



October 17, 2018

Fish Farm Name
Permittee
Address
City, WI

Subject: Reasonable Precautions to prevent the spread of aquatic invasive fish in Wisconsin

Dear Mr./Ms. :

Shipments of bait and forage fish can be a vector for the incidental or accidental introduction of aquatic invasive fish species in Wisconsin waters. Following the attached “Best Management Practices for Incidental Possession of Invasive Bait Fish Species” will assure compliance with invasive species regulations and help prevent introduction and spread of nonnative, invasive fish.

Under Wisconsin law, it is illegal to transport, possess, transfer, or introduce a prohibited or restricted invasive fish species. However, there is no violation of the law 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. The Department has determined that for invasive fish species in bait and forage fish shipments or containers, the attached Best Management Practices for Incidental Possession of Invasive Bait Fish Species. (ss. NR 40.04 (3)(b) and NR 40.05(3)(b), Wis. Adm. Code) constitute reasonable precautions to prevent or minimize the spread of invasive fish species. Following these Best Management Practices ensures that you will not unknowingly violate the law.

For example, Western Mosquitofish (*Gambusia affinis*) or Eastern Mosquitofish (*Gambusia holbrooki*) could be present in your bait and forage fish without you knowing about them. If you provide inspection forms and show other proof to the department that all best management practices have been complied with, you will have taken reasonable precautions to check for and prevent possession of the invasive species and will not be in violation of the law by having the fish in your possession or having moved them. Note, Mosquitofish are no longer listed as a “prohibited species” but are still an “established nonnative fish species” and are therefore restricted invasive species under Wisconsin law. (ss. NR 40.02(17) and NR 40.05(2)(c), Wis. Adm. Code), so the requirements for possession, movement, and sale remain the same. Common carp are another species listed as an “established nonnative” fish.

This letter constitutes acknowledgement by the Department of Natural Resources that if you, the owner of a Type 2 or Type 3 fish farm registered with the Department of Agriculture, Trade, and Consumer Protection, have taken reasonable precautions to prevent the transportation, possession, transfer, or introduction of aquatic invasive fish in your bait and forage fish, you would not be cited for that transportation, possession, transfer, or introduction under ch. NR 40, Wis. Adm. Code. Please retain a copy of this letter and all attachments for your records.

Contact the fisheries management program and policy analyst, 1-888-936-7463, if you have any questions.

Sincerely,

Justine Hasz, WDNR Fisheries Management Bureau Director

BEST MANAGEMENT PRACTICES FOR MOSQUITOFISH AND OTHER STRATEGIES FOR MINIMIZING THE RISK OF IMPORTING AND POSSESSING INVASIVE FISH SPECIES IN BAIT AND FORAGE SHIPMENTS

A current copy is available at: https://dnr.wi.gov/topic/Invasives/documents/invasivefish_bmp.pdf

Bait and forage fish are imported into Wisconsin for various reasons. Shipments of bait and forage fish can be a vector for the incidental or accidental introduction of invasive fish species. Chapter NR 40 of the Wisconsin Administrative Code provides that all non-native fish species are prohibited unless they are not viable in Wisconsin, or are named in NR 40 in lists of established non-native species, non-native fish species in the aquaculture industry, or non-native fish species in the aquarium trade. Restricted fish species that may be incidentally or accidentally imported in bait and forage fish shipments include mosquitofish (*Gambusia affinis*).

This document outlines an approach to understanding and minimizing the risk of accidental importations of invasive species through bait and forage fish shipments.



Mosquitofish *Gambusia affinis*

No person may transport, possess, transfer or introduce a restricted invasive species in Wisconsin. However, that provision does not apply 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." This document lists some best management practices (BMPs) for bait and forage fish importers that the Department considers to be "reasonable precautions" when importing and possessing bait and forage fish. These BMPs are not all inclusive but are a representative example of BMPs that may minimize the risk of importation and possession of invasive fish species.

Bait and forage fish importers who follow the BMPs listed below may demonstrate to the Department that they have taken reasonable precautions to avoid the possession, transport and transfer of mosquitofish. These BMPs are not requirements, but bait and forage fish importers in possession of invasive fish species may have a valid defense if they can show they have taken reasonable precautions to avoid possession. The importation and possession must be in compliance with all applicable statutes, regulations, and orders of state and federal agencies, including quarantine orders. These BMPs apply to all shipments of bait and forage fish into Wisconsin, including those conducted by the Department.

Best Management Practices:

