

Chapter NR 40

INVASIVE SPECIES IDENTIFICATION, CLASSIFICATION AND CONTROL

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NR 40.01 Purpose. The purpose of this chapter is to identify, classify and control invasive species in Wisconsin as part of the department's statewide program required by s. 23.22 c2d cad, Stats.

History: CR 08-074: cr. Register August 2009 No. 644, eff. 9-1-09.

NR 40.02 Definitions. For purposes of this chapter:

c1d XAlgaeY means a predominately photosynthetic eukaryotic organism ranging from unicellular to macroscopic forms, lacking true roots, stems, leaves, and embryos.

c2d XAnimalY means all vertebrate and invertebrate species, including but not limited to mammals, birds, reptiles, amphibians, fish, mollusks, arthropods, insects, and their eggs, larvae or young, but excluding humans.

c3d XAquatic animalY means any vertebrate or invertebrate species that lives or grows only in water during any life stage, and includes the eggs, larvae or young of those species.

c3md XAquatic invasive speciesY means any invasive species that dwells in water or wetlands.

c4d XAquatic plantY means a submergent, emergent, free-floating or floating-leaf plant and includes any part of the plant.

c5d XAttachedY means in, on, or physically connected to in any way.

c6d XBoatY means any device capable of being used as a means of transportation on water.

c7d XCategoryY means a grouping of species designated by administrative rule for which there are specific legal requirements or restrictions.

c7gd XCaveY means any naturally occurring void, cavity, recess or system of interconnected passageways beneath the surface of the earth or in a bluff, cliff or ledge, including pits and sinkholes, but does not include a rock shelter.

c7rd XCommercial cave or mineY means a cave or mine that has more than 1,000 visitors per year and charges a fee.

c8d XContainY or XcontainmentY means to prevent spread beyond a designated boundary.

c9d XControlY has the meaning given it in s. 23.22 c1d cad, Stats. In addition, XcontrolY includes activities to eliminate or reduce the adverse effects of invasive species including decreasing or eradicating their population or limiting their introduction or spread, and includes destroying the aboveground, and when necessary, the belowground portions of a plant in a manner and at the proper time to prevent the development and distribution of viable seeds or other propagules. For plants that reproduce vegetatively, XcontrolY includes the use of methods that contain or reduce the vegetative spread of the plant.

Note: Section 23.22 c1d cad, Stats., states that XcontrolY means to cut, remove, destroy, suppress, or prevent the introduction or spread of.

c9md XCrayfishY means any decapod crustacean from the following families: *Astacidae*, *Cambaridae* and *Parastacidae*.

c10d XCultivateY means, for plants, intentionally maintaining an individual or population of a plant.

c11d XCyanobacteriaY means a predominately photosynthetic prokaryotic organism occurring singly or in colonies.

c12d XDATCPY means the Wisconsin department of agriculture, trade and consumer protection.

c13d XDepartmentY means the Wisconsin department of natural resources.

c14d XDisposalY means the lawful discharge, deposit, dumping or placing of any invasive species into or on any land or water in a manner that prevents the establishment, introduction or spread of the disposed species, or the consumption of the species as food.

c15d XEradicateY means to remove an entire population of an invasive species and all its propagules from an area of infestation.

c16d XEstablishedY means, for algae and cyanobacteria, plants, terrestrial invertebrates and plant disease-causing microorganisms, aquatic invertebrates except crayfish, and terrestrial and aquatic vertebrates except fish, present in an area as a self-sustaining population that is dispersed to the extent that eradication is either infeasible or will take a significant effort over a period of several years.

c17d XEstablished nonnative fish species and established nonnative crayfish speciesY means alewife *Alosa pseudoharengus*, common carp *Cyprinus carpio*, eastern mosquitofish *Gambusia holbrooki*, rainbow smelt *Osmerus mordax*, round goby *Neogobius melanostomus*, ruffe *Gymnocephalus cernuus*, sea lamprey *Petromyzon marinus*, three-spine stickleback *Gasterosteus aculeatus*, tubenose goby *Proterorhinus marmoratus*, white perch *Morone americanus*, and rusty crayfish *Orconectes rusticus*, and western mosquitofish *Gambusia affinis*.

c18d XFeralY means existing in an untamed or wild, unconfined state, having returned to such a state from domestication.

c19d XGenetically modifiedY refers to an organism whose genome, chromosomal or extrachromosomal, is modified permanently and heritably, using recombinant nucleic acid techniques, and includes the progeny of any genetically modified organism.

c20d XIdentified carrier of an invasive speciesY means any material identified in a department infestation control designation under s. 26.30 c7d, Stats., a DATCP quarantine under s. 94.01, Stats., or a United States Department of Agriculture Animal and Plant Health Inspection Service quarantine declaration under 7 USC section 7714 or 7715 as potentially carrying an invasive species.

c21d XImportY means to bring into Wisconsin or to arrange for another person to bring into Wisconsin.

c22d XIncidentalY means something is done inadvertently when performing an otherwise legal activity.

c23d XIntroduceY means to stock, plant, release or otherwise put an invasive species into the outdoor environment or use an invasive species in this state anywhere except within an indoor facility which is designed to physically contain the organism, including but not limited to a laboratory, greenhouse, growth chamber or fermenter.

c24d XInvasive speciesY has the meaning given it in s. 23.22 c1d ccd, Stats. In addition, Xinvasive speciesY means nonnative species including hybrids, cultivars, subspecific taxa, and genetically modified variants whose introduction causes or is likely to cause economic or environmental harm or harm to human health, and includes individual specimens, eggs, larvae, seeds, propagules, and any other viable life-stages of such species. For fish, Xinvasive speciesY includes all nonnative species.

Note: Section 23.22 c1d ccd, Stats., states that Xinvasive speciesY means non-indigenous species whose introduction causes or is likely to cause economic or environmental harm or harm to human health. The department does not consider dead specimens or organisms that are dead, not revivable, and no longer capable of living, growing, developing, reproducing, and functioning as Xinvasive speciesY.

c25d XManagement actionY means limiting the spread of established populations or abating harmful ecological, economic, social and public health impacts associated with invasive species introductions.

c25md XMineY means any artificial excavation, shaft, underground passageway, slope, tunnel or working from which ore or mineral is or was extracted, but does not include an open pit mine. However, caves or mines may be located adjacent to open pit mines.

c26d XNative duckweedY means any of the following: *Lemna aequinoctialis* clessler duckweed, three-nerved duckweed, *Lemna minor* ccommon duckweed, *Lemna obscura* clittle duckweed, purple duckweed, *Lemna perpusilla* cleast duckweed, minute duckweed, *Lemna trisulca* cforked duckweed, star duckweed, *Lemna turionifera* cperennial duckweed, turion duckweed, *Spirodela polyrrhiza* cgiant duckweed, *Wolffia borealis* cnorthern watermeal, *Wolffia brasiliensis* cBrazilian watermeal, and *Wolffia columbiana* cColumbian watermeal.

c27d XNative speciesY means a species indigenous to Wisconsin, and includes an individual specimen. For fish, Xnative speciesY means those fish species identified as native fish species in *Wisconsin Fishes 2000: Status and Distribution*, by Lyons, J., P. A. Cochran, and D. Fago, published by University of Wisconsin Sea Grant Institute, and includes an individual specimen, regardless of the specimen's origin.

c28d XNatural areasY means undeveloped or wild lands and those lands preserved or restored and managed for their natural features, including but not limited to parks, forests, refuges, grasslands, wetlands and shorelines on public and private lands.

c29d XNonnativeY or Xnonnative speciesY means a species not indigenous to Wisconsin, and includes an individual specimen.

c30d XNonnative fish species in the aquaculture industryY means arctic char c*Salvelinus alpinus*, Atlantic salmon c*Salmo salar*, brown trout c*Salmo trutta*, chinook salmon c*Oncorhynchus tshawytsch*, coho salmon c*Oncorhynchus kisutch*, rainbow trout c*Oncorhynchus mykiss*, pink salmon c*Oncorhynchus gorbuscha*, redear sunfish c*Lepomis microlophus*, tiger trout ca hybrid of *Salvelinus fontinalis* and *Salmo trutta* and tilapia c*Tilapia* sppd.

c31d XNonnative viable fish species in the aquarium tradeY

means goldfish c*Carassius auratus*, koi carp c*Cyprinus carpio*, sterlet c*Acipenser ruthenus*, Chinese hi-fin banded shark c*Myxocyprinus asiaticus*, bitterling c*Rhodeus* spp.d, ide c*Leuciscus idus* and weather loach c*Misgurnus anguillicaudatus*.

c32d XNon-reproductiveY means, for plants, not capable of reproduction sexually or asexually.

c33d XNonviableY means, with respect to aquatic vertebrates including fish species, species for which eggs, fry, or adults are not capable of surviving water temperature below 38 degrees Fahrenheit or not capable of surviving in fresh water. XNonviableY means, with respect to terrestrial vertebrates, species that are not capable of living, growing, developing, and functioning successfully in Wisconsin's outdoor environment.

c34d XOpen pondY means an outdoor pond that is not entirely covered to prevent the escape of fish.

c35d XOrderY means an element of the Linnean taxonomic classification system, unless the context indicates otherwise.

c36d XPersonY means an individual, partnership, corporation, society, association, firm, unit of government, public agency or public institution, and includes an agent of one of these entities.

c37d XPetY means an animal raised or kept for companionship and generally kept indoors, in an enclosure or otherwise confined or restrained, and not allowed to roam freely out-of-doors. XPetY does not include fish and crayfish, or other aquatic invertebrates.

c38d XPlantY means, as a verb, to place entire live plants, plant parts or seeds into the water, the ground or a planter out of doors for the purpose of growing them. XPlantY, as a noun, means any member of the Kingdom Plantae, lichens, algae and cyanobacteria, and any varieties, cultivars, hybrids or genetically modified variants thereof, and includes any plant parts capable of vegetative or sexual reproduction.

c39d XPlant taxaY mean taxonomic categories or units of plant classification, such as family, genus, species, variety and cultivar.

c40d XPossessY means to own, maintain control over, restrain, hold, grow, raise or keep.

