

## 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. 1a. **Aquatic invasive species affirmation.** "Aquatic invasive species affirmation" means an affirmation of the summary of the aquatic invasive species laws of this chapter that is part of watercraft licenses and nonresident fishing licenses, as provided in section 84D.106.

Subd. 2. **Aquatic macrophyte.** "Aquatic macrophyte" means macro algae or a macroscopic nonwoody 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. 3a. **Decontaminate.** "Decontaminate" means to wash, drain, dry, or thermally or otherwise treat water-related equipment in order to remove or destroy aquatic invasive species using the "Recommended Uniform Minimum Protocols and Standards for Watercraft Interception Programs for Dreissenid Mussels in the Western United States" (September 2009) prepared for the Western Regional Panel on Aquatic Nuisance Species, or other protocols developed by the commissioner.

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

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 [Repealed, 2004 c 243 s 41]

Subd. 6. **Eurasian watermilfoil.** "Eurasian watermilfoil" 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 [Repealed, 2004 c 243 s 41]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 listed by the commissioner under sections 84D.03, subdivision 1, and 84D.12.

Subd. 8a. [Renumbered subd 8d]

Subd. 8b. **Inspect.** "Inspect" means to examine water-related equipment to determine whether aquatic invasive species, aquatic macrophytes, or water is present and includes removal, drainage, decontamination, collection and sampling, or treatment to prevent the transportation and spread of aquatic invasive species, aquatic macrophytes, and water.

Subd. 8c. **Inspector.** "Inspector" means: (1) an individual trained and authorized by the commissioner to inspect water-related equipment under section 84D.105, subdivision 2, paragraph (a); or (2) a conservation officer or a licensed peace officer.

Subd. 8d. **Introduce.** "Introduce" means to place, release, or allow the escape of a nonnative species into a free-living state. Introduce does not include:

(1) the immediate return of a nonnative species to waters of the state from which the nonnative species was removed; or

(2) the seasonal return of nonnative species attached to water-related equipment, such as a dock or boat lift, that has been stored on riparian property and directly returned to the same waters of the state from which the water-related equipment was removed.

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:

(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 a nonnative 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 a nonnative species that has been designated as a regulated invasive species in a rule adopted by the commissioner under section 84D.12.

Subd. 15a. **Service provider.** "Service provider" means an individual who or entity that:

(1) decontaminates, installs, or removes water-related equipment or structures into or from waters of the state for hire or as a service provided as a benefit of membership in a yacht club, boat club, marina, or similar organization; or

(2) rents or leases water-related equipment that will be used in, placed into, or removed from waters of the state.

Service provider does not include a person working under the supervision of an individual with a valid service provider permit issued under section 84D.108.

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:

(1) the movement of infested water or a nonnative species within a water of the state or to a connected water of the state where the species being transported is already present; or

(2) the movement of a nonnative species attached to water-related equipment or other water-related structures from a water of the state to the shore of riparian property on that water or the return of water-related equipment or structures from the shore into the same water of the state.

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. 18a. **Water-related equipment.** "Water-related equipment" means a motor vehicle, boat, watercraft, dock, boat lift, raft, vessel, trailer, tool, implement, device, or any other associated equipment or container, including but not limited to portable bait containers, live wells, ballast tanks except for those vessels permitted under the Pollution Control Agency vessel discharge program, bilge areas, and water-hauling equipment that is capable of containing or transporting aquatic invasive species, aquatic macrophytes, or water.

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" has the meaning given under section 97A.015, subdivision 55.

