

250-RICR-60-00-11

TITLE 250 – Department of Environmental Management

CHAPTER 60 – FISH & WILDLIFE

SUBCHAPTER 00 - N/A

PART 11 – Regulation of Invasive Plants

11.1 Purpose

The purpose of these rules is to implement the following statutory provision of the Rhode Island General Laws:

20-1-26 Freshwater invasive aquatic plants – Prohibition on importation and possession. – (a) No person shall import, transport, disperse, distribute, introduce, sell, purchase, or possess in the state any species of non-native (exotic) freshwater invasive aquatic plants, as defined by the director. The director shall promulgate rules and regulations governing the prohibition and its applicability. The prohibition and its enforcement shall not become effective until the rules and regulations governing the prohibition and its applicability take effect.

11.2 Authority

These Rules and Regulations are promulgated pursuant to R.I. Gen. Laws §§ 42-17.1-1 et seq., 20-1-4, and 20-1-26; and in accordance with R.I. Gen. Laws § 42-35-1 et seq.

11.3 Application

These Regulations shall apply to people and/or businesses that import, transport, disperse, distribute, introduce, offer for sale, purchase or otherwise distribute invasive aquatic plants.

11.4 Definitions

For the purposes of these Regulations, the following terms shall have the following meanings:

- A. "Business" means a commercial establishment that maintains stocks of aquatic plants for sale or their distribution, including but not limited to pet stores and nurseries.
- B. "Department" or "DEM" means the Department of Environmental Management of the State of Rhode Island.

- C. "Director" means the Director of the Rhode Island Department of Environmental Management or his/her designee.
- D. "Distribute" means to make a material available for a consumer or business user via direct channels or intermediaries for the purposes of establishing a new location for said materials for commercial gain or not.
- E. "Exotic plant" means, for the purposes of these regulations, a plant that is not native and non-indigenous to the region in which it is now found
- F. "Herbaria" means collections of dried, pressed plants for the purposes of education and scientific study.
- G. "Invasive plant" means a nonindigenous or cryptogenic species of vascular plant or plant part, including eggs, spores, larvae, or other biological product, that may threaten the diversity or abundance of native species or the ecological stability and/or uses of infested waters.
- H. "Non-native plant" means a plant introduced into a new place or habitat where it was not previously found
- I. "Person" means an individual, corporation, partnership or other legal entity.
- J. "Possess" means to exercise dominion or control over plant materials, and to manage or cultivate through planting, pruning, fertilization, or propagation with the intent to offer for sale to other persons. This does not include incidental or unintentional occurrences of a plant on managed lands or waters.
- K. "Propagate" means to promote the growth or spread of a plant or plant part.

11.5 Listing of Prohibited Plants

A. Invasive Aquatic Plants

Plants identified herein shall be prohibited from activities listed under §11.6(A) of this Part and pursuant to R.I. Gen. Laws § 20-1-26.

1. The department shall list an aquatic plant species as prohibited if it meets any of the following criteria:
 - a. The species does not naturally occur in Rhode Island and will cause or is likely to cause economic or environmental losses or jeopardize human health or safety if introduced to the area, because it grows or is likely to grow more rapidly than native plants so as to impair an ecosystem's ability to

function by altering its productivity, water quality, or its ability to maintain its existing species diversity;

- b. The species is known to invade and disrupt aquatic and wetland ecosystems in other geographic areas outside of Rhode Island;
 - c. The species is able to create dense, monospecific stands or monotypic stands that displace or alter native plant habitat, alter fish and wildlife habitats, inhibit water circulation, hinder navigation or irrigation, or severely restrict the recreational use of waterways; and
2. The prohibited status of invasive aquatic plants shall apply not only to the most recent and accepted scientific and common names of the species as listed by ITIS.gov , but also to undesignated synonyms for the listed species. Plant status shall be determined using the Scientific (Latin) name of the species.
3. List of Prohibited Invasive Aquatic Species

