

CHAPTER 6216
DEPARTMENT OF NATURAL RESOURCES
INVASIVE SPECIES

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6216.0100 PURPOSE.

The purpose of parts 6216.0100 to 6216.0600 is to prevent the spread of invasive species, including prohibited and regulated invasive aquatic plants and wild animals, into and within the state as authorized by Minnesota Statutes, sections 17.497 and 84D.12, while allowing flexibility for conditional possession of invasive species. Parts 6216.0100 to 6216.0600 also provide a public process for designation of infested waters and classification and designation of nonnative species according to criteria in statute.

Statutory Authority: *MS s 84.9691; 84D.12*

History: *20 SR 2292(NO. 43); L 1996 c 385 art 2 s 7; 22 SR 2076; L 2004 c 243 s 40*

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, section 84D.01, unless otherwise noted in this part.

Subp. 1a. **Applicant.** "Applicant" means a person who applies for a Minnesota Department of Natural Resources prohibited invasive species permit or regulated invasive species permit according to part 6216.0265, a water appropriation permit or public works permit according to Minnesota Statutes, chapter 103G, or an infested water permit according to part 6216.0500, subpart 6, or who requests a determination of the appropriate classification of an unlisted nonnative species for introduction according to Minnesota Statutes, section 84D.06.

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. 3a. **Free-living state.** "Free-living state" means to be unconfined or outside the control of a person, and:

A. in the case of animals other than fish, includes the ability to fly, walk, or swim out of human control;

B. in the case of a fish or aquatic plants, the following locations shall be considered to be in a free-living state:

- (1) waters identified as public waters;
- (2) natural or artificial waters that are continually or intermittently connected to public waters; or

(3) water-using facilities, such as fish hatcheries, aquatic farms, zoos, and minnow retail or wholesale operations, with outflows that provide direct access for species to enter public waters; and

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C. in the case of a fish or aquatic plant, the following locations are not considered a free-living state:

- (1) artificial ponds such as water gardens that have no outlet to public waters;
- (2) waters whose shorelines are entirely within the land owned by a person, not continually or intermittently connected to public waters, and not identified by the department as public waters; or
- (3) water-using facilities, such as fish hatcheries, aquatic farms, zoos, and minnow retail or wholesale operations, with outflows that do not provide direct access for species to enter public waters.

Subp. 4. [Repealed, 22 SR 2076]

Subp. 4a. **Introduction.** "Introduction" has the meaning given in Minnesota Statutes, section 84D.01, subdivision 9. Introduction does not include the immediate return of a nonnative species to waters of the state from which it was removed. "Introduce" means the act of introduction.

Subp. 5. **Littoral area.** "Littoral area" means any part of a body of water 15 feet deep or less.

Subp. 6. **Person.** "Person" has the meaning given in Minnesota Statutes, section 645.44, subdivision 7.

Subp. 7. **Public waters.** "Public waters" means public waters as defined under Minnesota Statutes, section 103G.005, subdivision 15, that have been designated as public waters under the public waters inventory pursuant to Minnesota Statutes, section 103G.201.

Statutory Authority: *MS s 84.9691; 84D.12*

History: *20 SR 2292(NO. 43); L 1996 c 385 art 2 s 7; 22 SR 2076; L 2004 c 243 s 40*

6216.0230 NOMENCLATURE.

The scientific taxonomic nomenclature used in parts 6216.0100 to 6216.0600 follows the nomenclature assigned by the following sources, which are incorporated by reference. The sources are available through the Minitex interlibrary loan system and are not subject to frequent change:

- A. The American Fisheries Society, Common and Scientific Names of Fishes from the United States and Canada (fifth edition 1991);
- B. John J. Mayer and I. Lehr Brisbin, Jr., Wild Pigs in the United States (1991);
- C. The American Ornithologists' Union, Checklist of North American Birds (sixth edition 1983 and subsequent supplements);
- D. John T. Kartesz, A Synonymized Checklist of the Vascular Flora of the United States, Canada, and Greenland (second edition 1994);
- E. Ronald M. Nowak, Walker's Mammals of the World (fifth edition 1991);
- F. A.J. Healy and Elizabeth Edgar, Flora of New Zealand, volume III (1980);
- G. C.J. Webb, W.R. Sykes, and P.J. Garnock-Jones, Flora of New Zealand, volume IV (1988); and
- H. Flora of North America Editorial Committee, Flora of North America North of Mexico, volume 3 (1997) (for waterlilies only).