c41d XProhibited invasive speciesY or Xprohibited speciesY means an invasive species that the department, at the time of listing under s. NR 40.04 c2d, has determined is likely to survive and spread if introduced into the state, potentially causing economic or environmental harm or harm to human health, but which is not found in the state or in that region of the state where the species is listed as prohibited in s. NR 40.04 c2d, with the exception of isolated individuals, small populations or small pioneer stands of terrestrial species, or in the case of aquatic species, that are isolated to a specific watershed in the state or the Great Lakes, and for which statewide or regional eradication or containment may be feasible.

c42d XPropagulesY means specimens or parts of a species that are capable of producing additional specimens through either sexual or asexual reproduction, including but not limited to seeds, roots, stems, rhizomes, tubers and spores.

c43d XPublic highwayY means every public street, alley, road, highway or thoroughfare of any kind, except waterways, in this state while open to public travel and use, but does not include public boat access sites and associated parking areas.

c44d XReasonable precautionsY means intentional actions that prevent or minimize the transport, introduction, possession or transfer of invasive species. Reasonable precautions include but are not limited to best management practices cBMPsd for invasive species approved by the department, practices recom-

mended by the XWisconsin Clean Boats, Clean WatersY program and XStop Aquatic HitchhikersY campaign, and compliance with DATCP quarantine regulations imposed under s. 94.01, Stats., or a United States Department of Agriculture Animal and Plant Health Inspection Service quarantine declared under 7 USC section 7714 or 7715. For the transfer of aquatic plants, reasonable precautions include verifying that the species transferred is identified correctly and is not listed in s. NR 40.04 or 40.05 as prohibited or restricted, and that there are no other listed invasive species comingled with the species being transferred.

c45d XRecombinant nucleic acid techniquesY means laboratory techniques through which genetic material is isolated and manipulated in vitro and then inserted into an organism, resulting in a transgenic organism.

c46d XRestricted invasive speciesY or Xrestricted speciesY means an invasive species that the department, at the time of listing under s. NR 40.05 c2d, has determined is already established in the state or in that region of the state where the species is listed as restricted in s. NR 40.05 c2d and that causes or has the potential to cause economic or environmental harm or harm to human health, and for which statewide or regional eradication or containment may not be feasible.

c46md XRock shelterY means an overhang or cave-like opening in a bluff, cliff or ledge that is shallow and does not provide an area of substantial daytime darkness.

c47d XSafe facilityY means, for fish, an aquarium or container that does not directly drain into a water of the state, is not subject to intermittent or periodic flooding, is not connected to any water of the state, and is not an open pond. For crayfish and other aquatic invertebrates, Xsafe facilityY means an aquarium or container that prevents the escape of the aquatic invertebrates and that does not directly drain into a water of the state.

c48d XSpeciesY means monera, protista, fungi, plantae, animalia, viruses, phytoplasmata, mycoplasma-like organisms and prions and includes seeds, propagules and individual living specimens, eggs, larvae, and any other viable life-stages of such species. XSpeciesY includes genetically modified species, cultivars, hybrids and sub-specific taxa.

c49d XTransferY means to buy, sell, trade, barter, exchange, give or receive or to offer to buy, sell, trade, barter, exchange, give or receive.

c50d XTransportY means to cause, or attempt to cause, an invasive species to be imported or carried or moved within the state, and includes accepting or receiving a specimen for the purpose of transportation or shipment.

c51d XUnknowingY means unaware of the presence of a prohibited or restricted invasive species.

c52d XWaters of the stateY has the meaning given it in s. 281.01 c18d, Stats.

Note: Section 281.01 c18d, Stats., provides as follows: XWaters of the stateY includes those portions of Lake Michigan and Lake Superior within the boundaries of this state, and all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water or groundwater, natural or artificial, public or private, within this state or its jurisdiction.

c53d XWild animalY means any mammal, bird, or other creature of a wild nature endowed with sensation and the power of voluntary motion, except fish and crayfish and other aquatic invertebrates.

History: CR 08-074: cr. Register August 2009 No. 644, eff. 9-1-09; CR 10-016: cr. c3md, am. c16d, c42d and c53d Register August 2010 No. 656, eff. 9-1-10; EmR1039: emerg. cr. c7gd, c7rd, c25md, c46md, eff. 11-3-10; CR 10-123: cr. c7gd, c7rd, c25md, c46md Register May 2011 No. 665, eff. 6-1-11; CR 14-034: cr. c9md, am. c14d, c17d, c37d, c53d Register April 2015 No. 712, eff. 5-1-15.

NR 40.03 Classifications. c1d CLASSIFICATION CATE-

GORIES. For purposes of this chapter, invasive species are classified into the following categories: prohibited and restricted.

Note: For informational and educational purposes, the department informally maintains and updates as needed a caution list of invasive species and a list of non-restricted invasive species. Caution list invasive species are either not found in the state, or if they are, the extent of their presence or impact is not sufficiently documented. Caution list species may have shown evidence of invasiveness in similar environments in other states and could potentially spread in Wisconsin. Unlike the prohibited and restricted categories, caution list category invasive species are not regulated under this chapter. Additional information is needed to determine if caution list species belong in another category. Non-restricted invasive species may have adverse environmental, recreational or economic impacts or cause harm to human health. Most of the non-restricted species are already integrated into Wisconsin's ecosystems, and state-wide control or eradication is not practical or feasible. Non-restricted category invasive species are not regulated under this chapter. All other non-native species recommended for listing as invasive but not yet assessed for this rule are put on an informal pending list. Future rule revisions will involve assessing some species from this list.

c2d CRITERIA. The department shall consider the following criteria in classifying a nonnative species as an invasive species for the purpose of this chapter:

cad The species[potential to directly or indirectly cause economic or environmental harm or harm to human health, including harm to native species, biodiversity, natural scenic beauty and natural ecosystem structure, function or sustainability; harm to the long-term genetic integrity of native species; harm to recreational, commercial, industrial and other uses of natural resources in the state; and harm to the safety or well being of humans, including vulnerable or sensitive individuals.

cbd The extent to which the species is already present in the state, or in portions of the state, including whether there are isolated pioneer stands.

ccd The likelihood that the species, upon introduction, will become established and spread within the state.

cdd The potential for eradicating the species or controlling the species[spread within the state, including the technological and economic feasibility of eradication or control.

ced The socio-economic value afforded by the species, including any beneficial uses or values the species may provide for recreation, commerce, agriculture or industry within the state.

History: CR 08-074: cr. Register August 2009 No. 644, eff. 9-1-09.

NR 40.04 Prohibited category. c1d PROHIBITED INVASIVE SPECIES. Prohibited invasive species are identified in this section by scientific and common names and by specific categories of species.

c2d IDENTIFICATION OF PROHIBITED SPECIES. cad *Algae and cyanobacteria*. The following algae and cyanobacteria invasive species are prohibited:

- 1g. *Caulerpa taxifolia* cKiller algaed
- 1r. *Cylindrospermopsis raciborskii* cCylindrod
2. *Didymosphenia geminata* cDidymo or rock snotted, except in Lake Superior
3. *Nitellopsis obtusa* cStarry stoneword
4. Novel cyanobacterial epiphyte of the order Stigonematales linked with avian vacuolar myelinopathy
5. *Prymnesium parvum* cGolden algad
6. *Ulva* species, including species previously known as *Enteromorpha* species

cbd *Plants*. The following plant invasive species are prohibited statewide except in the counties listed where they are restricted under s. NR 40.05 c2d cbd:

- 1e. *Achyranthes japonica* cJapanese chaff flowerd
- 1m. *Akebia quinata* cFiveleaf akebia or chocolate vined
- 1s. *Ampelopsis brevipedunculata* cPorcelain berryd including the variegated cultivar
2. *Anthriscus sylvestris* cWild chervild except in Adams,