Subd. 22. [Repealed, 2013 c 121 s 59]

**History:** 1996 c 385 art 1 s 1; 1999 c 92 s 2; 2004 c 243 s 4-14; 2006 c 281 art 1 s 5-8; 2011 c 107 s 12-19; 2012 c 272 s 7; 2013 c 121 s 9; 2014 c 289 s 15-20; 2014 c 290 s 12; 1Sp2015 c 4 art 4 s 19-23; 2016 c 189 art 3 s 13

## **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, curly-leaf pondweed, and Eurasian watermilfoil programs.** (a) The program required in subdivision 1 must include specific programs to curb the spread and manage the growth of purple loosestrife, curly-leaf pondweed, and Eurasian watermilfoil. These programs must include:

(1) compiling inventories and monitoring the growth of purple loosestrife and Eurasian watermilfoil 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 watermilfoil, curly-leaf pondweed, 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. [Repealed, 2011 c 107 s 108]

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 and additional measures to protect the state's water resources from human transport and introduction of invasive species.

**Subd. 7. Contracts for services for emergency invasive species prevention work; commissions to persons employed.** The commissioner may contract for or accept the services of any persons whose aid is available, temporarily or otherwise, in emergency invasive species prevention work, either gratuitously or for compensation not in excess of the limits provided by law with respect to the employment of labor by the commissioner. The commissioner may issue a commission, or other written evidence of authority, to any person whose services are so arranged for and may thereby empower the person to act, temporarily or otherwise, in any other capacity, with powers and duties as may be specified in the commission or other written evidence of authority, but not in excess of the powers conferred by law. The commissioner of agriculture, under authority provided by law, shall cooperate with the commissioner in emergency control of invasive species prevention.

**History:** 1996 c 385 art 1 s 2; 1999 c 92 s 3; 2004 c 243 s 15-19; 2006 c 281 art 1 s 9; 2007 c 57 art 1 s 32; 2011 c 107 s 20

#### **84D.03 INFESTED WATERS; RESTRICTED ACTIVITIES.**

Subdivision 1. **Infested waters; restricted activities.** (a) The commissioner shall list a water of the state as an infested water if the commissioner determines that:

(1) 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; or

(2) the water is highly likely to be infested by an aquatic invasive species because it is connected to a water that contains a population of an aquatic invasive species.

(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 listing a water as infested.

(d) The commissioner shall maintain a list of infested waters and provide access to a copy of the listed waters. Listings are not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply.

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

Subd. 3. **Bait harvest from infested waters.** (a) Taking wild animals from infested waters for bait or aquatic farm purposes is prohibited except as provided in paragraph (b) or (c) and section 97C.341.

(b) In waters that are listed as infested waters, except those listed as infested with prohibited invasive species of fish or certifiable diseases of fish, as defined under section 17.4982, subdivision 6, taking wild animals may be permitted for:

(1) commercial taking of wild animals for bait and aquatic farm purposes as provided in 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 watermilfoil, when the infested waters are listed solely because they contain Eurasian watermilfoil and if the equipment for taking is limited to cylindrical minnow traps not exceeding 16 inches in diameter and 32 inches in length.

(c) In streams or rivers that are listed as infested waters, except those listed as infested with certifiable diseases of fish, as defined under section 17.4982, subdivision 6, the harvest of bullheads, goldeyes, mooneyes, sheepshead (freshwater drum), and suckers for bait by hook and line for noncommercial personal use is allowed as follows:

(1) fish taken under this paragraph must be used on the same body of water where caught and while still on that water body. Where the river or stream is divided by barriers such as dams, the fish must be caught and used on the same section of the river or stream;

(2) fish taken under this paragraph may not be transported live from or off the water body;

(3) fish harvested under this paragraph may only be used in accordance with this section;

(4) any other use of wild animals used for bait from infested waters is prohibited;

(5) fish taken under this paragraph must meet all other size restrictions and requirements as established in rules; and

(6) all species listed under this paragraph shall be included in the person's daily limit as established in rules, if applicable.

(d) Equipment authorized for minnow harvest in a listed infested water by permit issued under paragraph (b) may not be transported to, or used in, any waters other than waters specified in the permit.

(e) Bait intended for sale may not be held in infested water after taking and before sale unless authorized under a license or permit according to Minnesota Rules, part 6216.0500.