	Common Name	Scientific Name
1	Water Wheel	<i>Aldrovanda vesiculosa</i>
2	Flowering Rush	<i>Butomus umbellatus</i>
3	Fanwort	<i>Cabomba caroliniana</i>
4	Pond Water- Starwort	<i>Callitriche stagnalis</i>
5	Bazilian Elodea (<i>Anachris</i>)	<i>Egeria densa</i>
6	Anchored Water Hyacinth	<i>Eichornia azurea</i>
7	Common Water Hyacinth	<i>Eichornia crassipes</i>
8	Mudmat	<i>Glossostigma cleistanthum</i>

	Common Name	Scientific Name
9	Tall Mannagrass	<i>Glyceria maxima</i>
10	Hydrilla	<i>Hydrilla verticillata</i>
11	Common Frogbit	<i>Hydrocharis morsus-ranae</i>
12	Indian Waterstar/Indian Swampweed	<i>Hygrophila polysperma</i>
13	Yellow Iris/Yellow Flag	<i>Iris pseudacorus</i>
14	Swamp Morning Glory/Water Spinach	<i>Ipomoea aquatica</i>
15	Oxygen Weed/African Elodea	<i>Lagarosiphon major</i>
16	Dotted Duckweed/Dotted Duckmeat	<i>Landoltia punctata</i>
17	Ambulia/ Asian Marshweed	<i>Limnophila sessiliflora</i>
18	Water Primrose/Floating Primrose	<i>Ludwigia peploides</i>
19	Moneywort/Creeping Jenny	<i>Lysimachia nummularia</i>
20	Purple Loosestrife/Purple Lythrum	<i>Lythrum salicaria</i>
21	European Waterclover	<i>Marsilea quadrifolia</i>
22	Heartshape False Pickerelweed	<i>Monochoria vaginalis</i>
23	Arrowleaf False Pickerelweed	<i>Monochoria hastata</i>
24	True Forget-Me-Not/Yelloweye Forget-Me-Not	<i>Myosotis scorpioides</i>
25	Parrot Feather	<i>Myriophyllum aquaticum</i>
26	Variable-Leaf Watermilfoil	<i>Myriophyllum heterophyllum</i>

	Common Name	Scientific Name
27	Eurasian Watermilfoil	<i>Myriophyllum spicatum</i>
28	Brittle or Spine Naiad	<i>Najas minor</i>
29	Onerow Yellowcress	<i>Nasturtium microphyllum</i>
30	Watercress	<i>Nasturtium officinale</i>
31	American Water Lotus	<i>Nelumbo lutea</i>
32	Sacred Water Lotus	<i>Nelumbo nucifera</i>
33	Yellow Floating Heart	<i>Nymphoides peltata</i>
34	Duck Lettuce	<i>Ottelia alismoides</i>
35	Reed Canary Grass	<i>Phalaris arundinacea</i>
36	Common Reed	<i>Phragmites australis</i>
37	Water Lettuce	<i>Pistia stratiotes</i>
38	Curly-Leaved Pondweed	<i>Potamogeton crispus</i>
39	Great Yellowcress	<i>Rorippa amphibia</i>
40	Hawaii Arrowhead	<i>Sagittaria sagittifolia</i>
41	Giant Salvinia/Eared Watermoss	<i>Salvinia auriculata</i>
42	Giant Salvinia	<i>Salvinia biloba</i>
43	Water Fern/Water Spangles	<i>Salvinia minima</i>
44	Giant Salvinia/African Payal/Water Fern	<i>Salvinia molesta</i>
45	Exotic Bur-Reed/Branched Bur-Reed	<i>Sparganium erectum</i>

	Common Name	Scientific Name
46	Water Chestnut	<i>Trapa natans</i>
47	Horn Nut	<i>Trapa bicornis</i>
48	Inflated/Swollen Bladderwort	<i>Utricularia inflata</i>

11.6 Prohibited Activities

- A. With regard to invasive plants as defined in §11.4(G) and listed under §11.5 of this Part, the following activities are prohibited in the State of Rhode Island:
1. Importation
 2. Transportation
 3. Dispersion
 4. Distribution
 5. Purchase
 6. Sale
 7. Possession
- B. Any person in possession of regulated invasive plants must dispose of their stock in accordance with §11.8 of this Part within 60 days of the promulgation of these regulations.

11.7 Inspections

The department may inspect, during a business's normal business hours, the aquatic plants on display to the public.