- Barron, Chippewa, Crawford, Columbia, Dane, Dodge, Dunn, Fond du Lac, Grant, Green, Green Lake, Iowa, Jefferson, Juneau, Kenosha, La Crosse, Lafayette, Marquette, Milwaukee, Monroe, Ozaukee, Polk, Racine, Richland, Rock, Sauk, Sheboygan, Taylor, Vernon, Walworth, Waukesha, and Washington counties
- 2e. *Arundo donax* cGiant reedd
- 2m. *Azolla pinnata* cMosquito fernd
- 2s. *Berberis vulgaris* cCommon barberry
3. *Bunias orientalis* cHill mustarddd except in Dane, Grant, Green, Iowa, Lafayette, and Rock counties
4. *Cabomba caroliniana* cFanwortd
- 4g. *Cardamine impatiens* cNarrow leaf bittercressd
- 4n. *Celastrus loeseneri* cAsian loeseneri bittersweetd
- 4r. *Centaurea diffusa* cDiffuse knapweedd
- 4w. *Centaurea repens* cRussian knapweedd
5. *Centaurea solstitialis* cYellow star thistled
7. *Cirsium palustre* cEuropean marsh thistled except in Ashland, Bayfield, Chippewa, Clark, Door, Florence, Forest, Iron, Langlade, Lincoln, Marathon, Marinette, Menominee, Oconto, Oneida, Price, Rusk, Sawyer, Shawano, Taylor and Vilas counties
8. *Conium maculatum* cPoison hemlockd except in Buffalo, Crawford, Dane, Grant, Green, Iowa, Jefferson, Kenosha, La Crosse, Lafayette, Milwaukee, Monroe, Ozaukee, Racine, Richland, Rock, Sauk, Sheboygan, Trempealeau, Vernon, Walworth, and Waukesha counties
9. *Crassula helmsii* cAustralian swamp crop or New Zealand pygmyweedd
10. *Cytisus scoparius* cScotch broomd
- 10g. *Digitalis lanata* cGrecian foxgloved
- 10r. *Dioscorea batatas* or *Dioscorea polystacha* cChinese yamd
11. *Dioscorea oppositifolia* cIndian yamd
12. *Egeria densa* cBrazilian waterweed or wide-leaf anacharisd
- 12g. *Eichhornia azurea* cAnchored water hyacinthd
- 12r. *Eichhornia crassipes* cWater hyacinth, floatingd
13. *Epilobium hirsutum* cHairy willow herbd except in Brown, Calumet, Door, Kenosha, Kewaunee, and Manitowoc counties
- 13e. *Fallopia x bohemicum* or *F. x bohémica* or *Polygonum x bohemicum* cBohemian knotweedd
- 13m. *Fallopia sachalinensis* or *Polygonum sachalinense* cGiant knotweedd
- 13s. *Glossostigma cleistanthum* cMudmatd
14. *Glyceria maxima* cTall or reed mannagrassd except in Brown, Calumet, Columbia, Dane, Dodge, Door, Fond du Lac, Green, Jefferson, Kenosha, Kewaunee, Manitowoc, Milwaukee, Outagamie, Ozaukee, Racine, Rock, Sheboygan, Walworth, Washington, Waukesha and Winnebago counties
15. *Heracleum mantegazzianum* cGiant hogweedd
16. *Humulus japonicus* cJapanese hopsd except in Buffalo, Crawford, Dane, Grant, Green, Iowa, Jackson, La Crosse, Lafayette, Monroe, Pepin, Richland, Sauk, Trempealeau, and Vernon counties
17. *Hydrilla verticillata* cHydrillad
18. *Hydrocharis morsus-ranae* cEuropean frogbitd
- 18d. *Hydrocotyle ranunculoides* cFloating marsh pennywortd
- 18h. *Hygrophila polysperma* cIndian swampweedd
- 18p. *Impatiens glandulifera* cPoliceman[s] helmetd
- 18t. *Ipomoea aquatica* cWater spinachd
19. *Lagarosiphon major* cOxygen-weed, African elodea or African waterweedd
20. *Lepidium latifolium* cPerennial or broadleaved pepperweedd
21. *Lespedeza cuneata* or *Lespedeza sericea* cSericea or Chinese lespedezad
22. *Leymus arenarius* or *Elymus arenarius* cLyme grass or sand ryegrassd except in Door, Kenosha, Kewaunee, Manitowoc, Milwaukee, Ozaukee, Racine, and Sheboygan counties
- 22g. *Limnophila sessiliflora* cAsian marshweedd
- 22r. *Linaria dalmatica* cDalmatian toadflaxd except in Juneau and Bayfield counties
23. *Lonicera japonica* cJapanese honeysuckled
24. *Lonicera maackii* cAmur honeysuckled except in Adams, Brown, Buffalo, Calumet, Columbia, Crawford, Dane, Dodge, Fond du Lac, Grant, Green, Green Lake, Iowa, Jefferson, Juneau, Kenosha, Kewaunee, La Crosse, Lafayette, Manitowoc, Marquette, Milwaukee, Monroe, Outagamie, Ozaukee, Racine, Richland, Rock, Sauk, Sheboygan, Vernon, Walworth, Washington, Waukesha, Waupaca, Waushara, and Winnebago counties
- 24m. *Lythrum virgatum* cWanded loosestrifed
25. *Microstegium vimineum* cJapanese stilt grassd
26. *Myriophyllum aquaticum* cParrot featherd
27. *Najas minor* cBrittle naiad, or lesser, bushy, slender, spiny or minor naiad or waternymphd
- 27m. *Nelumbo nucifera* cSacred lotusd
28. *Nymphoides peltata* cYellow floating heartd
- 28e. *Oenanthe javanica* cJava waterdropwort or Vietnamese parsleyd
- 28m. *Oplismenus hirtellus* ssp. *undulatifolius* cWavy leaf basket grassd
- 28s. *Ottelia alismoides* cDucklettuced
29. *Paulownia tomentosa* cPrincess treed
- 29d. *Petasites hybridus* cButterfly dockd
- 29h. *Phellodendron amurense* cAmur cork treed except male cultivars and seedling rootstock
- 29p. *Phragmites australis* cPhragmites or common reedd non-native ecotype except in Brown, Calumet, Columbia, Dane, Dodge, Door, Florence, Fond du Lac, Forest, Green Lake, Jefferson, Kenosha, Kewaunee, Langlade, Manitowoc, Marathon, Marinette, Marquette, Menominee, Milwaukee, Oconto, Outagamie, Ozaukee, Portage, Racine, Rock, Shawano, Sheboygan, Walworth, Washington, Waukesha, Waupaca, Waushara, and Winnebago counties
- 29t. *Pistia stratiotes* cWater lettuced
30. *Polygonum perfoliatum* or *Persicaria perfoliata* cMile-a-minute vined
32. *Pueraria montana* or *P. lobata* cKudzud
33. *Quercus acutissima* cSawtooth oakd
- 33g. *Ranunculus ficaria* cLesser celandined
- 33r. *Rubus armeniacus* cHimalayan blackberryd
34. *Rubus phoenicolasius* cWineberry or wine raspberried
- 34b. *Sagittaria sagittifolia* cHawaii arrowheadd
- 34f. *Salvinia herzogii* cGiant salviniaid
- 34k. *Salvinia molesta* cGiant salviniaid
- 34p. *Solidago sempervirens* cSeaside goldenrodd except in Kenosha, Milwaukee and Racine counties
- 34s. *Sorghum halepense* cJohnsongrassd
- 34w. *Stratiotes aloides* cWater soldierd
- 34y. *Taeniatherum caput-medusae* cMedusaheadd

35. *Torilis arvensis* cSpreading hedgeparsleyd

36. *Torilis japonica* cJapanese hedgeparsley or erect hedgeparsleyd except in Adams, Brown, Calumet, Columbia, Crawford, Dane, Dodge, Door, Fond du Lac, Grant, Green, Green Lake, Iowa, Jefferson, Juneau, Kenosha, Kewaunee, La Crosse, Lafayette, Langlade, Manitowoc, Marathon, Marinette, Marquette, Menominee, Milwaukee, Monroe, Oconto, Outagamie, Ozaukee, Portage, Racine, Richland, Rock, Sauk, Shawano, Sheboygan, Vernon, Walworth, Washington, Waukesha, Waupaca, Waushara, and Winnebago counties

37. *Trapa natans* cWater chestnutd

37e. *Tussilago farfara* cColt[s] footd

37m. *Typha domingensis* cSouthern cattaild

37s. *Typha laxmannii* cGraceful cattaild

38. *Vincetoxicum nigrum* or *Cynanchum louiseae* cBlack or Louise[s] swallow-worlde except in Columbia, Crawford, Dane, Grant, Green, Iowa, Jefferson, Juneau, Kenosha, La Crosse, Lafayette, Milwaukee, Monroe, Racine, Richland, Rock, Sauk, Vernon, Walworth and Waukesha counties

39. *Vincetoxicum rossicum* or *Cynanchum rossicum* cPale or European swallow-worlde

40. *Wisteria floribunda* cJapanese wisteriad

41. *Wisteria sinensis* cChinese wisteriad

ccd *Fish and crayfish*. The following fish invasive species and crayfish invasive species are prohibited:

1. *Channidae* csnakeheadd, including *Channa argus* cNorth-ern snakeheadd, *Channa bleheri* cRainbow snakeheadd, *Channa gachua* cDwarf snakeheadd, *Channa maculata* cBlotched snakeheadd, *Channa marulius* cBullseye snakeheadd, *Channa punctata* cSpotted snakeheadd, and *Channa striata* cChevron snakeheadd

2. *Ctenopharyngodon idella* cGrass carpd

3. *Cyprinella lutrensis* cRed shinerd

6. *Hypophthalmichthys molitrix* cSilver carpd

7. *Hypophthalmichthys nobilis* cBighead carpd

8. *Mylopharyngodon piceus* cBlack carpd

9. *Sander lucioperca* cZanderd

10. *Scardinius erythrophthalmus* cRuddd

11. *Tinca tinca* cTenchd

12. All other nonnative fish and nonnative crayfish except:

a. Established nonnative fish species and established nonnative crayfish species

b. Nonnative viable fish species in the aquarium trade

c. Nonnative fish species in the aquaculture industry

d. Nonviable fish species

e. Genetically modified fish species

cdd *Aquatic invertebrates except crayfish*. The following aquatic invertebrate invasive species are prohibited:

1. *Bithynia tentaculata* cFaucet snaild

2. *Bythotrephes cederstroemi* cSpiny water fleadd

3. *Cercopagis pengoi* cFishhook water fleadd

4. *Corbicula fluminea* cAsian clamd

5. *Daphnia lumholtzi* cWater fleadd

5m. *Dikerogammarus villosus* cKiller shrimpd

6. *Dreissena rostriformis* cQuagga mussel

7. *Eriocheir sinensis* cChinese mitten crabsd

8. *Hemimysis anomala* cBloody shrimpd

8g. *Limnoperna fortunei* cGolden mussel

8r. *Melanoides tuberculata* cMalaysian trumpet snaild

9. *Potamopyrgus antipodarum* cNew Zealand mud snaild

ced *Terrestrial invertebrates and plant disease-causing microorganisms*. The following terrestrial invertebrate invasive species and plant disease-causing microorganism invasive species are prohibited:

1. *Adelges tsugae* cHemlock woolly adelgidd

4. *Anoplophora glabripennis* cAsian longhorned beetled

5e. *Dendroctonus ponderosae* cMountain pine beetled

5m. *Geosmithia morbida* cThousand cankers disease of walnutd

6. *Lymantria dispar* Asian race cAsian Gypsy mothd

7. *Phytophthora ramorum* cSudden oak death pathogend

8. *Pityophthorus juglandis* cWalnut twig beetled

Note: These terrestrial invertebrates and plant disease-causing microorganisms are also regulated by the department under s. NR 45.04 and by DATCP under ch. ATCP 21 and ch. 94, Stats.

Note: For species that are both listed under ch. NR 40 and quarantined at the federal and/or the state level, the department determines that Xreasonable precautions Y allow for the incidental possession, transport, transfer, or introduction of a prohibited or restricted organism within the boundaries of a federal or state quarantine for that organism.

cf d *Terrestrial and aquatic vertebrates except fish*. The following terrestrial and aquatic vertebrate invasive species are prohibited:

1. *Myiopsitta monachus* cMonk or Quaker parakeet or parrot

1m. *Myocastor coypus* cNutriadd

2. *Sus domestica* cFeral domestic swined

3. *Sus scrofa* cRussian board and other wild swine

cgd *Fungi*. The following fungus invasive species are prohibited:

1. *Pseudogymnoascus destructans* cWhite-nose syndrome fungal pathogend

c3d ACTIONS PROHIBITED BY THIS CLASSIFICATION; EXEMPTIONS. cad Except as otherwise provided in pars. cbd to cid, no person may transport, possess, transfer, or introduce a prohibited invasive species identified or listed under sub. c2d.

cbd Paragraph cad does not apply to a person who transports, possesses, transfers or introduces a prohibited invasive species identified or listed under sub. c2d if the department determines that the transportation, possession, transfer or introduction was incidental or unknowing, and was not due to the person[s] failure to take reasonable precautions.

