

Chapter NR 40 -Invasive Species Identification, Classification, and Control

SUMMARY OF NR 40

NR 40 is a Wisconsin rule administered by the Department of Natural Resources that classifies invasive species as Prohibited or Restricted and regulates the transportation, possession, transfer, and introduction of those species. The major purpose of the rule is to educate people in Wisconsin about invasive species and actions they can take to minimize their spread and damage they cause.

Definitions of key terms:

- (1) Invasive species – Species or “varieties” that are not native to Wisconsin and that cause or are likely to cause economic or environmental harm or harm to human health.
- (2) Prohibited invasive species - Invasive species are classified as Prohibited if they are not currently found in Wisconsin, or are present only as small infestations, but which, if introduced into the state, are likely to cause significant harm.
- (3) Restricted invasive species - Invasive species are classified as Restricted if they are already well established in the state and are known to cause, or have the potential to cause, significant harm.
- (4) Introduce - To release an invasive species into the environment.
- (5) Possess – To own, maintain control over, restrain, hold, grow, raise or keep. Landowners “posses” plants growing on their property.
- (6) Transfer – To buy, sell, trade, barter, exchange, give or receive, or to offer to do any of these.
- (7) Transport – To cause, or attempt to cause, an invasive species to be moved within the state. This includes importation.
- (8) Reasonable precautions – Actions that prevent or minimize the transport, and introduction of invasive species. Reasonable precautions include Best Management Practices approved by the WDNR.

Major points of the rule:

- Not all invasive species have been assessed and classified at this time. Many are pending assessment. Other species (primarily plants) that are known to be invasive are administratively listed as “non-restricted” and are not regulated under the rules because of their economic value.
- Unless there is a specific exemption or a permit has been issued under the rule, no one may transport, transfer or introduce a Prohibited or Restricted species. No one may possess any Prohibited species or any Restricted fish.
- It is not a violation if the department reasonably determines that the conduct was incidental or unknowing, and was not due to the person’s failure to take reasonable precautions.
- The rules include authority to enter lands for the purpose of inspection, sampling and control of Prohibited invasive species; allow the department to order landowners to implement control measures, and allow for state control at the landowner’s expense if the landowner is unable or unwilling to comply and is determined to be at fault for the introduction.
- The rules allow the transport of Prohibited and Restricted invasive species for the purpose of identification, control or disposal. The location of Prohibited species must be reported to the WDNR.
- The rules also require preventive measures or limit certain common activities that may function as pathways for the inadvertent introduction or spread of invasive species. Examples include several measures that are intended to prevent the introduction of invasive aquatic species, and prohibiting the transportation of an identified carrier of an invasive species from a quarantine area or infestation control zone, such as moving firewood or ash trees from an area known to have Emerald Ash Borer.

Classifications Criteria

Invasive species are classified into the following categories: (a) Prohibited, (b) Restricted, (c) Caution, and (d) Non-restricted. Only species in the Prohibited and Restricted categories are listed in NR 40. The department considered the following criteria in classifying an invasive species:

- 1) The species' potential to directly or indirectly cause economic or environmental harm or harm to human health.
- 2) The extent to which the species is already established in the state, or in portions of the state.
- 3) The likelihood that the species, upon introduction, will become established and spread in the state.
- 4) The potential for eradicating the species or controlling the species' spread, including the technical and economic feasibility of eradication or control.
- 5) The socio-economic value afforded by the species, including any beneficial uses or value the species may provide for recreation, commerce, agriculture or industry.

PROHIBITED CATEGORY

ACTIONS PROHIBITED: No person may import, transport, possess, transfer or introduce a Prohibited invasive species. Landowners technically "posses" plants growing on their property.

CONTROL REQUIREMENTS: (a) Unless the lands are public, if the WDNR has reason to believe a prohibited species is on a property, they may enter for inspection or control only with permission or an inspection warrant. (b) If the prohibited species population is deemed reasonable and feasible to control, the WDNR may ask any person who owns, controls or manages land where a Prohibited species exists to control the Prohibited species in accordance with a plan approved by the department. The WDNR will seek funds to assist in the control. However, the landowner/manager is ultimately responsible for the control. (c) If voluntary cooperation is not achievable or likely, the WDNR or its designee may control or order the control of the species. If the department determines that the landowner/manager is at fault for the presence of the prohibited species, the department may recover expenses incurred for control.

EXEMPTIONS: (a) Persons are allowed to transport a Prohibited invasive species for the purpose of identification, control or disposal without a permit, provided that the person reports the location of the Prohibited invasive species to the WDNR. (b) It is not a violation if the department reasonably determines that the conduct was incidental or unknowing, and was not due to the person's failure to take reasonable precautions.

RESTRICTED CATEGORY

ACTIONS PROHIBITED: No person may import, transport, transfer or introduce a Restricted invasive. For Restricted nonnative fish and crayfish, possession is also prohibited unless specifically exempt or authorized by a permit.

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.

EXEMPTIONS: (a) Persons are allowed to transport a Restricted invasive species for the purpose of identification, control or disposal without a permit. (b) No permit is required for persons to transport, transfer or introduce parts of a Restricted plant species that are incapable of reproducing or propagating. (c) It is not a violation if the department reasonably determines that the conduct was incidental or unknowing, and was not due to the person's failure to take reasonable precautions.

For more details go to <http://dnr.wi.gov/invasives/classification/>