild animals;
- (2) governing the application for and issuance of permits under this chapter, which rules may include a fee schedule; and

(3) governing notification under section 84D.08.

Subd. 2. **Authorized rules.** The commissioner may adopt rules:

(1) regulating the possession, importation, purchase, sale, propagation, transport, and introduction of invasive species of aquatic plants and wild animals; and

(2) regulating the appropriation, use, and transportation of water from infested waters.

Subd. 3. **Expedited rules.** The commissioner may adopt rules under section 84.027, subdivision 13, that designate:

(1) prohibited invasive species of aquatic plants and wild animals;

(2) regulated invasive species of aquatic plants and wild animals;

(3) unregulated nonnative species of aquatic plants and wild animals; and

(4) infested waters.

History: 1996 c 385 art 1 s 12; 1999 c 92 s 9,10; 2004 c 243 s 32

84D.13 ENFORCEMENT; PENALTIES.

Subdivision 1. **Enforcement.** Unless otherwise provided, this chapter and rules adopted under section 84D.12 may be enforced by conservation officers under sections 97A.205, 97A.211, and 97A.221 and by other licensed peace officers.

Subd. 2. **Cumulative remedy.** The authority of conservation officers to issue civil citations is in addition to other remedies available under law, except that the state may not seek penalties under any other provision of law for the incident subject to the citation.

Subd. 3. **Criminal penalties.** (a) A person who violates a provision of section 84D.06, 84D.07, 84D.08, or 84D.10, or a rule adopted under section 84D.12, is guilty of a misdemeanor.

(b) A person who possesses, transports, or introduces a prohibited invasive species in violation of section 84D.05 is guilty of a misdemeanor. A person who imports, purchases, sells, or propagates a prohibited invasive species in violation of section 84D.05 is guilty of a gross misdemeanor.

(c) A person who refuses to obey an order of a peace officer or conservation officer to remove prohibited invasive species or aquatic macrophytes from any watercraft, trailer, or plant harvesting equipment is guilty of a gross misdemeanor.

Subd. 4. **Warnings; civil citations.** After appropriate training, conservation officers, other licensed peace officers, and other department personnel designated by the commissioner may issue warnings or citations to a person who:

(1) unlawfully transports prohibited invasive species or aquatic macrophytes;

(2) unlawfully places or attempts to place into waters of the state a trailer, a watercraft, or plant harvesting equipment that has prohibited invasive species attached;

(3) intentionally damages, moves, removes, or sinks a buoy marking, as prescribed by rule, Eurasian water milfoil;

(4) fails to drain water, as required by rule, from watercraft and equipment before leaving designated zebra mussel, spiny water flea, or other invasive plankton infested waters; or

(5) transports infested water, in violation of rule, off riparian property.

Subd. 5. **Civil penalties.** A civil citation issued under this section must impose the following penalty amounts:

(1) for transporting aquatic macrophytes on a forest road as defined by section 89.001, subdivision 14, road or highway as defined by section 160.02, subdivision 26, or any other public road, \$50;

(2) for placing or attempting to place into waters of the state a watercraft, a trailer, or aquatic plant harvesting equipment that has aquatic macrophytes attached, \$100;

(3) for unlawfully possessing or transporting a prohibited invasive species other than an aquatic macrophyte, \$250;

(4) for placing or attempting to place into waters of the state a watercraft, a trailer, or aquatic plant harvesting equipment that has prohibited invasive species attached when the waters are not designated by the commissioner as being infested with that invasive species, \$500 for the first offense and \$1,000 for each subsequent offense;

(5) for intentionally damaging, moving, removing, or sinking a buoy marking, as prescribed by rule, Eurasian water milfoil, \$100;

(6) for failing to drain water, as required by rule, from watercraft and equipment before leaving designated zebra mussel, spiny water flea, or other invasive plankton infested waters, \$50; and

(7) for transporting infested water off riparian property without a permit as required by rule, \$200.

Subd. 6. **Watercraft license suspension.** A civil citation may be issued to suspend, for up to a year, the watercraft license of an owner or person in control of a watercraft or trailer who refuses to submit to an inspection under section 84D.02, subdivision 4, or who refuses to comply with a removal order given under section 84D.13.

Subd. 7. **Satisfaction of civil penalties.** A civil penalty is due and a watercraft license suspension is effective 30 days after issuance of the civil citation. A civil penalty collected under this section is payable to the commissioner and must be credited to the water recreation account.

Subd. 8. **Appeal of civil citations and penalties.** A civil citation and penalty may be appealed under the procedures in section 116.072, subdivision 6, if the person to whom the citation was issued requests a hearing by notifying the commissioner within 15 days after receipt of the citation. If a hearing is not requested within the 15-day period, the citation becomes a final order not subject to further review.

History: 1996 c 385 art 1 s 13; 2004 c 221 s 15; 2004 c 243 s 33-35

84D.14 EXEMPTIONS.

This chapter does not apply to:

(1) pathogens and terrestrial arthropods regulated under sections 18G.01 to 18G.16; or

(2) mammals and birds defined by statute as livestock.

History: 1996 c 385 art 1 s 14; 2003 c 128 art 1 s 41; 2004 c 243 s.36