Note: Paragraph cbd does not apply to preventive measures set out in s. NR 40.07.

ccd If authorized by a permit issued by the department under this chapter, a person may transport, possess, transfer or introduce a prohibited invasive species for research, public display, or, if the species is not a fish or crayfish, for other purposes specified by the department in the permit.

cdd A legally obtained nonnative wild animal that is a pet may be possessed, transported or transferred without a permit issued by the department under this chapter if obtained prior to and located in the State of Wisconsin on the date the species is listed as prohibited under this section, but may not be introduced. The offspring of pets possessed under this paragraph may not be transferred.

ced Paragraph cad does not apply to a person who transports, possesses, transfers, or introduces a terrestrial invertebrate or plant disease-causing microorganism that is regulated under a quarantine imposed by DATCP under s. 94.01, Stats., or a United States Department of Agriculture Animal and Plant Health Inspection Service quarantine area declared under 7 USC section 7714 or 7715 if any of the following apply:

1. The person is in compliance with a DATCP-USDA

APHIS compliance agreement applicable to the terrestrial invertebrate or plant disease-causing microorganism.

2. The transport, possession, transfer or introduction takes place entirely within the quarantine applicable to the terrestrial invertebrate or plant disease-causing microorganism.

cfd Paragraph **cad** does not apply to a person who has a permit issued by DATCP under s. **ATCP 21.04** for importation, movement, distribution or release of a pest or biological control agent that is a prohibited invasive species identified or listed under sub. **c2d**.

cgd A person may transport, possess or give away a prohibited invasive species for the purpose of identification or disposal without a permit issued by the department under this chapter, if the person reports the location of origin of the prohibited invasive species to the department and no individual specimens or propagules are allowed to escape or be introduced. Reports shall be submitted within 30 days of the person taking possession and shall include contact and property owner information, type and detailed location of the species, the purpose for transporting, possessing or giving away the invasive species, and the final disposition of the invasive species. This paragraph does not apply to terrestrial and aquatic vertebrates or fish species.

Note: Paragraph **cg**d does not apply to transport of identified carriers of invasive species as described in s. **NR 40.07 c5d cad**.

Note: Reports for invasive species may be sent to:
Attn: Statewide Invasive Species Coordinator, SS{7
Wisconsin Department of Natural Resources
PO Box 7921
Madison, WI 53707-7921

Note: Reports may also be sent by email to invasive.species@wisconsin.gov.

chd Paragraph **cad** does not apply to any of the following:

1. A person who holds a scientific collector permit for the invasive species under s. **29.614**, Stats.
2. A person who, while lawfully fishing, inadvertently catches a fish invasive species.
3. Employees or duly authorized agents of the department in the performance of their official duties.

Note: Section **NR 20.20 c73d ccd 1**. sets a bag limit of 0 for nonindigenous detrimental fish, but allows one such fish to be taken by hook and line if it is killed immediately and delivered immediately to a department service center or regional office. All nonindigenous fish species are declared under s. **NR 20.38 c6d** to be detrimental fish if the fish were imported without a permit in violation of s. **29.735**, Stats., or are found in any water where their presence is not specifically permitted by the department.

cid Paragraph **cad** does not apply to phragmites associated with a reed bed treatment unit used in a wastewater treatment facility authorized by a WPDES permit under ch. **283**, Stats.

c3md EARLY DETECTION MONITORING. Unless entry is otherwise authorized by law, as part of an invasive species early detection program, the department or its designee may enter property where a cave or mine may be located to monitor, survey or inspect for the presence of the prohibited invasive fungus species *Geomyces destructans* cwhite-nose syndrome fungal pathogen in the cave or mine, with permission of the person who owns, controls or manages the property, but if the person does not grant permission or cannot be located by the department after making reasonable effort, the department may seek an inspection warrant under s. **66.0119**, Stats., from the appropriate circuit court authorizing entry. Data obtained by the department under this subsection shall be made available to the person who owns, controls or manages the property.

c4d CONTROL REQUIREMENTS. **cad** Unless entry is otherwise authorized by law, if the department has reason to believe that a prohibited species is present, the department or its designee may enter property to inspect for, survey or control prohibited species with permission of the person who owns, controls or manages the property, but if the person does not grant permission

or cannot be located by the department after making reasonable effort, the department may seek an inspection warrant from the appropriate circuit court authorizing entry.

cbd The department may ask any person who owns, controls or manages property where a prohibited species is present to control the prohibited species in accordance with a plan approved by the department. The department will seek funds to assist in the control of prohibited species. However, a person who owns, controls or manages property where a prohibited species is present is responsible for controlling the prohibited species that exists on the property.

Note: The department anticipates it will request control of a prohibited invasive species only if it is feasible and reasonable to control the prohibited species on the property.

ccd If voluntary cooperation is not achievable or likely, and it is feasible and reasonable to control the prohibited species on the property, the department or its designee may control the prohibited species or it may offer the person the opportunity to negotiate the terms of a consent order for control purposes.

cdd If a consent order is not achievable or likely, the department may issue a unilateral order requiring that the person who owns, controls or manages the property control the prohibited species in accordance with a plan approved by the department unless the department determines that the prohibited species is present through no fault of the person. If the department determines that the prohibited species is present through no fault of the person, the department or its designee may control the prohibited species.

ced If the person does not control the prohibited species upon order of the department, the department or its designee may control the prohibited species and the department may recover the reasonable and necessary expenses it incurs.

cfd The department may remove, or cause to be removed any detrimental fish or other prohibited invasive species from waters of the state.

Note: All nonindigenous fish species are declared under s. **NR 20.38 c6d** to be detrimental fish if the fish were imported without a permit in violation of s. **29.735**, Stats., or are found in any water where their presence is not specifically permitted by the department.

Note: Persons finding any prohibited species are encouraged to report the species and its location to the department.

History: **CR 08-074:** cr. **Register August 2009 No. 644**, eff. 9-1-09; **CR 10-016:** am. c2d cbd 6., 7., 8., 14., 24., 36., 38., r. and recr. c2d ccd **Register August 2010 No. 656**, eff. 9-1-10; **EmR1039:** emerg. cr. c3md, eff. 11-3-10; **CR 10-123:** cr. c3md **Register May 2011 No. 665**, eff. 6-1-11; **EmR1036:** emerg. cr. c2d cgd, eff. 9-29-10; **CR 10-115:** cr. c2d cgd **Register May 2011 No. 665**, eff. 6-1-11; **CR 14-034:** renum. c2d cad 1. to 1r., cr. c2d cad 1g., am. c2d cbd cintro.d, renum. c2d cbd 1. to 1s., cr. c2d cbd 1e., 1m., am. c2d cbd 2., cr. c2d cbd 2e., 2m., 2s., am. c2d cbd 3., cr. c2d cbd 4g., 4n., 4r., 4w., r. c2d cbd 6., am. c2d cbd 7., 8., cr. c2d cbd 10g., 10r., am. c2d cbd 11., 12., cr. c2d cbd 12g., 12r., am. c2d cbd 13., cr. c2d cbd 13e., 13s., am. c2d cbd 14., 16., cr. c2d cbd 18d., 18h., 18p., 18t., am. c2d cbd 22., cr. c2d cbd 22g., 22r., am. c2d cbd 24., cr. c2d cbd 24m., 27m., 28e., 28m., 28s., 29d., 29h., 29p., 29t., am. c2d cbd 30., renum. c2d cbd 31. to 13m. and am., am. c2d cbd 32., cr. c2d cbd 33g., 33r., 34b., 34f., 34k., 34p., 34s., 34w., 34y., am. c2d cbd 36., cr. c2d cbd 37e., 37m., 37s., 40., 41., r. c2d ccd 4., 5., am. c2d ccd 12. d., cr. c2d ccd 12. e., cdd 5m., 8g., 8r., r. c2d ced 2., 3., 5., cr. c2d ced 5e., 5m., 8., cfd 1m., am. c2d cgd 1., c3d cad, cdd, renum. c3d ced to c3d ced cintro.d and am., cr. c3d ced 1., 2., cr. c3d chd 3., cid, am. c4d cfd **Register April 2015 No. 712**, eff. 5-1-15; correction in c2d cbd 1m., 13e., 27., 29p., cdd 8g., cgd 1., c3d ced 1. made under s. **35.17**, Stats., **Register April 2015 No. 712**.

NR 40.045 Emergency additions to prohibited category. c1d The department may temporarily identify an additional species as an invasive species and may classify it into the prohibited category of s. **NR 40.04 c2d** if the secretary determines that all of the following are met:

cad The species meets the definition of invasive species in s. **NR 40.02 c24d**.

cbd Based on consideration of the criteria of s. **NR 40.03 c2d**, the species meets the definition of prohibited invasive species for inclusion under s. **NR 40.04 c2d**.

ccd An emergency exists, making it necessary for the preser-

vation of public peace, health, safety or welfare, or the environment, to require the immediate identification and classification of the species as a prohibited invasive species under this chapter prior to the time it would take effect if the department complied with the procedures for permanent rulemaking under ch. 227, Stats.

c2d Department action under sub. **c1d** shall become effective upon issuance of an emergency order by the secretary and publication of a notice of the emergency order in the official state newspaper.

c3d The department shall provide the notice of the emergency order to the Wisconsin Council on Invasive Species and shall promptly notify the public of its determination by issuing a press release, by posting the notice of the emergency order on the department's internet site, and by such other means as the department determines are reasonably likely to inform the public.

c4d During the time that an emergency order issued under sub. **c2d** is in effect, the actions prohibited by s. NR 40.04 **c3d cad** and the exemptions of s. NR 40.04 **c3d cbd** through **chd** apply to the additional species. In addition, the control requirements of s. NR 40.04 **c4d** apply to the additional species.

c5d The identification and classification under sub. **c1d** of an additional species as an invasive species in the prohibited category terminates 2 years after the emergency order is issued under sub. **c2d**, when the emergency order issued under sub. **c2d** is withdrawn by the department, or when a permanent rule takes effect adding the species to this chapter, whichever occurs first.

