

CHAPTER 6216
DEPARTMENT OF NATURAL RESOURCES
HARMFUL EXOTIC SPECIES

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6216.0100 PURPOSE.

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

Statutory Authority: *MS s 84.9691*

History: *20 SR 2292(NO. 43); L 1996 c 385 art 2 s 7*

6216.0200 DEFINITIONS.

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

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

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

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

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

Statutory Authority: *MS s 84.9691*

History: *20 SR 2292(NO. 43); L 1996 c 385 art 2 s 7*

6216.0250 PROHIBITED EXOTIC SPECIES.

Subpart 1. **Designation.** The species in subparts 2 to 5 are prohibited exotic species because they pose a substantial threat to native species in the state.

Subp. 2. Aquatic plants.

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

Subp. 3. Fish.

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

Subp. 4. Invertebrates.

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

Subp. 5. Mammals.

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

Statutory Authority: *MS s 84.9691*

History: 20 SR 2292(NO. 43); L 1996 c 385 art 2 s 7

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

Subpart 1. Identification of infested waters and notice. The commissioner shall identify infested waters. The commissioner shall publish the names of identified water bodies in the State Register before May 1 of each year and provide notice through other available means where practical. The department shall post signs describing the infestation at all public accesses to identified water bodies. At any time the commissioner may identify additional water bodies or identify those water bodies which no longer are infested waters.

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

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

Statutory Authority: *MS s 84.9691*

History: 20 SR 2292(NO. 43)

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

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

Subp. 2. Prohibition of sport gill netting for whitefish and ciscoe in infested waters. If the commissioner identifies waters that are open to sport gill netting for whitefish and ciscoe as infested waters, the commissioner may close the gill netting season for the identified water body or require that gill nets used in the infested waters not be used in other water bodies. The commissioner shall publish the names of identified water bodies and new requirements or closures in the State Register and provide notice through media releases and other available means where practical. In addition, the commissioner shall post notice of the restrictions at public access points to identified water bodies.

Subp. 3. Commercial fishing restrictions in infested waters. Nets, traps, buoys, anchors, stakes, and lines used for commercial fishing purposes that are used in infested waters must be dried for a minimum of ten days or frozen for a minimum of two days before they are used in noninfested waters. All aquatic vegetation must be removed from nets and other equipment when they are removed from infested waters. Commercial operators must notify

the department's regional or area fisheries office or a conservation officer when removing nets from infested waters and before resetting those nets in noninfested waters.

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

A. Entry by boaters, anglers, or other water users and their equipment into marked areas of a water body where limited infestations of Eurasian water milfoil have been delineated in accordance with part 6216.0300 is prohibited, except in emergency situations where property or human life is endangered.

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

Statutory Authority: *MS s 84.9691*

History: *20 SR 2292(NO. 43)*

6216.0500 TRANSPORTATION AND APPROPRIATION OF WATER FROM INFESTED WATERS.

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

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

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

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

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

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

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

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

B. Artificial water basins that have populations of prohibited exotic species may be used for aquatic farm or private hatcheries under license by the department. Nets, traps, buoys, stakes, and lines that have been used in such artificial water basins must be dried for a minimum of ten days, or frozen for a minimum of two days, before they are used in nonin-

fested waters. All aquatic plants must be removed from nets and other equipment that are removed from the artificial water basins.

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

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

Subp. 6. **Infested waters diversion or transportation permits.** Applications for permits issued pursuant to this part, to divert or transport water from infested waters, shall be made on forms obtained from the commissioner and shall contain information as the commissioner may prescribe. The department shall act upon the application within 90 days of receipt. Failure on the part of the department to act upon the permit within the required time shall not be construed as approval of the application. Permits shall state all the conditions and limitations upon which they are based. A permit may be modified at any time by the department.

Statutory Authority: *MS s 84.9691*

History: *20 SR 2292(NO. 43); L 1996 c 385 art 2 s 7*

6216.0600 VIOLATIONS; CONFISCATIONS.

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

Statutory Authority: *MS s 84.9691*

History: *20 SR 2292(NO. 43)*