Subd. 4. **Restrictions in infested and noninfested waters; commercial fishing and turtle, frog, and crayfish harvesting.** (a) All nets, traps, buoys, anchors, stakes, and lines used for commercial fishing or turtle, frog, or crayfish harvesting in an infested water that is listed because it contains invasive fish, invertebrates, or certifiable diseases, as defined in section 17.4982, must be tagged with tags provided by the commissioner, as specified in the commercial licensee's license or permit. Tagged gear must not be used in water bodies other than those specified in the license or permit. The permit may authorize department staff to remove tags after the gear is decontaminated. This tagging requirement does not apply to commercial fishing equipment used in Lake Superior.

(b) All nets, traps, buoys, anchors, stakes, and lines used for commercial fishing or turtle, frog, or crayfish harvesting in an infested water that is listed solely because it contains Eurasian watermilfoil must be dried for a minimum of ten days or frozen for a minimum of two days before they are used in any other waters, except as provided in this paragraph. Commercial licensees must notify the department's regional or area fisheries office or a conservation officer before removing nets or equipment from an infested water listed solely because it contains Eurasian watermilfoil and before resetting those nets or equipment in any other waters. Upon notification, the commissioner may authorize a commercial licensee to move nets or equipment to another water without freezing or drying, if that water is listed as infested solely because it contains Eurasian watermilfoil.

(c) A commercial licensee must remove all aquatic macrophytes from nets and other equipment before placing the equipment into waters of the state.

(d) The commissioner shall provide a commercial licensee with a current listing of listed infested waters at the time that a license or permit is issued.

**History:** 1996 c 385 art 1 s 3; 1999 c 92 s 4,5; 2004 c 243 s 20; 1Sp2005 c 1 art 2 s 48; 2007 c 57 art 1 s 33; 2008 c 307 s 10; 2011 c 107 s 21,22; 1Sp2011 c 2 art 5 s 13; 2012 c 272 s 8; 2012 c 277 art 1 s 11; 2013 c 121 s 10; 2014 c 289 s 21; 1Sp2015 c 4 art 5 s 4; 2017 c 93 art 2 s 21,22; 2018 c 182 art 1 s 6

#### **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, including subspecies, genotypes, cultivars, hybrids, or genera of nonnative species, 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; 2017 c 93 art 2 s 23

#### **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 when specifically authorized 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 being removed from watercraft and equipment, or caught while angling, and immediately returned to the water from which they came;
- (7) when being transported from riparian property to a legal disposal site that is at least 100 feet from any surface water, ditch, or seasonally flooded land, provided the prohibited invasive species are in a covered commercial vehicle specifically designed and used for hauling trash; or
- (8) 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; 2012 c 272 s 9; 2016 c 189 art 3 s 14; 2017 c 93 art 2 s 24

#### **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; 2014 c 289 s 22; 1Sp2015 c 4 art 4 s 24

#### **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.075 NONNATIVE SPECIES, AQUATIC PLANTS, AND AQUATIC MACROPHYTES; PARTS AND LIFE STAGE.**

A law relating to a nonnative species, aquatic plant, or aquatic macrophyte applies in the same manner to a part of a nonnative species, aquatic plant, or aquatic macrophyte, whether alive or dead, and to any life stage or form.

**History:** 2016 c 189 art 3 s 15

#### **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.** Unless specifically authorized under a license or permit issued by the commissioner, a person may not transport aquatic macrophytes, 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 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;

(3) when legally purchased or traded by or from commercial or hobbyist sources for aquarium, wetland or lakeshore restoration, or ornamental purposes;

(4) when harvested for personal or commercial use if in a motor vehicle;

(5) 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;

(6) that are wild rice harvested under section 84.091;

(7) 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;

(8) when removing water-related equipment from waters of the state for purposes of cleaning off aquatic macrophytes before leaving a water-access site; or

(9) when being transported from riparian property to a legal disposal site that is at least 100 feet from any surface water, ditch, or seasonally flooded land, provided the aquatic macrophytes are in a covered commercial vehicle specifically designed and used for hauling trash.