Statutory Authority: *MS s 84D.12*

History: *22 SR 2076*

6216.0250 PROHIBITED INVASIVE SPECIES.

Subpart 1. **Designation.** The species in subparts 2 to 5 and any hybrids, cultivars, or varieties of the species are designated as prohibited invasive species.

Subp. 2. **Aquatic plants.** The following aquatic plants are designated as prohibited invasive species:

- A. African oxygen weed (*Lagarosiphon major*) (Ridley) Moss ex Wagner;
- B. aquarium watermoss or giant salvinia (*Salvinia molesta*) Mitchell;
- C. Australian stonecrop (*Crassula helmsii*) (Kirk) Cockayne;
- D. brittle naiad (*Najas minor*) Allioni;
- E. curly-leaf pondweed (*Potamogeton crispus*) Linnaeus;
- F. Eurasian water milfoil (*Myriophyllum spicatum*) Linnaeus;
- G. European frog-bit (*Hydrocharis morsus-ranae*) Linnaeus;
- H. flowering rush (*Butomus umbellatus*) Linnaeus;
- I. hydrilla (*Hydrilla verticillata*) (Carl von Linnaeus) Royle;
- J. Indian swampweed (*Hygrophila polysperma*) (Roxburgh) T. Anders;
- K. purple loosestrife (*Lythrum salicaria*, *Lythrum virgatum*, or any variety, hybrid, or cultivar thereof) Linnaeus;
- L. water aloe or water soldiers (*Stratiotes aloides*) Linnaeus; and
- M. water chestnut (*Trapa natans*) Linnaeus.

Subp. 2a. **Federal noxious weed list.** For purposes of this part, the aquatic plants listed in Code of Federal Regulations, title 7, section 360.200, are also designated as prohibited invasive species except for Chinese water spinach (*Ipomoea aquatica*) Forsskal.

Subp. 3. **Fish.** The following fish are designated as prohibited invasive species:

- A. bighead carp (*Hypophthalmichthys nobilis*) Richardson;
- B. black carp (*Mylopharyngodon piceus*) (Richardson) Peters;
- C. grass carp (*Ctenopharyngodon idella*) Valenciennes;
- D. northern snakehead fish (*Channa argus*);
- E. round goby (*Neogobius melanostomus*);
- F. rudd (*Scardinius erythrophthalmus*) Linnaeus;
- G. ruffe (*Gymnocephalus cernuus*) Linnaeus;
- H. sea lamprey (*Petromyzon marinus*) Linnaeus;
- I. silver carp (*Hypophthalmichthys molitrix*) Valenciennes;
- J. tubenose goby (*Proterorhinus marmoratus*) Pallas;
- K. white perch (*Morone americana*) Gmelin; and
- L. zander (*Stizostedion lucioperca*) Linnaeus.

Subp. 4. **Invertebrates.** The following invertebrates are designated as prohibited invasive species:

- A. New Zealand mud snail (*Potamopyrgus antipodarum*) Gray; and
- B. zebra mussel (*Dreissena* spp.).

Subp. 5. **Mammals.** The following mammals are designated as prohibited invasive species:

- A. Asian raccoon dog, also known as finnraccoon (*Nyctereutes procyonoides*);
- B. Eurasian swine, European wild boar (*Sus scrofa scrofa*) Linnaeus;
- C. European rabbit (*Oryctolagus cuniculus*); and
- D. nutria, any strain (*Mycocastor coypu*).

Statutory Authority: MS s 84.9691; 84D.12

History: 20 SR 2292(NO. 43); L 1996 c 385 art 2 s 7; 22 SR 2076; 28 SR 629; L 2004 c 243 s 40; 32 SR 724

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6216.0260 REGULATED INVASIVE SPECIES.

Subpart 1. **Designation.** The species in subparts 2 to 5 are designated as regulated invasive species.