- A. If the department's inspector observes plants that are on the list of prohibited species, the inspector shall inform the on-site manager of the business of the prohibitions of §11.6(A) of this Part and request the business to discontinue the sale or other distribution of the plants.
- B. If the department's inspector observes plants that could be on the list of prohibited species provided in §11.5(A)(3) of this Part, the inspector shall inform the on-site manager of the business of the prohibitions of §11.6(A) of this Part and request the manager to provide a sample of the questionable aquatic plant

material of sufficient size to allow identification of the plant material at no compensation.

- C. Any business found to be in possession of invasive plants prohibited under these Rules and Regulations will be allowed thirty (30) days to dispose of the stock in accordance with §11.8 of this Part, and the stock may be subject to confiscation. The Department reserves the right to require proof of disposal from the business.

11.8 Acceptable Means of Disposal

Any invasive aquatic plant shall be immediately disposed of away from water or moist areas where it might survive. Acceptable means of disposal shall include:

- A. Burning or incinerating;
- B. Land filling;
- C. Disposing in a trash container whose contents are destined for incineration or land filling;
- D. Desiccating;
- E. Composting, if applied away from surface waters; and
- F. Any other method as approved or prescribed by the Director

11.9 Exemptions

11.9.1 EXEMPTIONS OF TRANSPORTATION

- A. Transportation of any invasive aquatic plant(s) on any road or highway in the state shall be exempt from the transportation prohibition of §11.6(A)(2) of this Part, if:
 - 1. The transportation is for the purpose of disposal as part of a harvest control activity previously approved by the Department
 - 2. The transportation is for the purpose of identifying a species or reporting the presence of a species, and the plant material is in a sealed container.

11.9.2 EXEMPTIONS FOR PRESERVED SPECIMENS, RESEARCH OR EDUCATION, AND FIELD EXPERIMENTATIONS

- A. Subject to §11.9.2(B and C) of this Part, the following uses of invasive aquatic plants shall be exempt from the prohibitions of §11.6(A) of this Part:

1. Invasive aquatic plants in the form of herbaria or other preserved specimens;
 2. Invasive aquatic plants being used in a controlled environment, such as in a laboratory for research or for educational display; and
 3. Invasive aquatic plants that are subjected to experimental processes or equipment in the field for the purpose of finding control mechanisms for such invasive species.
- B. All specimens shall be destroyed as specified in §11.8 of this Part when they are no longer used for purposes listed under §11.9.2 (A) and (B) of this Part.
- C. For plants subjected to experimental processes or equipment in the field, the exemption shall apply only if such experimental processes or equipment are conducted in a way that prevents the spread of such plants.

11.10 Notifications

- A. Any person, other than an employee of the department acting in his or her official capacity, who participates in any of the activities exempted pursuant to §11.9.2 of this Part, shall notify the department prior to or within 24 hours after performing such activity.
- B. Notification shall not be required for disposal after removal from boats, vessels, other water conveyances, vehicles, trailers, fishing supplies, or any other equipment as is required in 250-RICR-60-00-10.6.1(A)(18).

11.11 Variances

A. Variance Requests

1. Any business and/or person subject to these regulations may submit a written request to the Director for a variance from some or all provisions of these regulations. Such request for a variance must, at the minimum, contain the following:
 - a. The name and address of the business and/or person requesting the variance;
 - b. Identification of the specific rule or rules from which a variance is requested;
 - c. A statement of the reasons for which the business and/or person seeks a variance. This statement shall specify the reasons that business and/or person is unable to comply with this Part, why a variance is necessary, and the reasons why hardship is alleged. The person seeking the variance should separately and by number

list each reason and any other mitigating factor he/she believes the Director should consider;

- d. An explanation that the alternative procedures requested are substantially equivalent to the Rules and Regulations herein in achieving protection of the public health and the environment; and
- e. The signature of the person requesting the variance.