Note: Under s. 23.22 **c2td cad**, Stats., the department may promulgate an emergency rule to identify, classify, or control an invasive species and is not required to provide evidence that such a rule is necessary for the preservation of public peace, health, safety, or welfare or to provide a finding of emergency for such a rule. An emergency rule promulgated under s. 23.22 **c2td cad**, Stats., remains in effect for 24 months or until the repeal of the emergency rule, or until the effective date of the permanent rule identifying, classifying, or controlling the invasive species, whichever occurs first.

History: CR 08-074: cr. Register August 2009 No. 644, eff. 9-1-09.

NR 40.05 Restricted category. c1d RESTRICTED INVASIVE SPECIES. Restricted species are listed or identified in this section by scientific and common names and by specific categories of species.

c2d IDENTIFICATION OF RESTRICTED SPECIES. *cad* *Algae and cyanobacteria*. The following algae and cyanobacteria invasive species are restricted: None.

cbd *Plants*. The following plant invasive species are restricted statewide except in the counties not listed where they are prohibited under s. NR 40.04 **c2d cbd**:

1e. *Acer tataricum* subsp. *ginnala* cAmur mapled except all cultivars

Note: Effective date of listing: May 1, 2015.

1m. *Aegopodium podagraria* cBishop[s] goutweedd

Note: Effective date of listing: May 1, 2015.

1s. *Ailanthus altissima* cTree of heaven

2. *Alliaria petiolata* cGarlic mustardd

2m. *Alnus glutinosa* cBlack alderd except all cultivars and hybrids

Note: Effective date of listing: May 1, 2015.

3. *Anthriscus sylvestris* cWild chervild in Adams, Barron, Chippewa, Crawford, Columbia, Dane, Dodge, Dunn, Fond du Lac, Grant, Green, Green Lake, Iowa, Jefferson, Juneau, Kenosha, La Crosse, Lafayette, Marquette, Milwaukee, Monroe, Ozaukee, Polk, Racine, Richland, Rock, Sauk, Sheboygan, Taylor, Vernon, Walworth, Waukesha, and Washington counties

3g. *Artemisia absinthium* cWormwoodd

Note: Effective date of listing: May 1, 2015.

3r. *Berberis thunbergii* cJapanese barberryd. This restric-

tion only applies to the parent type, the variety *atropurpurea*, the hybrid of *B. thunbergii* x *B. koreana*, and the following cultivars. *Berberis thunbergii* cultivars: Sparkle, ZAnderson[Lustre Green[™]], Erecta, ZBailgreen[Jade Carousel[®]], Angel Wings, Painter[s] Palette, Inermis cZThornless[d, Pow Wow, Golden Ring, Kelleriis, Kobold, ZJN Variegated] Stardust[™] and Antares. Variety *atropurpurea* cultivars: Marshall Upright cZErecta[d, Crimson Velvet, ZBailtwo[Burgundy Carousel[®]], Red Rocket, ZMonomb[Cherry Bomb[™]], ZBailone[Ruby Carousel[®]], JN Redleaf, Rose Glow and Silver Mile. Hybrid of *B. thunbergii* x *B. koreana* cultivars: Tara and ZBailsel[Golden Carousel[®]].

Note: Effective date of listing: May 1, 2015.

4. *Bunias orientalis* cHill mustardd in Dane, Grant, Green, Iowa, Lafayette, and Rock counties

5. *Butomus umbellatus* cFlowering rushd

6. *Campanula rapunculoides* cCreeping bellflowerd

6m. *Caragana arborescens* cSiberian peashrubd except the cultivars Lorbergii, Pendula, and Walkerii

Note: Effective date of listing: May 1, 2015.

7. *Carduus acanthoides* cPlumeless thistled

8. *Carduus nutans* cMusk thistle or nodding thistled

9. *Celastrus orbiculatus* cOriental bittersweetd

10. *Centaurea biebersteinii*, *Centaurea maculosa* or *Centaurea stoebe* cSpotted knapweedd

10e. *Centaurea jacea* cBrown knapweedd

Note: Effective date of listing: May 1, 2015.

10m. *Centaurea nigra* cBlack knapweedd

Note: Effective date of listing: May 1, 2015.

10s. *Centaurea nigrescens* cTyrol knapweedd

Note: Effective date of listing: May 1, 2015.

11. *Chelidonium majus* cCelandined

12. *Cirsium arvense* cCanada thistled

13. *Cirsium palustre* cEuropean marsh thistled in Ashland, Bayfield, Chippewa, Clark, Door, Florence, Forest, Iron, Langlade, Lincoln, Marathon, Marinette, Menominee, Oconto, Oneida, Price, Rusk, Sawyer, Shawano, Taylor and Vilas counties

14. *Conium maculatum* cPoison hemlockd in Buffalo, Crawford, Dane, Grant, Green, Iowa, Jefferson, Kenosha, La Crosse, Lafayette, Milwaukee, Monroe, Ozaukee, Racine, Richland, Rock, Sauk, Sheboygan, Trempealeau, Vernon, Walworth, and Waukesha counties

14m. *Coronilla varia* cCrown vetchd

Note: Effective date of listing: May 1, 2015.

15. *Cynoglossum officinale* cHound[s] tongued

16. *Dipsacus laciniatus* cCut-leaved teaseld

17. *Dipsacus sylvestris* or *Dipsacus fullonum* cCommon teaseld

18. *Elaeagnus angustifolia* cRussian olived

19. *Elaeagnus umbellata* cAutumn olived

20. *Epilobium hirsutum* cHairy willow herbd in Brown, Calumet, Door, Kenosha, Kewaunee, and Manitowoc counties

21. *Epipactis helleborine* cHelleborine orchidd

21m. *Euonymus alatus* cBurning bushd including the cultivar ZNordine[and excluding all other cultivars

Note: Effective date of listing: May 1, 2015.

22. *Euphorbia cyparissias* cCypress spured

23. *Euphorbia esula* cLeafy spured

23g. *Fallopia japonica* or *Polygonum cuspidatum* cJapanese knotweedd

23r. *Filipendula ulmaria* cQueen of the meadowd

Note: Effective date of listing: May 1, 2015.

24. *Galeopsis tetrahit* cHemp nettled

- 24m. *Galium mollugo* cWhite bedstrawd
Note: Effective date of listing: May 1, 2015.
25. *Glyceria maxima* cTall or reed mannagrassd in Brown, Calumet, Columbia, Dane, Dodge, Door, Fond du Lac, Green, Jefferson, Kenosha, Kewaunee, Manitowoc, Milwaukee, Outagamie, Ozaukee, Racine, Rock, Sheboygan, Walworth, Washington, Waukesha, and Winnebago counties
26. *Hesperis matronalis* cDame[s] rocketd
27. *Humulus japonicus* cJapanese hopsd in Buffalo, Crawford, Dane, Grant, Green, Iowa, Jackson, La Crosse, Lafayette, Monroe, Pepin, Richland, Sauk, Trempealeau, and Vernon counties
- 27e. *Impatiens balfourii* cBalfour[s] touch-me-notd
Note: Effective date of listing: May 1, 2015.
- 27m. *Iris pseudacorus* cYellow irisd
Note: Effective date of listing: May 1, 2015.
- 27s. *Knautia arvensis* cField scabiosad
Note: Effective date of listing: May 1, 2015.
28. *Leymus arenarius* or *Elymus arenarius* cLyme grass or sand ryegrassd in Door, Kenosha, Kewaunee, Manitowoc, Milwaukee, Ozaukee, Racine, and Sheboygan counties
- 28m. *Linaria dalmatica* cDalmation toadflaxd in Juneau and Bayfield counties
29. *Lonicera maackii* cAmur honeysuckled in Adams, Brown, Buffalo, Calumet, Columbia, Crawford, Dane, Dodge, Fond du Lac, Grant, Green, Green Lake, Iowa, Jefferson, Juneau, Kenosha, Kewaunee, La Crosse, Lafayette, Manitowoc, Marquette, Milwaukee, Monroe, Outagamie, Ozaukee, Racine, Richland, Rock, Sauk, Sheboygan, Vernon, Walworth, Washington, Waukesha, Waupaca, Waushara, and Winnebago counties
30. *Lonicera morrowii* cMorrow[s] honeysuckled
31. *Lonicera tatarica* cTartarian honeysuckled
32. *Lonicera x bella* cBell[s] or showy bush honeysuckled
- 32g. *Lysimachia nummularia* cMoneywortd except the cultivar Aurea and yellow and gold leaf forms
Note: Effective date of listing: May 1, 2015.
- 32r. *Lysimachia vulgaris* cGarden yellow loosestrifed
Note: Effective date of listing: May 1, 2015.
33. *Lythrum salicaria* cPurple loosestrifed
Note: Purple loosestrife is also designated as an invasive aquatic plant statewide under s. NR 109.07 c2d.
- 33e. *Morus alba* cWhite mulberryd except male cultivars
Note: Effective date of listing: May 1, 2015.
- 33m. *Myosotis scorpioides* cAquatic forget-me-notd
Note: Effective date of listing: May 1, 2015.
- 33s. *Myosotis sylvatica* cWoodland forget-me-notd
Note: Effective date of listing: May 1, 2015.
34. *Myriophyllum spicatum* cEurasian watermilfoild
Note: Eurasian watermilfoil is also designated as an invasive aquatic plant statewide under s. NR 109.07 c2d.
- 34m. *Najas marina* cSpiny naiadd
Note: Effective date of listing: May 1, 2015.
35. *Pastinaca sativa* cWild parsnipd, except for the garden vegetable form
- 35m. *Phalaris arundinacea* var. *picta* cRibbon grass or gardener[s] gartersd and other ornamental variegated varieties and cultivars. This restriction does not include the parent type - reed canary grass.
Note: Effective date of listing: May 1, 2015.
36. *Phragmites australis* cPhragmites or common reedd nonnative ecotype in Brown, Calumet, Columbia, Dane, Dodge, Door, Florence, Fond du Lac, Forest, Green Lake, Jefferson, Kenosha, Kewaunee, Langlade, Manitowoc, Marathon, Marinette, Marquette, Menominee, Milwaukee, Oconto, Outagamie, Ozaukee, Portage, Racine, Rock, Shawano, Sheboygan, Walworth, Washington, Waukesha, Waupaca, Waushara, and Winnebago counties
- 36m. *Pimpinella saxifraga* cScarlet pimpernel
Note: Effective date of listing: May 1, 2015.
- 37m. *Populus alba* cWhite poplard
Note: Effective date of listing: May 1, 2015.
38. *Potamogeton crispus* cCurly-leaf pondweedd
Note: Curly-leaf pondweed is also designated as an invasive aquatic plant statewide under s. NR 109.07 c2d.
39. *Rhamnus cathartica* cCommon buckthornd
40. *Rhamnus frangula* or *Frangula alnus* cGlossy buckthornd including the Columnaris ctall hedged cultivar but excluding the cultivars Asplenifolia and Fineline cRon Williamsd
- 40g. *Robinia hispida* cRose acaciad
Note: Effective date of listing: May 1, 2015.
- 40r. *Robinia pseudoacacia* cBlack locustd except all cultivars
Note: Effective date of listing: May 1, 2015.
41. *Rosa multiflora* cMultiflora rosed
- 41m. *Solidago sempervirens* cSeaside goldenrodd in Kenosha, Milwaukee and Racine counties
42. *Tanacetum vulgare* cTansy, except the cultivars Aureum and Crispum
43. *Torilis japonica* cJapanese hedgeparsley or erect hedgeparsleyd in Adams, Brown, Calumet, Columbia, Crawford, Dane, Dodge, Door, Fond du Lac, Grant, Green, Green Lake, Iowa, Jefferson, Juneau, Kenosha, Kewaunee, La Crosse, Lafayette, Langlade, Manitowoc, Marathon, Marinette, Marquette, Menominee, Milwaukee, Monroe, Oconto, Outagamie, Ozaukee, Portage, Racine, Richland, Rock, Sauk, Shawano, Sheboygan, Vernon, Walworth, Washington, Waukesha, Waupaca, Waushara, and Winnebago counties
44. *Typha angustifolia* cNarrow-leaf cattaild
45. *Typha x glauca* cHybrid cattaild
- 45g. *Ulmus pumila* cSiberian elmd except hybrids and individuals used as rootstock
Note: Effective date of listing: May 1, 2015.
- 45r. *Valeriana officinalis* cGarden heliotroped
Note: Effective date of listing: May 1, 2015.
46. *Vincetoxicum nigrum* or *Cynanchum louiseae* cBlack or Louise[s] swallow-worstd in Columbia, Crawford, Dane, Grant, Green, Iowa, Jefferson, Juneau, Kenosha, La Crosse, Lafayette, Milwaukee, Monroe, Racine, Richland, Rock, Sauk, Vernon, Walworth and Waukesha counties
- ccd *Fish and crayfish*. The following fish invasive species and crayfish invasive species are restricted:
1. Established nonnative fish species and established nonnative crayfish species
 2. Nonnative viable fish species in the aquarium trade
 3. Nonnative fish species in the aquaculture industry
 4. Nonviable fish species
 5. Viable genetically modified native and nonnative fish species.
- cdd *Aquatic invertebrates except crayfish*. The following aquatic invertebrate invasive species are restricted:
1. *Cipangopaludina chinensis* cChinese mystery snail
 - 1m. *Cipangopaludina japonica* cJapanese trapdoor snail or Japanese mystery snail
 2. *Dreissena polymorpha* cZebra musseld
 3. *Valvata piscinalis* cEuropean valve snaild
 4. *Viviparus georgianus* cBanded mystery snaild