Subp. 2. **Aquatic plants.** The following aquatic plants are designated as regulated invasive species:

- A. Brazilian waterweed (*Egeria densa*) Planchon;
- B. Carolina fanwort or fanwort (*Cabomba caroliniana*) A. Gray;
- C. Chinese water spinach (*Ipomoea aquatica*) Forsskal;
- D. parrot's feather (*Myriophyllum aquaticum*) (da Conceicao Vellozo) Verdcourt;
- E. nonnative waterlilies (*Nymphaea* spp.) Linnaeus, or any variety, hybrid, or cultivar thereof. Native Minnesota waterlilies are: *Nymphaea odorata* Aiton subsp. *odorata* Aiton, *N. leibergii* Morong, and *N. odorata* Aiton subsp. *tuberosa* (Paine) Wiersema & Hellquist; and
- F. yellow iris or yellow flag (*Iris pseudacorus*) Linnaeus.

Subp. 3. **Fish.** The following fish are designated as regulated invasive species:

- A. alewife (*Alosa pseudoharengus*) Wilson;
- B. common carp, koi (*Cyprinus carpio*) Linnaeus;
- C. goldfish (*Carassius auratus*) Linnaeus;
- D. rainbow smelt (*Osmerus mordax*) Mitchell; and
- E. tilapia (*Tilapia*, *Oneochromis*, *Sartheradon* spp.).

Subp. 4. **Invertebrates.** The following invertebrates are designated as regulated invasive species:

- A. Chinese mystery snail, Japanese trap door snail (*Cipangopaludina* spp.) Han-nibal;
- B. rusty crayfish (*Orconectes rusticus*) Girard; and
- C. spiny water flea (*Bythotrephes cederstroemi*) Schoedler.

Subp. 5. **Birds.** The following birds are designated as regulated invasive species:

- A. Egyptian goose (*Alopochen aegyptia*) Linne;
- B. mute swan (*Cygnus olor*) Gmelin; and
- C. Sichuan pheasant (*Phasianus colchicus strachi*).

Statutory Authority: *MS s 84D.12*

History: *22 SR 2076; 28 SR 629; L 2004 c 243 s 40; 32 SR 724*

6216.0265 PERMITS FOR PROHIBITED AND REGULATED INVASIVE SPECIES.

Subpart 1. **Requirement.** No person may possess, import, purchase, propagate, or transport a prohibited invasive species without a permit from the commissioner issued according to this part, except as authorized by Minnesota Statutes, section 84D.05. No person may introduce a regulated invasive species without a permit from the commissioner issued according to this part, except as authorized in subpart 2. A regulated invasive species permit is not required for a person to possess, import, purchase, propagate, transport, own, or sell a regulated invasive species.

Subp. 2. **Exemptions and alternate permits for regulated invasive species.** In lieu of an additional permit issued under Minnesota Statutes, section 84D.11, permits and licenses issued under Minnesota Statutes, sections 17.4981 to 17.4994 and chapter 97C, and rules adopted thereunder, may authorize the introduction of regulated invasive species, provided that the conditions specified in those permits and licenses are in accordance with the conditions specified under this part.

Subp. 3. **Prohibited invasive species permit limitation.** A person may apply for a permit for prohibited invasive species only for the purposes of disposal, control, research, or education according to Minnesota Statutes, section 84D.11, subdivision 1.

Subp. 4. **Eligibility; prohibited invasive species permit.** An applicant for a prohibited invasive species permit must:

A. have experience in the skills necessary for handling potentially harmful species, including:

(1) knowledge of precautions necessary to prevent spread through handling;

or

(2) previous experience handling invasive species without allowing escapes;

B. maintain a facility or transportation equipment that prevents the escape of non-native species;

C. if the applicant is an individual, be at least 18 years of age at the time the application is received by the department; and

D. if the applicant is a corporation, limited partnership, or other business entity, be qualified to do business in Minnesota as shown by a certificate of authority to transact business in Minnesota or a certificate of limited partnership from the Minnesota Secretary of State.