1. The owner of the bait or forage fish must be registered as a Type 2 or Type 3 fish farm with the Wisconsin Department of Agriculture, Trade, and Consumer Protection. "Fish farm" means a facility at which a person hatches fish eggs or rears fish for the purpose of introduction into the waters of the state, human or animal consumption, permitting fishing, use as bait or fertilizer or any other purpose specified by the department by rule or for sale to another person to rear for one of those purposes. (s. 95.001 (1) (aj), Stats.)
2. The possession of aquatic invasive fin fish is incidental, unknowing, or accidental in the owner's forage fish or in bait sold or given away. If invasive species are detected by the owner at any time, they must be removed and destroyed.
3. The owner must take reasonable precautions to avoid the possession, transport, and transfer of aquatic invasive fin fish using the following practices:
 - a) The owner utilizes fish suppliers that participate in the Arkansas State Bait and Ornamental Fish Certification program or that implement at least comparable Best Management Practices to minimize the risk of invasive fish species in shipments. The document created by the Arkansas State Plant Board, a division of the Arkansas Agriculture Department, "Baitfish Best Management Practices: Gambusia" is available at: <http://safebaitfish.org/index.html>
 - b) The supplier of bait and forage fish (from inside or outside the State of Wisconsin) inspects fish at the source prior to loading onto trucks for transport and records the presence of any invasive species. All restricted invasive species under ch. NR 40, Wis. Adm. Code, are removed and destroyed to the extent possible. Do not load fish if Asian carp are observed.
 - c) Trucks used to haul fish are loaded with well water. Drivers must carry records with the fish shipments showing source and destination of the shipments and documenting inspection.
 - d) The owner or his or her agents inspect fish when receiving a shipment and when delivering fish. The owner shall record the presence of any invasive species. All restricted invasive species under ch. NR 40, Wis. Adm. Code, are removed and destroyed. Inspections must at a minimum include separation of a sample of fish from each truckload shipment (preferably collected from multiple tanks, if present) to be counted and visually inspected to check for presence of invasive species. Each inspection must be documented and available for review upon request by a department representative.
 - e) Inspections for aquatic invasive fin fish are not required if fish are solely moved between ponds located on the same registered fish farm.
 - f) All forage and bait fish are held in a safe facility that does not directly drain into a water of the state, is not connected to any water of the state, and is not subject to intermittent or periodic flooding.
4. Information must be sent to the fish supplier so the supplier is aware of the inspection requirements.
5. The owner must retain all inspection records for a minimum of five years showing, for all incoming forage and bait fish shipments and for all deliveries of fish sold or given as forage or bait, the date, source (state and supplier name), number of fish inspected, destination, and number of each species that were removed and destroyed. The Department reserves the right to request and inspect these records at any time.
6. These practices do not exempt anyone from following all Wisconsin Department of Agriculture, Trade, and Consumer Protection fish farm and fish health testing requirements.

7. To minimize the risk of spreading aquatic invasive species and/or pathogens, decontamination steps must be followed; INSPECT boats, trailers and equipment, REMOVE all attached aquatic plants and animals, DRAIN all water from boats, vehicles and equipment, and NEVER MOVE plants or unpermitted live fish away from a water body. <http://dnr.wi.gov/topic/Invasives/disinfection.html>

Example Inspection Reporting Form:

BAIT AND FORAGE FISH INSPECTION FORM

FISH FARM NAME AND ADDRESS:

REASON FOR INSPECTION		INSPECTION DATE	DESTINATION OF FISH	NUMBER OF FISH INSPECTED	INVASIVE SPECIES NAME AND NUMBER REMOVED AND DESTROYED
DELIVERY TO FARM (state and supplier name)	DISTRIBUTION FROM FARM				
Arkansas, Baits'r'Us		07/07/2015	Farm, Pond X	1200	E. mosquitofish - 4
	X	07/15/2015	Lake Bug	1032	0

Additional Strategies and Monitoring

1. Department fish hatcheries obtain forage fish shipments and will follow the same BMPs as private fish farms. The inspection records kept by the state's hatcheries will be monitored to help assess the numbers of invasive species entering the state through bait and forage fish shipments.
2. Bait and forage fish vendors and distributors are responsible for avoiding possession or transportation of invasive species. A visual inspection training brochure will be developed to aid in the detection of invasive species. It includes pictures and descriptions of features that distinguish mosquitofish from native minnows. Additional training may be developed.
3. This outline of BMPs and strategies will be reviewed and updated periodically. In particular, as Arkansas or other states where bait and forage fish shipments originate adopt regulations providing for the certification of bait and forage fish shipments, the Department may consider accepting such certifications as providing sufficient demonstration of "reasonable precautions" in the importation of bait and forage fish.
4. This summary does not pertain to or affect any other permits or requirements. In particular, the deliberate importation of non-native fish species for rearing on fish farms, use as bait, or introduction into the waters of Wisconsin requires a permit from the Department.

This document is intended solely as guidance and does not contain any mandatory requirements except where requirements found in statute or administrative rule are referenced. Any regulatory decisions made by the Department of Natural Resources in any matter addressed by this guidance will be made by applying the governing statutes and administrative rules to the relevant facts.



WISCONSIN DEPARTMENT OF NATURAL RESOURCES NOTICE OF FINAL GUIDANCE & CERTIFICATION

Pursuant to ch. 227, Wis. Stats., the Wisconsin Department of Natural Resources has finalized and hereby certifies the following guidance document.

DOCUMENT ID

FH-19-0007-C

DOCUMENT TITLE

Reasonable precautions to prevent the spread of aquatic invasive fish in Wisconsin

PROGRAM/BUREAU

Fisheries Management

STATUTORY AUTHORITY OR LEGAL CITATION

S. 23.22, Stats. directs the department to establish and maintain an invasive species control program and create rules.

Relevant Administrative Code Chapters:

NR 40

DATE SENT TO LEGISLATIVE REFERENCE BUREAU (FOR PUBLIC COMMENTS)

October 28, 2019

DATE FINALIZED

January 20, 2020

DNR CERTIFICATION

I have reviewed this guidance document or proposed guidance document and I certify that it complies with sections 227.10 and 227.11 of the Wisconsin Statutes. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is not explicitly required or explicitly permitted by a statute or a rule that has been lawfully promulgated. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is more restrictive than a standard, requirement, or threshold contained in the Wisconsin Statutes.


Signature

1/9/2020
Date