**History:** 1996 c 385 art 1 s 9; 1999 c 92 s 6; 2004 c 243 s 26; 2011 c 107 s 23; 2012 c 272 s 10; 2013 c 121 s 11; 2016 c 189 art 3 s 16

#### **84D.10 WATERCRAFT AND WATER-RELATED EQUIPMENT REQUIREMENTS AND PROHIBITIONS.**

Subdivision 1. **Launching prohibited.** A person may not place or attempt to place into waters of the state water-related equipment, including aquatic plant harvesting or control equipment that has aquatic macrophytes 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 attached in or on watercraft 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) A conservation officer or other licensed peace officer may order:

(1) the removal of aquatic macrophytes or prohibited invasive species from water-related equipment, including decontamination using hot water or high pressure equipment when available on site, before the water-related equipment is transported or before it is placed into waters of the state;

(2) confinement of the water-related equipment at a mooring, dock, or other location until the water-related equipment is removed from the water;

(3) removal of water-related equipment from waters of the state to remove prohibited invasive species if the water has not been listed by the commissioner as being infested with that species;

(4) a prohibition on placing water-related equipment into waters of the state when the water-related equipment has aquatic macrophytes or prohibited invasive species attached in violation of subdivision 1 or when water has not been drained or the drain plug has not been removed in violation of subdivision 4; and

(5) decontamination of water-related equipment when available on site.

(b) An order for removal of prohibited invasive species under paragraph (a), clause (1), or decontamination of water-related equipment under paragraph (a), clause (5), may include tagging the water-related equipment and issuing a notice that specifies a time frame for completing the removal or decontamination and reinspection of the water-related equipment.

(c) An inspector who is not a licensed peace officer may issue orders under paragraph (a), clauses (1), (3), (4), and (5).

**Subd. 4. Persons transporting water-related equipment.** (a) When leaving a water of the state, a person must drain water-related equipment holding water and live wells and bilges by removing the drain plug before transporting the water-related equipment. For the purposes of this paragraph, "transporting" includes moving water-related equipment over land between connected or unconnected water bodies, but does not include moving water-related equipment within the immediate area required for loading and preparing the water-related equipment for transport over land.

(b) Drain plugs, bailers, valves, or other devices used to control the draining of water from ballast tanks, bilges, and live wells must be removed or opened while transporting water-related equipment.

(c) Emergency response vehicles and equipment may be transported on a public road with the drain plug or other similar device replaced only after all water has been drained from the equipment upon leaving the water body.

(d) Portable bait containers used by licensed aquatic farms, portable bait containers when fishing through the ice except on waters listed infested for viral hemorrhagic septicemia, and marine sanitary systems are exempt from this subdivision.

(e) A person must not dispose of bait in waters of the state.

(f) A boat lift, dock, swim raft, or associated equipment that has been removed from any water body may not be placed in another water body until a minimum of 21 days have passed.

(g) A person who transports water that is appropriated from noninfested surface water bodies and that is transported by a commercial vehicle, excluding watercraft, or commercial trailer, which vehicle or trailer is specifically designed and used for water hauling, is exempt from paragraphs (a) and (b), provided that the person does not discharge the transported water to other surface waters or within 100 feet of a surface water body.

(h) A person transporting water from noninfested surface water bodies for firefighting or emergencies that threaten human safety or property is exempt from paragraphs (a) and (b).

**History:** 1996 c 385 art 1 s 10; 1999 c 92 s 7; 2004 c 243 s 27,28; 2008 c 368 art 2 s 5; 2010 c 361 art 4 s 25; 2011 c 107 s 24-26; 2012 c 272 s 11,12; 2013 c 121 s 12,13; 2014 c 289 s 23,24; 1Sp2015 c 4 art 4 s 25; 2016 c 189 art 3 s 17

**84D.105 INSPECTION OF WATER-RELATED EQUIPMENT.**

Subdivision 1. **Compliance inspections.** Compliance with aquatic invasive species inspection requirements is an express condition of operating or transporting water-related equipment. An inspector may prohibit an individual from placing or operating water-related equipment in waters of the state if the individual refuses to allow an inspection of the individual's water-related equipment or refuses to remove and dispose of aquatic invasive species, aquatic macrophytes, and water.