Subp. 5. **Permit application.**

A. Written application for a permit for a prohibited or regulated invasive species shall be made on a form prescribed by the commissioner and shall contain the following:

(1) the legal name, address, daytime and evening telephone numbers, and, if an individual, date of birth of the applicant;

(2) the scientific and common names of either the prohibited invasive species that the applicant desires to propagate, possess, import, purchase, or transport or the regulated invasive species that the applicant desires to introduce;

(3) a detailed description of the activity the applicant will be undertaking;

(4) a detailed description of the facilities or transportation equipment to be used and an explanation of how the equipment is sufficient to prevent an unauthorized introduction of a prohibited invasive species;

(5) a description of the applicant's experience in handling the same or similar species;

(6) a written contingency plan for eradication or recapture in the event of an unauthorized introduction of the prohibited invasive species; and

(7) an agreement to comply with the requirements of parts 6216.0100 to 6216.0600.

B. The commissioner may request additional information from the applicant in writing after the application is received if necessary to evaluate the potential risk to the state's resources.

C. The commissioner shall review the permit applications and respond to the applicant within 30 days of receipt of the application or the additional information requested in item B.

Subp. 6. **Inspection of facilities or equipment.** After receipt of an application for a prohibited invasive species permit, and a determination by the commissioner that the applicant has satisfied all the initial requirements for a permit as described in this part, the commissioner may inspect the applicant's holding facilities or other containment or transportation equipment. Facilities holding prohibited invasive species under permit are subject to inspection by the commissioner at any reasonable time.

Subp. 7. **Transferability.** A permit issued under this part is not transferable.

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Subp. 8. **Expiration date and renewal.** All prohibited invasive species and regulated invasive species permits expire at midnight on December 31 of each year, unless otherwise specified in the permit. Applications for renewal of permits shall be made by October 1 of the year the permit expires. Applications for renewal shall describe any changes to the information initially required in subpart 5.

Subp. 9. **Revocation of permit.**

A. The commissioner may revoke all or part of a permit issued under this part when:

(1) the commissioner determines that a permittee has failed to comply with parts 6216.0100 to 6216.0600; or

(2) it is necessary to protect the interests of the public, to protect native plant and animal populations in the state, or to otherwise protect the state's natural resources.

B. Except in an emergency situation when delay would threaten the state's natural resources, the commissioner shall, at least 14 days prior to the effective date of the revocation, inform the permit holder in writing of the nature of the revocation and of the conditions that, in the commissioner's opinion, require revocation.

C. Within 30 days of receipt of a notice of revocation, the permit holder may apply for an amendment to the permit or request a hearing before the commissioner to contest the revocation, to support the permit holder's proposed amendment, or both.

D. The permit shall be revoked on the date stated on the revocation notice until such time that the decision is reversed or modified.

Subp. 10. **Disclaimer of liability.** A prohibited invasive species permit or regulated invasive species permit issued under this part is permissive only. No liability is assumed by the state or any of its officers, agents, or employees by issuing a prohibited or regulated invasive species permit or by any acts or operations of the permittee or any prohibited or regulated invasive species in possession of the permittee.

Subp. 11. **Effective date.** A person possessing, importing, purchasing, selling, propagating, transporting, or introducing a prohibited invasive species on June 2, 1998, must apply for a permit within 60 days of June 2, 1998.

Statutory Authority: *MS s 84D.12*

History: *22 SR 2076; L 2004 c 243 s 40*

6216.0270 UNREGULATED NONNATIVE SPECIES.

Subpart 1. **Designation.** The species in subparts 2 to 5 are designated as unregulated nonnative species. These nonnative species are not subject to regulation under Minnesota Statutes, chapter 84D.

Subp. 2. **Fish.** The following fish are designated as unregulated nonnative species:

- A. Atlantic salmon (*Salmo salar*) Linnaeus;
- B. brown trout (*Salmo trutta*) Linnaeus;
- C. coho salmon (*Oncorhynchus kisutch*) Walbaum;
- D. Chinook salmon (*Oncorhynchus tshawytscha*) Walbaum;
- E. pink salmon (*Oncorhynchus gorbuscha*) Walbaum;
- F. rainbow trout (*Oncorhynchus mykiss*) Walbaum; and
- G. subtropical, tropical, and saltwater fish, except anadromous species.

