

Clearinghouse Rule 14-034

Report to
Legislative Council Rules Clearinghouse
NR 40, Wis. Adm. Code
Natural Resources Board Order No. SS-04-12

Wisconsin Statutory Authority

The state statutes that authorize the promulgation of this rule are ss. 23.09 (2) (intro), 23.091, 23.11 (1), 23.22 (2) (a) and (b) 6., 23.28 (3), 27.01 (2) (j), 29.014 (1), 29.039 (1) 29.041, and 227.11 (2) (a), Wis. Stats.

Federal Authority

Not applicable.

Comparison of Adjacent States

- Illinois: The Illinois Department of Agriculture maintains a statutory list under Illinois Noxious Weed Law of about 9 species (www.agr.state.il.us/Laws/Regs/8iac220.pdf) and the Illinois Department of Natural Resources links to a more comprehensive list of 102 invasive species and a shorter list of plants, animals, insects and diseases (www.invasive.org/illinois/SpeciesofConcern.html).
- Iowa: Regulates several species of aquatic invasive plants, aquatic invasive invertebrates, and invasive fish (www.iowadnr.gov/idnr/Fishing/AboutFishinginIowa/FightingInvasiveSpecies/AquaticInvasiveInvertebrates.aspx)
- Michigan: Regulates a number of invasive aquatic plants - 18, fish - 12 plus all snakeheads, and other animals - 11 through Act 451 and requires prevention actions especially for aquatic invasive species ([www.legislature.mi.gov/\(S\(brw3y4554cagkv4554a24a45\)\)/documents/mcl/pdf/mcl-451-1994-iii-2-1-wildlife-conservation-413.pdf](http://www.legislature.mi.gov/(S(brw3y4554cagkv4554a24a45))/documents/mcl/pdf/mcl-451-1994-iii-2-1-wildlife-conservation-413.pdf))
- Minnesota: Regulates both aquatic and terrestrial invasive species in a process similar to Wisconsin with prohibited, restricted, and non-regulated categories as well as prevention requirements including regulating the transport of water. The species regulated as prohibited include aquatic plants - 14 plus all federally listed species except *Ipomoea aquatica*, fish - 14, aquatic invertebrates - 5, mammals - 4. The species regulated as restricted include aquatic plants - 6, birds - 3, fish - 5, and aquatic invertebrates - 3. In addition all crayfish are regulated.

Court Decisions Directly Relevant

None.

Analysis of the Rule - Rule Effect - Reason for the Rule

Wisconsin's Invasive Species Rule (ch. NR 40, Wis. Adm. Code) makes it illegal to possess, transport, transfer, or introduce certain invasive species in Wisconsin without a permit.

In 2009, during the public input and initial drafting of the Invasive Species Identification, Classification, and Control Rule, ch. NR 40, Wis. Admin. Code, it was recognized that many additional species may need to be evaluated and, if appropriate, categorized and listed under this rule. Most of these species are used by some sector of society and require input from the affected stakeholders.

The proposed rule revision lists additional invasive species into existing prohibited and restricted categories set out in ch. NR 40, Wis. Adm. Code, making them subject to existing administrative rules and statutes. Other proposed revisions facilitate compliance with ch. NR 40, clarify language, update species names, and improve the organization of the rule.

The proposed species changes include: delisting two species, listing 50 new prohibited species, listing 32 new restricted species, listing two species as split-listed (prohibited/restricted), and changing the regulated status of four species.

Agency Procedures for Promulgation

Public hearing, Natural Resources Board final adoption, Governor's Office of Regulatory Compliance final approval, followed by legislative review.

Description of any Forms (attach copies if available)

None.

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