Subd. 2. **Inspector authority.** (a) The commissioner shall train and authorize individuals to inspect water-related equipment for aquatic macrophytes, aquatic invasive species, and water. The commissioner may enter into a delegation agreement with a tribal or local government where inspection authority as provided under paragraphs (b), (g), and (h) is delegated to tribal and local governments. The delegation agreements may provide for the assumption of legal, financial, and administrative responsibilities for inspection programs on some or all public waters within their jurisdiction.

(b) Inspectors may visually and tactilely inspect watercraft and water-related equipment to determine whether aquatic invasive species, aquatic macrophytes, or water is present. If a person transporting watercraft or water-related equipment refuses to take required corrective actions or fails to comply with an order under section 84D.10, subdivision 3, an inspector who is not a licensed peace officer shall refer the violation to a conservation officer or other licensed peace officer.

(c) In addition to paragraph (b), a conservation officer or other licensed peace officer may inspect any watercraft or water-related equipment that is stopped at a water-access site, any other public location in the state, or a private location where the watercraft or water-related equipment is in plain view, if the officer determines there is reason to believe that aquatic invasive species, aquatic macrophytes, or water is present on the watercraft or water-related equipment.

(d) Conservation officers or other licensed peace officers may utilize check stations in locations, or in proximity to locations, where watercraft or other water-related equipment is placed into or removed from waters of the state. Any check stations shall be operated in a manner that minimizes delays to vehicles, equipment, and their occupants.

(e) Conservation officers or other licensed peace officers may order water-related equipment to be removed from a water body if the commissioner determines such action is needed to implement aquatic invasive species control measures.

(f) The commissioner may require mandatory inspections of water-related equipment before a person places or removes water-related equipment into or out of a water body. Inspection stations may be located at or near public water accesses or in locations that allow for servicing individual or multiple water bodies. The commissioner shall ensure that inspection stations:

- (1) have adequate staffing to minimize delays to vehicles and their occupants;
- (2) allow for reasonable travel times between public accesses and inspection stations if inspection is required before placing water-related equipment into a water body;
- (3) are located so as not to create traffic delays or public safety issues;
- (4) have decontamination equipment available to bring water-related equipment into compliance; and
- (5) do not reduce the capacity or hours of operation of public water accesses.

(g) The commissioner may authorize tribal and local governments that enter into a delegation agreement with the commissioner to conduct mandatory inspections of water-related equipment at specified locations within a defined area before a person places or removes water-related equipment into or out of a water body. Tribal and local governments that are authorized to conduct inspections under this paragraph must:

(1) to the extent called for in the delegation agreement, assume legal, financial, and administrative responsibilities for implementing the mandatory inspections, alone or in agreement with other tribal or local governments;

(2) employ inspectors that have been trained and authorized by the commissioner;

(3) conduct inspections and decontamination measures in accordance with guidelines approved by the commissioner;

(4) have decontamination equipment available at inspection stations or identify alternative decontamination equipment locations within a reasonable distance of the inspection station that can bring water-related equipment into compliance;

(5) provide for inspection station locations that do not create traffic delays or public safety issues; and

(6) submit a plan approved by the commissioner according to paragraph (h).

(h) Plans required under paragraph (g) must address:

(1) no reduction in capacity or hours of operation of public accesses and fees that do not discourage or limit use;

(2) reasonable travel times between public accesses and inspection stations;

(3) adequate staffing to minimize wait times and provide adequate hours of operation at inspection stations and public accesses;

(4) adequate enforcement capacity;

(5) measures to address inspections of water-related equipment at public water accesses for commercial entities and private riparian landowners; and

(6) other elements as required by the commissioner to ensure statewide consistency, appropriate inspection and decontamination protocols, and protection of the state's resources, public safety, and access to public waters.