ced *Terrestrial invertebrates and plant disease-causing microorganisms*. The following terrestrial invertebrate invasive species and plant disease-causing microorganism invasive species are restricted:

- 1m. *Agrilus planipennis* cEmerald ash borerd
2. *Amyntas* or *Amyntus* species cJumping wormd
3. *Lymantria dispar* cEuropean Gypsy mothd European race in all counties except those included in a DATCP quarantine under s. 94.01, Stats., or a United States Department of Agriculture Animal and Plant Health Inspection Service quarantine declaration under 7 USC section 7714 or 7715.

Note: A new common name for *Lymantria dispar*, spongy moth, replaced the prior name of this insect, gypsy moth, in 2022. The department acknowledges this decision and will make the name change in future rule making.

Note: Spongy moth is also regulated by DATCP under ch. ATCP 21 and ch. 94, Stats.

Note: For species that are both listed under NR 40 and quarantined at the federal and/or the state level, the department determines that Xreasonable precautionsY allow for the incidental possession, transport, transfer, or introduction of a prohibited or restricted organism *within* the boundaries of a federal or state quarantine for that organism.

c3d ACTIONS RESTRICTED BY THIS CLASSIFICATION; EXEMPTIONS. cad Except as otherwise provided in pars. **cbd** to **cod**, no person may do any of the following:

1. Transport, possess, transfer or introduce a restricted invasive fish or crayfish species identified or listed under sub. **c2d**.
2. Transport, transfer or introduce any other restricted invasive species identified or listed under sub. **c2d**.

cbd Paragraph **cad** does not apply to a person who transports, possesses, transfers or introduces a restricted invasive species identified or listed under sub. **c2d** if the department determines that the transportation, possession, transfer or introduction was incidental or unknowing, and was not due to the person[s] failure to take reasonable precautions.

Note: Paragraph **cbd** does not apply to preventive measures set out in s. NR 40.07.

ccd If authorized by a permit issued by the department under this chapter, a person may transport, possess, transfer or introduce a restricted invasive species for research, public display, or for other purposes specified by the department in the permit.

cdd A legally obtained nonnative wild animal that is a pet may be possessed, transported or transferred without a permit issued by the department under this chapter if obtained prior to and located in the State of Wisconsin on the date the species is listed as restricted under this section. The offspring of pets possessed under this paragraph may not be transferred except as a gift.

ced Paragraph **cad** does not apply to a person who transports, possesses, transfers or introduces a terrestrial invertebrate or plant disease-causing microorganism that is regulated under a quarantine imposed by DATCP under s. 94.01, Stats., or a United States Department of Agriculture Animal and Plant Health Inspection Service quarantine area declared under 7 USC section 7714 or 7715 if any of the following apply:

1. The person is in compliance with a DATCP-USDA APHIS compliance agreement applicable to the terrestrial invertebrate or plant disease-causing microorganism.
2. The transport, possession, transfer, or introduction takes place entirely within the quarantine applicable to the terrestrial invertebrate or plant disease-causing microorganism.

cfđ A person may transport or give away a restricted invasive species for the purpose of identification, education, control, or disposal without a permit issued by the department under this chapter, if no viable individual specimens or propagules are allowed to escape or be introduced. This paragraph does not apply to terrestrial and aquatic vertebrates or fish species.

Note: New populations of restricted aquatic plant species may be reported to the

appropriate department regional aquatic invasive species coordinator. Visit the DNR website cdnr.wi.gov keywords Xreporting invasivesY to view a list of waterbodies with known invasives and reporting contacts.

chđ Restricted plant species parts that are incapable of reproducing or propagating may be transported, transferred or introduced without a permit issued by the department under this chapter.

cid Multiflora rose, when used as root stock for ornamental roses, may be transported, transferred or introduced without a permit issued by the department under this chapter.

cjd Koi carp and goldfish may be transported, possessed or transferred without a permit issued by the department under this chapter but koi carp may not be used as bait or introduced to any water of the state except waters of the state that are artificial, entirely confined and retained upon the property of a person, do not drain to other waters of the state, are not subject to intermittent or periodic flooding, and are not connected to any other water of the state.

Note: Section NR 20.08 c1d prohibits the use of goldfish as bait and the possession of goldfish in any form or manner on any water of the state.

ckđ If held in a safe facility, nonviable fish species and nonnative viable fish species in the aquarium trade may be transported, possessed or transferred without a permit issued by the department under this chapter. In addition, rusty crayfish taken from the Mississippi River can be used as bait on the Mississippi River as authorized under s. NR 19.27 c4d cad 1. a.

Note: Possession of dead crayfish for purposes of fishing bait on all waters, including outlying waters, is not prohibited under this chapter, but may be restricted under other rules that regulate the use of certain types of bait for fishing purposes.

cLđ Nonnative fish species in the aquaculture industry may be transported, possessed in a safe facility, possessed in a registered fish farm, or transferred without a permit issued by the department under this chapter.

Note: A department permit is required under this chapter and s. 29.735, Stats., to import nonnative fish for the purpose of introduction into any waters of the state, and under s. 29.736, Stats., to stock or introduce any fish, and DATCP regulates fish farms under ch. ATCP 10.

cmd Paragraph **cad** does not apply to a person who has a permit issued by DATCP under s. ATCP 21.04 for importation, movement, distribution or release of a pest or biological control agent that is a restricted invasive species identified or listed under sub. **c2d**.

cnd Paragraph **cad** does not apply to phragmites associated with a reed bed treatment unit used in a wastewater treatment facility authorized by a WPDES permit under ch. 283, Stats.

cod Paragraph **cad** does not apply to any of the following:

1. A person who holds a scientific collector permit for the invasive species under s. 29.614, Stats.
2. A person who, while lawfully fishing, inadvertently catches a fish invasive species.
3. Employees or duly authorized agents of the department in the performance of their official duties.

Note: Section NR 20.20 c73d ccd 1. sets a bag limit of 0 for nonindigenous detrimental fish, but allows one such fish to be taken by hook and line if it is killed immediately and delivered immediately to a department service center or regional office. All nonindigenous fish species are declared under s. NR 20.38 c6đ to be detrimental fish if the fish were imported without a permit in violation of s. 29.735, Stats., or are found in any water where their presence is not specifically permitted by the department.

cpđ Restricted plants listed under sub. **c2d** that are not also listed as prohibited under s. NR 40.04 c2đ cbd and that were located in Wisconsin prior to the effective date of the listing of the species under sub. **c2d** may be transported, transferred, and introduced without a permit for a period not to exceed 3 years for herbaceous plants and woody vines, or 5 years for trees and shrubs, from the effective date of the listing of that species under sub. **c2d**.

Note: The effective date of the listing of a species under sub. **c2d** is the effective date of the rule that adds the species under sub. **c2d**. Plants added to the restricted

list under sub. c2d after 2009 are indicated by a note following the listing in sub. c2d stating the effective date of the listing. All plant listings in sub. c2d without an effective date note have been restricted since 2009.

c4d CONTROL REQUIREMENTS. Any person who grows a restricted plant at a nursery shall make a good faith effort to destroy it upon closure of the nursery.