B. Variance Decisions

- 1. The business and/or person shall have the burden of proving by clear and convincing evidence that a variance should be granted because alternative operating standards or procedures are substantially equivalent to the regulations and will have no adverse effect on public health and the environment.
- 2. If the Director determines that there is widespread public interest or that the variance request raises major issues that could affect others, then the Director may schedule a public hearing to solicit public comment prior to rendering a decision on the variance request.
- 3. The Director's decision to grant or deny a variance shall be in writing and may, as a condition of granting the variance, impose appropriate requirements necessary to protect the public health and environment.

C. Appeal of Variance Denials

Any person affected by the grant or denial of a variance request may, in accordance with the Administrative Rules of Practice and Procedure for the Department of Environmental Management, Part 20-00-1 of this Title, file an appeal to review the initial decision. All appeals must be received by the Administrative Adjudication Division within ten (10) days of receipt of the denial of the variance.

11.12 Penalties

Any person who violates these Rules and Regulations, shall be subject to a fine of not more than five hundred (\$500) dollars per violation.

11.13 Enforcement

Any employee of the Department of Environmental Management Divisions of Fish and Wildlife, Agriculture, and Law Enforcement is empowered and authorized to enforce any of the provisions of these Rules and Regulations.

11.14 Severability

If any provision of these rules and regulations, or application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the rules and regulations shall not be affected thereby.

11.15 Effective Date

These Rules and Regulations shall be effective 120 calendar days from the date of promulgation.

DRAFT

The following pages include a table (dated 3/5/2021) of the proposed plant list with additional details to support their inclusion in Part 11.5 of this draft regulation.

This table will NOT be included in final regulation.

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DRAFT List of freshwater aquatic invasive plants proposed to be prohibited in Rhode Island along with other state or federal agencies who also prohibit the species as invasive, exotic or noxious -- March 5, 2021

	Common name	Scientific name¹	Federal List	CT List	MA List	ME List	NH List	NY List	VT List	USGS Species Origin (USDA native status)	RI AIS Plan	Currently in RI	Wetland Indicator Status
1	Water wheel	<i>Aldrovanda vesiculosa</i>								Exotic (Introduced)			OBL
2	Flowering Rush	<i>Butomus umbellatus</i>		X	X		X		X	Exotic	X	Established CT, MA	OBL
3	Fanwort	<i>Cabomba caroliniana</i>		X	X	X	X	X	X	Native Transplant	X*	Established	OBL
4	Pond Water-Starwort	<i>Callitriche stagnalis</i>		X						Exotic	X	Established CT, MA	OBL
5	Brazilian Elodea (Anacharis)	<i>Egeria densa</i>		X	X	X	X	X	X	Exotic	X*	Established	OBL
6	Anchored Water Hyacinth	<i>Eichhornia azurea</i>	X		X					Exotic (Introduced)			OBL
7	Common Water Hyacinth	<i>Eichhornia crassipes</i>								Exotic	X	Seasonally	OBL
8	Mudmat	<i>Glossostigma cleistanthum</i>								Exotic (Introduced)	X	Established	OBL
9	Tall Mannagrass	<i>Glyceria maxima</i>		X	X		X	X		Exotic	X	Established MA	OBL
10	Hydrilla	<i>Hydrilla verticillata</i>	X	X	X	X	X	X	X	Exotic (Introduced)	X*	Established CT, MA	OBL
11	Common Frogbit	<i>Hydrocharis morsus-ranae</i>				X	X	X	X	Exotic	X	retailed	OBL
12	Indian Waterstar/Indian Swampweed	<i>Hygrophila polysperma</i>	X		X		X		X	Exotic (Introduced)	X		OBL
13	Yellow Iris/ Yellow Flag	<i>Iris pseudacorus</i>		X	X	X	X	X	X	Exotic	X*	X	OBL