(i) A government unit authorized to conduct inspections under this subdivision must submit an annual report to the commissioner summarizing the results and issues related to implementing the inspection program.

(j) The commissioner may waive the plan requirement in paragraph (g) for inspection programs where authorized inspectors are placed directly at one or more water-access sites, with no requirement for a person to travel from the water access for inspection or decontamination, and no local ordinance or other regulation requiring a mandatory inspection before placing watercraft or water-related equipment into a water body or after watercraft or water-related equipment are removed from a water body.

**History:** 2011 c 107 s 27; 2012 c 272 s 13; 2013 c 121 s 14; 2014 c 289 s 25

**84D.106 AQUATIC INVASIVE SPECIES AFFIRMATION.**

Aquatic invasive species affirmation is required for all:

- (1) watercraft licenses issued under section 86B.401; and
- (2) nonresident fishing licenses, as provided in section 97C.301, subdivision 2a.

**History:** *1Sp2015 c 4 art 4 s 26*

**84D.108 SERVICE PROVIDER PERMIT.**

Subdivision 1. **Service provider permit required.** (a) Service providers must apply for and obtain a permit from the commissioner before providing any services described in section 84D.01, subdivision 15a.

(b) Service providers must have a valid permit in possession while providing services described in section 84D.01, subdivision 15a.

(c) Service providers must display the service provider permit decal issued with their permit. The decal must be completely affixed by its own adhesive on the inside of the extreme lower corner of the driver's windshield of the vehicle being operated while providing services described in section 84D.01, subdivision 15a.

Subd. 2. **Permit requirements.** (a) Service providers must complete invasive species training provided by the commissioner and pass an examination to qualify for a permit. Service provider permits are valid for three calendar years.

(b) A \$50 application and testing fee is required for service provider permit applications.

(c) Persons working for a permittee must satisfactorily complete aquatic invasive species-related training provided by the commissioner, except as provided under paragraph (d).

(d) A person working for and supervised by a permittee is not required to complete the training under paragraph (c) if the water-related equipment or other water-related structures remain on the riparian property owned or controlled by the permittee and are only removed from and placed into the same water of the state.

Subd. 2a. **Lake Minnetonka pilot study.** (a) The commissioner may issue an additional permit to service providers to return to Lake Minnetonka water-related equipment with zebra mussels attached after the equipment has been seasonally stored, serviced, or repaired. The permit must include verification and documentation requirements and any other conditions the commissioner deems necessary.

(b) Water-related equipment with zebra mussels attached may be returned only to Lake Minnetonka (DNR Division of Waters number 27-0133) by service providers permitted under subdivision 1.

(c) The service provider's place of business must be within the Lake Minnetonka Conservation District as established according to sections 103B.601 to 103B.645 or within a municipality immediately bordering the Lake Minnetonka Conservation District's boundaries.

(d) A service provider applying for a permit under this subdivision must, if approved for a permit and before the permit is valid, furnish a corporate surety bond in favor of the state for \$50,000 payable upon violation of this chapter while the service provider is acting under a permit issued according to this subdivision.

(e) This subdivision expires December 1, 2019.

Subd. 2b. **Gull Lake pilot study.** (a) The commissioner may include an additional targeted pilot study to include water-related equipment with zebra mussels attached for the Gull Narrows State Water Access Site, Government Point State Water Access Site, and Gull East State Water Access Site on Gull Lake (DNR Division of Waters number 11-0305) in Cass and Crow Wing Counties using the same authorities, general procedures, and requirements provided for the Lake Minnetonka pilot project in subdivision 2a. Lake service providers participating in the Gull Lake targeted pilot study place of business must be located in Cass or Crow Wing County.

(b) If an additional targeted pilot project for Gull Lake is implemented under this section, the report to the chairs and ranking minority members of the senate and house of representatives committees having jurisdiction over natural resources required under Laws 2016, chapter 189, article 3, section 48, must also include the Gull Lake targeted pilot study recommendations and assessments.

(c) This subdivision expires December 1, 2019.