Note: Any person who owns, controls or manages land where a restricted plant species is present in the pioneering stage, in an area otherwise not infested with that species or where there is a high priority resource threatened by a restricted plant species is encouraged to control the restricted plant or contain it to the already infested sites, to reduce its population, and to foster an increase in desired species.

History: CR 08-074: cr. Register August 2009 No. 644, eff. 9-1-09; CR 10-016: am. c2d cbd 11., 13., 14., 25., 29., 43., 46. Register August 2010 No. 656, eff. 9-1-10; CR 14-034: am. c2d cbd cintrod, renum. c2d cbd 1. to 1s., cr. c2d cbd 1e., 1m., 2m., am. c2d cbd 3., cr. c2d cbd 3g., 3r., am. c2d cbd 4., cr. c2d cbd 6m., 10e., 10m., 10s., am. c2d cbd 11., 14., cr. c2d cbd 14m., am. c2d cbd 20., cr. c2d cbd 21m., 23r., 24m., am. c2d cbd 25., 27., cr. c2d cbd 27e., 27m., 27s., am. c2d cbd 28., cr. c2d cbd 28m., am. c2d cbd 29., cr. c2d cbd 32g., 32r., 33e., 33m., 33s., 34m., 35m., am. c2d cbd 36., cr. c2d cbd 36m., renum. c2d cbd 37. to 23g. and am., cr. c2d cbd 37m., 40g., 40r., 41m., am. c2d cbd 42., 43., cr. c2d cbd 45g., 45r., ccd 5., cdd 1m., 3., 4., renum. c2d ced 1. to 3., cr. c2d ced 1m., 2., r. c2d cfd, am. c3d cdd, renum. c3d ced to ced cintrod and am., cr. c3d ced 1., 2., am. c3d cfd, r. c3d cgd, am. c3d ckd, cr. c3d cod 3., cpd Register April 2015 No. 712, eff. 5-1-15; correction in c2d cbd 3., 3r., 8., 35m., 36., c3d ced 1. made under s. 35.17, Stats., Register April 2015 No. 712; CR 16-037: am. c2d cbd 3., 13., 14., 33s., ced 2. Register April 2017 No. 736, eff. 5-1-17.

NR 40.06 Invasive species permits. A person may transport, possess, transfer or introduce a prohibited invasive species listed in s. NR 40.04 c2d, or a restricted invasive species listed in s. NR 40.05 c2d, if the person has been issued a permit by the department under this section for the activity.

c1d WRITTEN APPLICATION REQUIRED. cad Applications for permits under this chapter shall be submitted in writing to the department on forms available from the department. The application shall include the name and quantity or number of invasive species specimens for which a permit is sought, whether the permit is sought for the transportation, possession, transfer or introduction of the invasive species, a description of other relevant permits, approvals or licenses of the applicant and the applicant[s] purpose or reasons for seeking a permit. The department may request additional information in order to determine whether the criteria of sub. c2d are met. This may include but is not limited to: where the invasive species is located or will be kept, how they will be kept from spreading into the wild, how they will be disseminated, and how they will be destroyed once the applicant is done using them.

Note: Applications for permits may be sent to:
Attn: Statewide Invasive Species Coordinator, SS{7
Wisconsin Department of Natural Resources
PO Box 7921
Madison, WI 53707-7921

Note: Reports may also be sent by email to invasive.species@wisconsin.gov.

cbd The department shall act on complete permit applications within 45 days following receipt of the application.

c2d APPROVAL CRITERIA. The department shall review permit applications to determine whether all of the following criteria are met:

cad The applicant is knowledgeable in the proper management or humane care of the invasive species.

cbd The applicant has an adequate site or facility for containment of the invasive species.

ccd The applicant has demonstrated to the department[s] satisfaction that permitted activities will not cause significant ecological or economic harm or harm to human health.

cdd The applicant has complied with the conditions of any previous department permits issued under this chapter.

c3d ISSUANCE AND CONDITIONS. cad If it determines that there is significant public interest, the department may hold a public informational hearing on a permit application before acting on the application.

cbd An applicant meeting the criteria described in sub. c2d may be issued a permit subject to conditions the department considers reasonable.

c4d RECORDS AND REPORTING. Each permittee shall keep a current, correct and complete record of all permit activities as required by the department, on forms available from the department. Permit records may be inspected and copied by the department at any time. Copies of records shall be provided to the department upon request.

c5d PERMIT TRANSFER; ALTERATION. Unless expressly provided by the terms of the permit or by subsequent written approval of the department, permits issued under this chapter are not transferable. No person may alter or deface a permit issued under this chapter.

c6d VIOLATIONS. No person may violate any term of any permit issued under this chapter.

c7d OTHER PERMITS OR APPROVALS. A person who holds a permit or approval issued by the department under another chapter or a statute other than s. 23.22, Stats., is not required to hold a permit under this chapter to transport, possess, transfer or introduce a prohibited invasive species listed in s. NR 40.04 c2d, or a restricted invasive species listed in s. NR 40.05 c2d, if the department determines that all of the following apply:

cad The permit or approval expressly authorizes the transportation, possession, transfer or introduction of the prohibited invasive species listed in s. NR 40.04 c2d, or the restricted invasive species listed in s. NR 40.05 c2d.

cbd The permit or approval includes legally enforceable requirements that are at least equivalent to those that would be contained in a permit issued by the department under this chapter.

ccd The permit is not in violation of the permit or approval.

History: CR 08-074: cr. Register August 2009 No. 644, eff. 9-1-09.

NR 40.07 Preventive measures. c1d NOTIFICATION REQUIRED. Any person who possesses a restricted invasive fish species in a safe facility shall notify the department within 24 hours of any escape of a specimen or viable part of a specimen, or of any failure of the integrity of the safe facility that could allow the escape of any specimen or viable part of a specimen. The notice shall be made in writing by mail or by e-mail and shall include the specific location of the known, suspected, or anticipated escape and the fish species involved.

Note: The notice shall be mailed to the Director, Bureau of Fisheries Management, Wisconsin Department of Natural Resources, PO Box 7921, Madison, Wisconsin 53707-7921 and e-mailed to DNRFishHabitatProtection@wisconsin.gov.

c2d IMMEDIATE REMOVAL OF AQUATIC PLANTS AND AQUATIC ANIMALS AND DRAINAGE OF WATER. cad Except as provided in pars. cbd to cgd:

1. Any person who removes a vehicle, boat, boat trailer, boating or fishing equipment, or other equipment or gear of any type from any inland or outlying water or from its bank or shore shall remove all attached aquatic plants and aquatic animals immediately after removing the vehicle, boat, boat trailer, boating or fishing equipment or other equipment or gear from the water, bank or shore and before leaving any boat launch area or associated parking area.

Note: Section 30.07 c2d cad and cbd, Stats., prohibit any person from placing or operating a vehicle, seaplane, watercraft, or other object of any kind in a navigable water if it has any aquatic plants or aquatic animals attached to the exterior and from taking off with a seaplane, or transporting or operating a vehicle, watercraft, or other object of any kind on a highway with aquatic plants or aquatic animals attached to the exterior.

2. Any person who removes a vehicle or equipment other than boating or fishing equipment, or gear of any type from any inland or outlying water or from its bank or shore shall drain all water from the vehicle, equipment or gear, including water in any

motor, tank or other container, immediately after removing the vehicle, equipment or gear from the water, bank or shore and before leaving any boat launch area or associated parking area.

Note: Section NR 19.055 c1d requires any person who removes a boat, boat trailer, boating equipment or fishing equipment from any inland or outlying water or its bank or shore to immediately drain all water from the boat, boat trailer, boating equipment or fishing equipment, including water in any bilge, ballast tank, bait bucket, live well or other container immediately after removing the boat, boat trailer, boating equipment or fishing equipment from the water, bank or shore, with certain exceptions.

Note: Chapters NR 320, 323, 328, 329, 341, 343 and 345, relating to general navigable waters permit criteria, set out equipment decontamination requirements to stop the spread of invasive species from one waterway to another and require removal of all plants, animals, mud, debris, etc., before and after use.

Note: See ss. 30.18 c2d and 31.02 c1d, Stats., regarding the diversion or withdrawal of water from lakes and streams. Withdrawals are regulated through individual permits that may consider the associated risk of spreading invasive species.

cbd The department may exempt any vehicle, equipment or gear in writing from par. cad 1. or 2. if it determines that it will not allow invasive species to be transported to other waters.

ccd Paragraph cad does not apply to decontaminated equipment, tanks or containers when used for the operation or maintenance of dry fire hydrants that are subject to ch. NR 329.

Note: See s. NR 329.04 c1d ccd 5. and c2d ccd 4. c. regarding the maintenance and operation of dry fire hydrants.

cdd Paragraph cad 1. does not apply to an aquatic animal whose possession is authorized by department rule.

Note: An example of an aquatic animal whose possession is authorized by department rule is a dead game fish taken in compliance with ch. NR 20.

ced Paragraph cad 2. does not apply to water in closed engine cooling systems or to tanks or containers of potable drinking water or other beverages meant for human consumption.

cfđ Paragraph cad 2. does not apply to water in a container that holds live bait minnows obtained from a Wisconsin bait dealer, if the container holds no other fish, contains 2 gallons or less of water, and is used to transport only live minnows that have not been exposed to water or fish from that inland or outlying water or will be used for bait only on the same inland or outlying water, its bank or shore.

Note: The transport of live fish and fish eggs away from any inland or outlying water or its bank or shore is prohibited by s. NR 19.05 c3d, with certain exceptions.

cgđ Paragraph cad does not apply to vehicles, equipment, or gear while engaged in fire suppression.

c3d TRANSPORT OF VEHICLES AND EQUIPMENT INTO WISCONSIN; REMOVAL PRIOR TO ENTRY OF AQUATIC PLANTS AND AQUATIC ANIMALS AND DRAINAGE OF WATER. cad Except as provided in pars. cbd to cdd, no person may do any of the following:

1. Transport over land from another state any vehicle, boat, boat trailer, boating or fishing equipment, or other equipment or gear of any type for use on any water of the state or its bank or shore unless the person first removes all attached aquatic plants and aquatic animals from the vehicle, boat, boat trailer, boating or fishing equipment, or other equipment or gear of any type before entering the state.