Subp. 3. **Invertebrates.** The following invertebrates are designated as unregulated nonnative species: subtropical, tropical, and saltwater invertebrates.

Subp. 4. **Mammals.** The following mammal is designated as an unregulated nonnative species: rat (*Rattus norvegicus* and *Rattus rattus*).

Subp. 5. **Birds.** The following birds are designated as unregulated nonnative species:

- A. chukar partridge (*Alectoris chukar*) Gray;
- B. helmeted Guinea fowl (*Numida meleagris*) Linnaeus;
- C. house sparrow (*Passer domesticus domesticus*) Linnaeus;
- D. Hungarian partridge, gray partridge (*Perdix perdix*) Linnaeus;
- E. peafowl (*Pavo cristatus*) Linnaeus;
- F. pigeon or rock dove (*Columba livia*) Gmelin;
- G. ring-necked pheasant (*Phasianus colchicus*) Linnaeus; and
- H. starling (*Sturnus vulgaris vulgaris*) Linnaeus.

Statutory Authority: *MS s 84D.12*

History: *22 SR 2076; L 2004 c 243 s 40*

6216.0280 ESCAPE OF NONNATIVE SPECIES.

Subpart 1. **Reporting.** To report an unauthorized introduction of prohibited invasive animal species, regulated invasive animal species, or unlisted nonnative animal species, in compliance with Minnesota Statutes, section 84D.08, a person shall notify the department's area or regional conservation officer or the invasive species program staff in the department's St. Paul office by telephone within 48 hours after learning of the unauthorized introduction.

Subp. 2. **Information required.** The following information shall be provided to the department about the unauthorized introduction:

- A. the quantity and species;
- B. the location of the introduction;
- C. the date and time the introduction occurred or was discovered;
- D. the last known location of the species; and
- E. the reporter's address and daytime and evening telephone numbers.

Statutory Authority: *MS s 84D.12*

History: *22 SR 2076; L 2004 c 243 s 40*

6216.0290 PROCESS FOR REVIEW OF PROPOSED INTRODUCTIONS OF UNLISTED NONNATIVE SPECIES.

Subpart 1. **Applications and information required.**

A. A person who seeks to introduce an unlisted nonnative species in the state according to Minnesota Statutes, section 84D.06, shall submit an application on a form prescribed by the commissioner. The form shall request the following information:

- (1) the name, address, and telephone number of the applicant;
- (2) the scientific and common names, family, and reference used for the scientific name of the unlisted nonnative species proposed for introduction;
- (3) the number of individual plants or animals proposed for introduction;
- (4) the reason and need for the proposed introduction;
- (5) the potential to use native species for the same purpose;
- (6) the location for the proposed introduction;
- (7) scientific-based information about the native range of the unlisted nonnative species;
- (8) the source of the actual individual organisms proposed to be introduced;
- (9) scientific-based information about the ability of the unlisted nonnative species to naturalize, displace native species, and harm natural resources or their use in similar climates and latitudes; and

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(10) an assessment of the potential adverse impacts on native Minnesota species and ecosystems, including scientific-based information about:

- (a) the potential to introduce disease or parasites to native fish or wildlife populations;
- (b) the potential for interbreeding or hybridizing with native fish or wildlife;
- (c) the potential predation on native fish or wildlife; and
- (d) any possible competition with native fish, wildlife, or aquatic plants for food, habitat, water, or other resources.

B. The commissioner may request additional information in writing after the application is received if necessary to assess the potential impacts of an introduction.

Subp. 2. **Application review.** The commissioner shall reject an application within ten working days after receipt of the application if the application does not contain the information required in subpart 1.

Subp. 3. **Review period.** Within 60 days of receipt of an application that contains the information in subpart 1, the commissioner shall assess the apparent risk of the introduction in the state and classify the species according to Minnesota Statutes, section 84D.04, subdivision 2. If the commissioner determines during the 60-day period that there should be a public comment period for the proposed introduction, or the commissioner determines that additional information is necessary to adequately evaluate the proposed introduction, the commissioner may extend the review period and state the basis of the extension in writing to the applicant. The review period may be extended to a date 30 days from the end of the public comment period or receipt by the department of the additional information requested from the applicant.