Subd. 2c. **Cross Lake pilot study.** (a) The commissioner may include an additional targeted pilot study to include water-related equipment with zebra mussels attached for the Cross Lake #1 State Water Access Site on Cross Lake (DNR Division of Waters number 18-0312) in Crow Wing County using the same authorities, general procedures, and requirements provided for the Lake Minnetonka pilot project in subdivision 2a. The place of business of lake service providers participating in the Cross Lake targeted pilot study must be located in Cass or Crow Wing County.

(b) If an additional targeted pilot project for Cross Lake is implemented under this section, the report to the chairs and ranking minority members of the senate and house of representatives committees having jurisdiction over natural resources required under Laws 2016, chapter 189, article 3, section 48, must also include the Cross Lake targeted pilot study recommendations and assessments.

(c) This subdivision expires December 1, 2019.

Subd. 3. **Standard for issuing.** The commissioner may issue, deny, modify, or revoke a permit as provided in section 84D.11, subdivision 3.

Subd. 4. **Appeal of permit decision.** Permit decisions may be appealed as provided in section 84D.11, subdivision 4.

**History:** 2011 c 107 s 28; 2012 c 272 s 14; 2013 c 114 art 4 s 13; 2016 c 189 art 3 s 18; 2017 c 93 art 2 s 25-27

## **84D.11 PERMITS.**

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

(b) The commissioner may issue a permit as provided under section 84D.108, subdivision 2a, to a service provider to allow water-related equipment to be placed back into the same body of water after being seasonally stored, serviced, or repaired by the service provider. This paragraph expires December 1, 2018.

Subd. 1a. **Permit for invasive carp.** The commissioner may issue a permit to departmental divisions for tagging bighead, black, grass, or silver carp for research or control. Under the permit, the carp may be released into the water body from which the carp was captured. This subdivision expires December 31, 2021.

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.** (a) The commissioner may issue a permit to allow the harvest of bait:

(1) from waters that are listed as infested waters, except those listed because they contain prohibited invasive species of fish or certifiable diseases of fish as defined in section 17.4982, subdivision 6; and

(2) from infested waters as allowed under section 97C.341, paragraph (c).

The permit shall include conditions necessary to avoid spreading aquatic invasive species.

(b) Before receiving a permit, or working for a permittee, a person annually must satisfactorily complete aquatic invasive species-related training provided by the commissioner.

Subd. 2b. **Transport of water.** The commissioner may issue a permit under this section or an authorization under other licenses or permits pursuant to sections 97C.801, 97C.811, and 103G.271 to allow the transport of water in containers or water-related equipment specifically designed and used for hauling water.

Subd. 2c. **Transport of aquatic macrophytes.** The commissioner may issue a permit to allow the transport of aquatic macrophytes to locations specified in the permit for purposes of research, education, and decontaminating equipment.

Subd. 2d. **Special permits.** The commissioner may issue special permits for the activities in this section. A special permit may be issued in the form of a general permit to a governmental subdivision or to the general public to conduct one or more activities under a single permit.

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; 2011 c 107 s 29; 1Sp2011 c 2 art 5 s 14; 2013 c 121 s 15-17; 2014 c 289 s 26; 1Sp2015 c 4 art 4 s 27; 2016 c 189 art 3 s 19; 2017 c 93 art 2 s 28

## 84D.12 RULES.

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

(1) designating 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 listed 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; and

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

**History:** 1996 c 385 art 1 s 12; 1999 c 92 s 9,10; 2004 c 243 s 32; 2007 c 57 art 1 s 34,35; 2014 c 289 s 27; 1Sp2015 c 4 art 4 s 28,29

#### **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 and other licensed peace 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 sections 84D.03 or 84D.06 to 84D.11, 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 water-related 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 water-related equipment that has aquatic macrophytes or prohibited invasive species attached;

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

(4) fails to remove plugs, open valves, and drain water from water-related equipment before leaving waters of the state or when transporting water-related equipment as provided in section 84D.10, subdivision 4;

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

(6) fails to comply with a decontamination order when a decontamination unit is available on site;

(7) fails to complete decontamination of water-related equipment or to remove invasive species from water-related equipment by the date specified on a tagging notice and order; or

(8) fails to complete the aquatic invasive species offender training course required under section 86B.13.