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14	Swamp morning glory / water spinach	<i>Ipomoea aquatica</i>	X		permit required		X		X	Exotic (Introduced)		reported, unconfirmed	OBL
15	Oxygen Weed/ African Elodea	<i>Lagarosiphon major</i>	X		X		X						OBL
16	Dotted Duckweed/ Dotted Duckmeat	<i>Landoltia punctata</i>								Exotic	X		OBL
17	Ambulia / Asian Marshweed	<i>Limnophila sessiliflora</i>	X		X		X			Exotic (Introduced)			OBL
18	Water Primrose/ Floating Primrose/ Creeping Waterprimrose/ Floating Primrosewillow	<i>Ludwigia peploides</i>						X		Native Transplant			OBL
19	Moneywort / Creeping Jenny	<i>Lysimachia nummularia</i>		CIPWG	X					Exotic	X*	X	FACW
20	Purple Loosestrife/ Purple Lythrum/ Rainbow Weed	<i>Lythrum salicaria</i>		X	X	X	X	X	X	Exotic		X	OBL
21	European Waterclover	<i>Marsilea quadrifolia</i>		X			X			Exotic	X	Established CT, MA	OBL
22	Heartshape False Pickerelweed	<i>Monochoria vaginalis</i>	X		X					Exotic			
23	Arrowleaf False Pickerelweed	<i>Monochoria hastata</i>	X		X				X				
24	True Forget-Me-Not / Yelloweye Forget-Me-Not	<i>Myosotis scorpioides</i>		X	X		X			Exotic	*	X	OBL

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	Common name	Scientific name¹	Federal List	CT List	MA List	ME List	NH List	NY List	VT List	USGS Species Origin (USDA native status)	RI AIS Plan	Currently in RI	Wetland Indicator Status
25	Parrot Feather	<i>Myriophyllum aquaticum</i>		X	X	X	X	X	X	Exotic	X	X	OBL
26	Variable-Leaf Watermilfoil	<i>Myriophyllum heterophyllum</i>		X	X	X	X	X	X	Native Transplant	X*	X	OBL
27	Eurasian Watermilfoil	<i>Myriophyllum spicatum</i>		X	X	X	X	X	X	Exotic	X*	X	OBL
28	Brittle or Spiny Naiad	<i>Najas minor</i>		X	X	X	X		X	Exotic	X*	X	OBL
29	Onerow Yellowcress	<i>Nasturtium microphyllum</i>		X						Exotic	X	X	OBL
30	Watercress	<i>Nasturtium officinale</i>		X		X				Exotic	X*	X	OBL
31	American Water Lotus	<i>Nelumbo lutea</i>		X							X	X	OBL
32	Sacred Water Lotus	<i>Nelumbo nucifera</i>								Exotic (Introduced)		X	OBL
33	Yellow Floating Heart	<i>Nymphoides peltata</i>	X	X	X	X	X	X	X	Exotic	X	X	OBL
34	Duck-Lettuce	<i>Ottelia alismoides</i>	X		X				X	Exotic (Introduced)	*		OBL
35	Reed Canary Grass	<i>Phalaris arundinacea</i>		CIPWG	X						X	X	FACW
36	Common Reed	<i>Phragmites australis</i>		X	X		X	X	X		X	X	FACW
37	Water Lettuce	<i>Pistia stratiotes</i>		CIPWG						Cryptogenic	X*	X	OBL

DRAFT List of freshwater aquatic invasive plants proposed to be prohibited in Rhode Island along with other state or federal agencies who also prohibit the species as invasive, exotic or noxious -- March 5, 2021

	Common name	Scientific name¹	Federal List	CT List	MA List	ME List	NH List	NY List	VT List	USGS Species Origin (USDA native status)	RI AIS Plan	Currently in RI	Wetland Indicator Status
38	Curly-Leaved Pondweed	<i>Potamogeton crispus</i>		X	X	X	X	X	X	Exotic	X*	X	OBL
39	Great Yellowcress	<i>Rorippa amphibia</i>			X								FACW
40	Hawaii Arrowhead	<i>Sagittaria sagittifolia</i>	X		X		X		X				
41	Giant Salvinia/ Eared Watermoss	<i>Salvinia auriculata</i>	X		X				X	Exotic (Introduced)			OBL
42	Giant Salvinia	<i>Salvinia biloba</i>	X		X				X				OBL
43	Water Fern / Water Spangles	<i>Salvinia minima</i>								Exotic	X		OBL
44	Giant Salvinia/ African Payal/ Water Fern/ Kariba-Weed	<i>Salvinia molesta</i>	X	X	X		X		X	Exotic (Introduced)	X		OBL
45	Exotic Bur-Reed/ Branched Burreed/ Simple-Stem Bur-Reed	<i>Sparganium erectum</i>	X		X					(Introduced)			
46	Water Chestnut	<i>Trapa natans</i>		X	X	X	X	X	X	Exotic	X*	X	OBL
47	Horn nut	<i>Trapa bicornis</i>					X						
48	Inflated/Swollen Bladderwort	<i>Utricularia inflata</i>								Native Transplant	*	X	OBL