Note: Section 30.07 c2d cad and cbd, Stats., prohibit any person from placing or operating a vehicle, seaplane, watercraft, or other object of any kind in a navigable water if it has any aquatic plants or aquatic animals attached to the exterior and from taking off with a seaplane, or transporting or operating a vehicle, watercraft, or other object of any kind on a highway with aquatic plants or aquatic animals attached to the exterior.

2. Transport over land from another state any vehicle, equipment other than boating or fishing equipment, or gear of any type for use on any water of the state or its bank or shore unless the person first drains all water from the vehicle, equipment or gear, including water in any motor, tank, or other container before entering the state.

Note: Section NR 19.055 c2d prohibits any person from transporting over land from another state any boat, boat trailer, boating equipment or fishing equipment for use on any water of the state or its bank or shore unless the person drains all water from the boat, boat trailer, boating equipment or fishing equipment, including water

in any bilge, ballast tank, bait bucket, live well or other container before entering the state, with certain exceptions.

cbd The department may exempt any vehicle, boat, boat trailer, equipment or gear in writing from par. cad 1. or 2. if it determines that it will not allow invasive species to be transported to waters of the state.

ccd Paragraph cad 1. does not apply to dead game fish lawfully taken in another state, as provided by s. 29.047, Stats.

cdd Paragraph cad 2. does not apply to water in closed engine cooling systems or to tanks or containers of potable drinking water or other beverages meant for human consumption.

c4d ILLEGAL TO LAUNCH, TAKE OFF OR TRANSPORT. cad Except as provided in par. cbd, no person may place or operate a vehicle, watercraft or other object of any kind in any wetland or non-navigable water of the state if the vehicle, watercraft or other object has an aquatic plant or aquatic animal attached to the exterior.

cbd Paragraph cad does not apply if the aquatic plant is native duckweed or wild rice.

ccd Paragraph cad does not apply to vehicles, watercraft or other objects while engaged in fire suppression.

c5d QUARANTINED MATERIALS. cad No person may transport an identified carrier of an invasive species from a department infestation control zone designated under s. 26.30 c7d, Stats., a DATCP quarantine area imposed under s. 94.01, Stats., or a United States Department of Agriculture Animal and Plant Health Inspection Service quarantine area declared under 7 USC section 7714 or 7715, for the specific identified invasive species.

Note: Identified carriers of invasive terrestrial invertebrates and plant-disease causing microorganisms most commonly include but are not limited to trees that support life stages of the invasive species. Trees include all parts of a tree including limbs, branches, roots and foliage. Raw forest products such as unprocessed logs, slabs with bark, cut firewood and chips may be considered as carriers. The department does not consider certified firewood to be an identified carrier. Certified firewood is firewood that has been treated by a DATCP-certified firewood dealer using one or more DATCP-approved firewood treatment methods to prevent the spread of invasive pests.

cbd Paragraph cad does not apply to a person who transports an identified carrier of an invasive species from a department infestation control zone designated under s. 26.30 c7d, Stats., a DATCP quarantine area imposed under s. 94.01, Stats., or a United States Department of Agriculture Animal and Plant Health Inspection Service quarantine area declared under 7 USC section 7714 or 7715, if the person is in compliance with a DATCP-USDA APHIS compliance agreement applicable to the terrestrial invertebrate or plant disease-causing microorganism.

c6d USE OF PROHIBITED FISH OR CRAYFISH AS BAIT. Unless authorized by a permit issued by the department under this chapter, no person may use a prohibited fish invasive species or prohibited crayfish invasive species as bait.

Note: Prohibited fish invasive species and crayfish invasive species are identified in s. NR 40.04 c2d ccd.

c7d INTRODUCTION PROHIBITED. Unless authorized by a permit issued by the department under this chapter, no person may introduce a nonnative algae or cyanobacteria species in any water of the state. This subsection does not apply to the incidental introduction of a nonnative algae or cyanobacteria species by a person operating an aircraft, vehicle, equipment or gear while engaged in fire suppression.

Note: Section 23.24 c3d cad 1., Stats., prohibits any person from introducing nonnative aquatic plants into waters of this state unless the person has a valid aquatic plant management permit issued by the department.

c8d WHITE-NOSE SYNDROME PREVENTION. cad *Definition.* In this subsection Xnear a cave or mineY means within 100 feet of a cave or mine.

cbd *Entry with imported items prohibited.* Except as provided in par. ced, no person may bring or place any equipment,

gear, clothing or other object of any kind in or near a cave or mine if the equipment, gear, clothing or other object has been in or near a cave or mine located outside of Wisconsin.

ccd Requirements. 1. Except as provided in subd. 5. and par. [ced](#), no person may bring or place any equipment, gear, clothing or other object of any kind in or near a cave or mine if the equipment, gear, clothing or other object has been in or near a cave or mine located in this state unless the equipment, gear, clothing or other object has first been cleaned in accordance with par. [cdd](#).

2. Except as provided in subd. 5. and par. [ced](#), any person removing any equipment, gear, clothing or other object of any kind from any cave or mine or from within 100 feet of any cave or mine or exiting any cave or mine or the area within 100 feet of any cave or mine with any equipment, gear, clothing or other object of any kind shall clean the equipment, gear, clothing and other objects in accordance with par. [cdd](#).

3. Except as provided in subd. 5. and par. [ced](#), any person who caused or will cause contact to occur between a bat and an individual or object of any kind, including but not limited to a net, trap, weighting tube, bat bag, wing punch, ruler, clothing, glove, electronic equipment or exclusion material shall, prior to and immediately following the contact, clean the individual or object in accordance with par. [cdd](#).

4. Except as provided in subd. 5. and par. [ced](#), any person who owns or operates an active mine or a commercial cave or mine shall ensure that each individual entering or exiting the person[s] active mine or commercial cave or mine complies with par. [cbd](#) and subds. 1. to 3.

5. The requirements of subds. 1. to 4. do not apply to dedicated equipment, gear, clothing and other objects of any kind that are used exclusively in or near and stored exclusively in or near a single cave or mine.

cdd Protocols. Individuals, equipment, gear, clothing and other objects of any kind to which the requirement of par. [ccd](#) 1., 2., or 3. applies shall be cleaned in accordance with protocols approved by the department. Unless it determines that emergency conditions require otherwise, the department shall provide notice and opportunity for public comment at least 14 days before it materially changes an approved protocol.

Note: Detailed information about department-approved protocols may be obtained on the DNR website cdnr.wi.gov/d keyword XbatsY or by writing to Wisconsin Department of Natural Resources, Wisconsin Bat Monitoring Program, Bureau of Natural Heritage Conservation, P.O. Box 7921, Madison, WI 53707-7921.

ced Written exemption. The department may exempt any person in writing from par. [cbd](#) or [ccd](#) if it determines that the exemption will not significantly increase the risk that *Geomyces destructans* white-nose syndrome fungal pathogen would be introduced or transported to other locations. The department may set conditions in any written exemption granted under this paragraph. Any person who receives a conditional exemption from the department under this paragraph shall comply with the conditions of the exemption.

efd Site-specific prevention plan. Except as provided in subd. 5., any person who owns or operates a cave or mine shall develop a written plan for each of the person[s] caves and mines to prevent the introduction and transmission of *Geomyces destructans* white-nose syndrome fungal pathogen.

1. The prevention plan shall include a description of practices that will be installed or implemented by the owner or opera-

tor to prevent the introduction or transmission of *Geomyces destructans* via human transmission. The plan may include practices such as screening visitors, cleaning equipment, gear, clothing and other objects before they are brought into the cave or mine or upon their removal, the use of dedicated equipment, gear, clothing and other objects, and modification of the cave or mine environment to make it unsuitable for establishment and transmission of *Geomyces destructans*.

2. The prevention plan shall be submitted by the owner or operator to the department by June 1, 2011, for its review and approval. The department may set conditions for the approval of any plan required under this paragraph and shall include any exemption granted under par. [ced](#) to the owner or operator of a cave or mine in a plan approval issued under this paragraph. In setting conditions for the approval of any plan, the department shall consider the site-specific risk of *Geomyces destructans* introduction and transmission along with the feasibility and reasonableness of alternative practices for the prevention of *Geomyces destructans* transmission or introduction.

3. The owner or operator shall implement the plan as approved by the department and shall maintain as appropriate all practices specified in the plan.

4. The owner or operator shall maintain a copy of the approved prevention plan at the cave or mine covered by the plan or an alternate location approved by the department and shall make the copy available for inspection upon request by the department at any reasonable time.

5. This paragraph does not apply to any of the following:

a. A cave or mine that the department has determined in writing lacks the environmental conditions, including temperature and humidity, suitable for the introduction or transmission of *Geomyces destructans*.

b. A cave or mine where the owner or operator restricts human access through the use of department-supplied and maintained signage or bat-friendly barriers or gates.

c. A cave or mine where the primary reason for human presence in the cave or mine relates to the storage or processing of a food or beverage intended for human consumption.

History: CR 08-074: cr. Register August 2009 No. 644, eff. 9-1-09; CR 10-016: am. c4d and c7d Register August 2010 No. 656, eff. 9-1-10; EmR1039: emerg. cr. c8d, eff. 11-3-10; CR 10-123: cr. c8d Register May 2011 No. 665, eff. 6-1-11.

NR 40.08 Enforcement. Under s. 23.22 c9d, Stats., if the department finds that any person is violating this chapter or a permit issued under this chapter, the department may do one or more of the following:

c1d Issue a citation pursuant to ss. 23.50 to 23.99, Stats.

c2d Refer the matter to the department of justice for enforcement.

c3d Revoke any permit issued under this chapter, after notice and opportunity for hearing.

History: CR 08-074: cr. Register August 2009 No. 644, eff. 9-1-09.

NR 40.09 Interagency coordination. This chapter does not affect the authority of DATCP under chs. 93, 94, 95 and 97, Stats. The action of the department under this chapter shall be coordinated with DATCP. The secretaries of the department and DATCP shall execute a memorandum of agreement to enable coordination of invasive species work of their departments.

History: CR 08-074: cr. Register August 2009 No. 644, eff. 9-1-09.