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

(1) for transporting aquatic macrophytes in violation of section 84D.09, \$100;

(2) for placing or attempting to place into waters of the state water-related equipment that has aquatic macrophytes attached, \$200;

(3) for unlawfully possessing or transporting a prohibited invasive species other than an aquatic macrophyte, \$500;

(4) for placing or attempting to place into waters of the state water-related equipment that has prohibited invasive species attached when the waters are not listed by the commissioner as being infested with that invasive species, \$500;

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

(6) for failing to have drain plugs or similar devices removed or opened while transporting water-related equipment or for failing to remove plugs, open valves, and drain water from water-related equipment, other than marine sanitary systems, before leaving waters of the state, \$100;

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

(8) for failing to have aquatic invasive species affirmation displayed or available for inspection as provided in sections 86B.401 and 97C.301, subdivision 2a, \$25;

(9) for failing to comply with a decontamination order when a decontamination unit is available on site, \$250;

(10) for failing to complete decontamination of water-related equipment or to remove invasive species from water-related equipment by the date specified on a tagging notice and order, \$250; and

(11) for failing to complete the aquatic invasive species offender training course required under section 86B.13, \$25.

(b) A civil citation that is issued to a person who has one or more prior convictions or final orders for violations of this chapter is subject to twice the penalty amounts listed in paragraph (a).

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.105 or who refuses to comply with a removal order given under this section.

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 must be paid to either: (1) the commissioner if the citation was issued by a conservation officer and must be credited to

the invasive species account; or (2) the treasury of the unit of government employing the officer who issued the civil citation.

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.

Subd. 9. **Training for offenders.** A person who is convicted of or subject to a final order for a violation of this chapter involving water-related equipment must successfully complete a training course as provided in section 86B.13.

**History:** 1996 c 385 art 1 s 13; 2004 c 221 s 15; 2004 c 243 s 33-35; 2007 c 57 art 1 s 36; 2008 c 368 art 2 s 6; 2010 c 361 art 4 s 26; 2011 c 107 s 30-34; 2012 c 272 s 15; 2013 c 121 s 18,19; 2014 c 289 s 28; 1Sp2015 c 4 art 4 s 30; 2016 c 189 art 3 s 20,21

#### **84D.14 EXEMPTIONS.**

This chapter does not apply to:

- (1) pathogens and terrestrial arthropods regulated under sections 18G.01 to 18G.15; 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; 2007 c 57 art 1 s 37

#### **84D.15 INVASIVE SPECIES ACCOUNT.**

Subdivision 1. **Creation.** The invasive species account is created in the state treasury in the natural resources fund.

Subd. 2. **Receipts.** Money received from surcharges on watercraft licenses under section 86B.415, subdivision 7, civil penalties under section 84D.13, and service provider permits under section 84D.108, shall be deposited in the invasive species account. Each year, the commissioner of management and budget shall transfer from the game and fish fund to the invasive species account, the annual surcharge collected on nonresident fishing licenses under section 97A.475, subdivision 7, paragraph (b). Each fiscal year, the commissioner of management and budget shall transfer \$750,000 from the water recreation account under section 86B.706 to the invasive species account.

Subd. 3. **Use of money in account.** Money credited to the invasive species account in subdivision 2 shall be used for management of invasive species and implementation of this chapter as it pertains to invasive species, including control, public awareness, law enforcement, assessment and monitoring, management planning, habitat improvements, and research.

**History:** 2007 c 57 art 1 s 38; 2009 c 37 art 1 s 19; 2009 c 101 art 2 s 109; 2011 c 107 s 35; 1Sp2011 c 2 art 4 s 3; 1Sp2015 c 4 art 4 s 31