Subp. 4. **Review process.** Prior to classification of an unlisted nonnative species and making a final assessment on a proposed introduction, the commissioner may:

- A. seek information and opinions from technical experts;
- B. solicit public comment and hold public hearings on the proposed introduction;
- C. consult with other potentially affected jurisdictions; and
- D. in the case of an animal species, request a certificate of veterinary inspection or other appropriate certification that the animal is pathogen-free.

Subp. 5. **Comment period and comments.** If the commissioner determines that a public comment period is necessary on the proposed introduction, the commissioner shall promptly proceed to publish a notice in the EQB Monitor, which is published by the Environmental Quality Board. A 30-day period for review and comment begins the day a notice of the public comment period is published in the EQB Monitor. Written comments to the commissioner during the public comment period may address the accuracy and completeness of material contained in the application, additional information regarding the proposed introduction that is not contained in the application, or potential impacts that may warrant further investigation before the commissioner acts on the proposed introduction.

Subp. 6. **Designation and notification.** After completion of the review of a proposal to introduce an unlisted nonnative species and making a determination of the appropriate classification, the commissioner shall designate the species and notify the applicant as required under Minnesota Statutes, section 84D.06.

Statutory Authority: *MS s 84D.12*

History: *22 SR 2076; L 2004 c 243 s 40*

6216.0300 DESIGNATION, NOTICE, AND MARKING OF INFESTED WATERS.

Subpart 1. **Designation of infested waters and notice.** The commissioner shall designate infested waters. The commissioner shall publish the names of designated 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 designated water bodies. At any time, the commissioner may designate additional water bodies or remove from designation those water bodies which no longer are infested waters.

Subp. 2. [Repealed, 24 SR 1849]

Subp. 3. [Repealed, 24 SR 1849]

Statutory Authority: *MS s 84.9691; 84D.03; 84D.12*

History: *20 SR 2292(NO. 43); 22 SR 2076; 24 SR 1849*

6216.0350 [Repealed, 34 SR 474]

6216.0400 RESTRICTED ACTIVITIES ON INFESTED WATERS; PERMITS.

Subpart 1. **Taking bait from infested waters.** The taking of wild animals from infested waters for bait or aquatic farm purposes is prohibited, except:

A. by permit according to part 6254.0200 and Minnesota Statutes, sections 84D.03, subdivision 3, and 84D.11, subdivision 2a; and

B. harvest for bait purposes from waters that are designated as infested waters solely because they contain Eurasian water milfoil is allowed for noncommercial personal use.

Subp. 1a. **Permit application.**

A. Written application for a permit to harvest wild animals from infested waters for bait or aquatic farm purposes shall be made on a form provided by the commissioner and shall contain:

(1) the applicant's legal name, business name, license number, address, and daytime and evening telephone numbers;

(2) the names of the waters and counties where the applicant desires to harvest wild animals for bait or aquatic farm purposes; and

(3) a description of the harvest and transportation equipment to be used, including boats, motors, and trailers.

B. An application for a permit according to part 6254.0200 and Minnesota Statutes, sections 84D.03, subdivision 3, and 84D.11, subdivision 2a, must be mailed or delivered to the Minnesota DNR-Commercial Fisheries Program Coordinator, 500 Lafayette Road, St. Paul, MN 55155-4012.

C. An application for a permit under this part must be submitted by March 1 to be considered for permits that are effective on April 10 of the same year.

Subp. 1b. **Expiration; renewal; transferability.** Permits issued under this part expire at midnight on April 9 of each year, unless otherwise specified in the permit. An application for renewal shall describe any changes to the information submitted in the prior year. A permit issued under this part is not transferable.

Subp. 1c. **Revocation of permit.**

A. When the commissioner determines that a permittee has failed to comply with conditions of the permit, the commissioner may issue a warning or, if deemed necessary for the protection of the aquatic resources, revoke all or part of a permit. The commissioner may revoke the permit if deemed necessary for the protection of the aquatic resources. When it is determined that a third offense has occurred, the commissioner must revoke the permit.