1. Scientific name includes not only the most recent and accepted scientific and common names of the species as listed by Integrated Taxonomic Information System (ITIS.gov), but also to undesigned synonyms for the listed species

DRAFT List of freshwater aquatic invasive plants proposed to be prohibited in Rhode Island along with other state or federal agencies who also prohibit the species as invasive, exotic or noxious -- March 5, 2021

Common name	Scientific name ¹	Federal List	CT List	MA List	ME List	NH List	NY List	VT List	USGS Species Origin (USDA native status)	RI AIS Plan	Currently in RI	Wetland Indicator Status
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Key to the Columns: For all columns, an X indicates the plant is banned or otherwise prohibited; RI column lists plants mentioned in the RI AIS Plan and * indicates plant was identified by the Rhode Island Invasive Species Council as invasive/potentially invasive

Federal List: [USDA NRCS Federal Noxious Weeds List http://plants.usda.gov/java/noxious](http://plants.usda.gov/java/noxious)

CT List: [Prohibited Invasive Plants List https://www.cga.ct.gov/current/pub/chap_446i.htm#sec_22a-381d](https://www.cga.ct.gov/current/pub/chap_446i.htm#sec_22a-381d)

CIPWG: https://cipwg.uconn.edu/invasive_plant_list/

CT Invasive Plant Working Group List https://cipwg.uconn.edu/invasive_plant_list/

MA List: [MA Prohibited Plant List https://www.mass.gov/files/documents/2017/11/15/prohibited_plant_list_sciname_0.pdf](https://www.mass.gov/files/documents/2017/11/15/prohibited_plant_list_sciname_0.pdf)

ME List: [ME Invasive Aquatic Plant List http://legislature.maine.gov/statutes/38/title38sec410-N.html](http://legislature.maine.gov/statutes/38/title38sec410-N.html)

NH List: [NH Prohibited Exotic Aquatic Plants List https://www.des.nh.gov/sites/g/files/ehbemt341/files/documents/2020-01/bb-40.pdf](https://www.des.nh.gov/sites/g/files/ehbemt341/files/documents/2020-01/bb-40.pdf)

NY List: [NY Prohibited and Regulated Invasive Plants http://www.dec.ny.gov/docs/lands_forests_pdf/isprohibitedplants2.pdf](http://www.dec.ny.gov/docs/lands_forests_pdf/isprohibitedplants2.pdf)

VT List: [Noxious Weed List https://agriculture.vermont.gov/sites/agriculture/files/documents/PHARM/Plant_Pest/NoxiousWeedsQuarantine1.pdf](https://agriculture.vermont.gov/sites/agriculture/files/documents/PHARM/Plant_Pest/NoxiousWeedsQuarantine1.pdf)

RI AIS Plan: [List of Aquatic Invasive Species http://www.dem.ri.gov/programs/benviron/water/quality/pdf/aisplan.pdf](http://www.dem.ri.gov/programs/benviron/water/quality/pdf/aisplan.pdf)

* RI Invasive Species Council Nominated Invasive Species List: <http://rinhs.org/wp-content/uploads/2012/10/InvasivesIndicatorLetterList.pdf>

USGS Nonindigeonous Aquatic Plants List <https://nas.er.usgs.gov/queries/SpeciesList.aspx?Group=Plants>

Wetland Indicator Status: [National Wetland Plant List http://wetland-plants.usace.army.mil/nwpl_static/data/DOC/lists_2016/National/National_2016v2.pdf](http://wetland-plants.usace.army.mil/nwpl_static/data/DOC/lists_2016/National/National_2016v2.pdf)

OBL= Obligate wetland: Almost always occurs in wetlands; FACW= Facultative Wetland: Usually occur in wetlands, but may occur in non-wetlands; a blank indicates the plant was not listed in the 2016 National Wetland Plant List