B. Except in an emergency situation when delay would threaten the state's natural resources, the commissioner shall, at least seven days before the effective date of the revocation, inform the permit holder in writing of the nature of the revocation and of the conditions that, in the commissioner's opinion, require revocation.

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C. Upon notice of revocation, the permit holder may apply for an amendment to the permit or request a contested case hearing to contest the revocation. The permit is revoked on the date stated in the revocation notice until such time that the decision is reversed or modified.

Subp. 2. **Restrictions on sport gill netting for whitefish and ciscoe in infested waters.** If the commissioner designates 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 designated water body, require that gill nets used in the infested waters not be used in other water bodies, or require that nets 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. The commissioner shall publish the names of designated 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 designated water bodies.

Subp. 3. [Repealed, L 2004 c 243 s 41]

Subp. 4. [Repealed, 24 SR 1849]

Statutory Authority: *MS s 84.9691; 84D.12*

History: *20 SR 2292(NO. 43); 22 SR 2076; 24 SR 1849; L 2004 c 243 s 41*

6216.0500 TRANSPORTATION AND APPROPRIATION OF WATER FROM INFESTED WATERS.

Subpart 1. [Repealed, 32 SR 724]

Subp. 1a. **Diversion, appropriation, and transportation.**

A. Water from designated infested waters may not be diverted to other waters, transported on a public road, or transported or appropriated off property riparian to infested waters except:

- (1) in emergencies that threaten human safety or property;
- (2) as specified in a water appropriation or public waters work permit issued by the commissioner according to Minnesota Statutes, chapter 103G; or
- (3) under a permit issued according to this part.

B. For newly designated infested waters or infested waters that are newly designated with an additional invasive species, the commissioner shall review active water appropriation or public waters work permits issued under Minnesota Statutes, chapter 103G, and may amend permits to include conditions that prevent the spread of invasive species.

C. The following conditions may be included in permits issued under this part or Minnesota Statutes, chapter 103G, to prevent the spread of invasive species:

- (1) seasonal or other timing restrictions;
- (2) requirements to treat water, including chemical, ultraviolet, heat, filtering, or other treatment; and
- (3) requirements for discharge or disposal of water.

Subp. 2. **Disposition of water used to transport wild animals from infested waters.** Water used to transport wild animals from infested waters, 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 designated as having populations of zebra mussel or spiny water flea must drain bait containers, other boating-related equipment holding water excluding marine sanitary systems, and livewells and bilges by removing the drain plug before transporting the watercraft and associated equipment on public roads.

Subp. 4. [Repealed, 32 SR 724]

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

A. Natural lakes or wetland basins that are designated 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 or regulated invasive species may be used for aquatic farm or private hatcheries under license by the department. After notifying a licensee that an artificial water basin has a prohibited or regulated invasive species, the commissioner may require that 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 noninfested 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 or regulated invasive species.

D. Fish raised in artificial water basins that have populations of prohibited or regulated invasive species, or in any facility using infested water as a source, must be sold directly to a wholesale buyer for processing, except:

(1) the commissioner may by permit allow the stocking or transport of such fish where the receiving waters contain populations of the same prohibited or regulated invasive species as the source facility's waters; or

(2) the commissioner may by permit allow the stocking or transport of such fish in water bodies that do not contain populations of prohibited or regulated invasive species if the source facility uses adequate treatment to remove the prohibited or regulated invasive species from the facility.

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; 84D.12*

History: *20 SR 2292(NO. 43); L 1996 c 385 art 2 s 7; 22 SR 2076; 24 SR 1849; L 2004 c 243 s 40; 32 SR 724*

6216.0600 VIOLATIONS; CONFISCATIONS.

Unless a different penalty is prescribed, a violation of parts 6216.0265, 6216.0280 to 6216.0290, or 6216.0400 to 6216.0500 is a misdemeanor as set forth in Minnesota Statutes, section 84D.13. Where a violation has occurred, the department may confiscate the prohibited invasive species, regulated invasive species, or unlisted nonnative 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; 84D.12*

History: *20 SR 2292(NO. 43); 22 SR 2076; L 2004 c 243 s 40*