

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)
Act 451 of 1994

***** 324.41302a.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 5, 2017 *****

324.41302a.amended Permitted aquatic species list; risk assessment; protocol; failure to pass risk assessment for permitted species; compensation of person involved in commercialization or sale; adding new aquatic species to permitted species list for future commercialization and sale.

Sec. 41302a. (1) By April 15, 2019, the department of natural resources and the department of agriculture and rural development, after consultation and notice in the same manner as required of the respective commission under section 41302(1), shall each create a permitted species list for aquatic species for which it is the relevant department. Together, these lists compose the permitted aquatic species list. The initial permitted aquatic species list shall consist of all of the following:

(a) All species on the list of approved species for aquaculture under section 5 of the Michigan aquaculture development act, 1996 PA 199, MCL 286.875, on April 15, 2015 or that are approved under a research permit under section 8 of the Michigan aquaculture development act, 1996 PA 199, MCL 286.878, on April 15, 2015.

(b) All native aquatic species, other than aquatic plants, that by April 15, 2015 were, as live organisms, lawfully in commercial trade in this state. By April 15, 2016, the department of natural resources, in consultation with affected industries, shall determine which aquatic species qualify under this subdivision.

(c) All nonnative aquatic species, other than aquatic plants, that by April 15, 2015 were, as live organisms, lawfully in wide commercial trade in this state for at least 5 years, if there is no evidence of the species causing harm to human health or natural, agricultural, or silvicultural resources in the Great Lakes region. For the purposes of this subdivision and subdivision (d), by April 15, 2016, the department of natural resources, in consultation with affected industries, shall determine which aquatic species qualify under this subdivision.

(d) All nonnative aquatic species, other than aquatic plants, that by April 15, 2015 were, as live organisms, lawfully in commercial trade in this state, that do not meet the requirements of subdivision (c), but that are approved by the department of natural resources based on a risk assessment under subsection (2). By April 15, 2019, the department of natural resources shall perform the risk assessment and approve or disapprove the assessed species for listing as permitted aquatic species.

(e) All aquatic plants, native or nonnative, that by April 15, 2015 were, as live organisms, lawfully in commercial trade in this state. By April 15, 2016, the department of agriculture and rural development, in consultation with affected industries including the horticulture industry, shall determine which aquatic plants qualify under this subdivision.

(2) To perform a risk assessment on an aquatic species other than an aquatic plant, the department of natural resources shall use the risk assessment aquatic protocol developed by the United States Fish and Wildlife Service, aquatic fisheries and resources program. The natural resources commission shall periodically review and may modify or replace the assessment protocol by order consistent with the purposes of this part.

(3) To perform a risk assessment on an aquatic plant, the department of agriculture and rural development shall use the plant protection and quarantine (PPQ) weed risk assessment protocol developed by the United States Department of Agriculture's Plant Protection and Quarantine, Plant Epidemiology, and Risk Analysis Laboratory, Raleigh, North Carolina. Each aquatic plant cultivar, variety, or hybrid shall be assessed separately. The commission of agriculture and rural development shall periodically review and may modify or replace the assessment protocol by order consistent with the purposes of this part.

(4) If an aquatic species that was not previously a prohibited or restricted species under this part does not pass the risk assessment for permitted species under this section and is reviewed under section 41302(4)(e) and placed on the prohibited species list or restricted species list, any person involved in the commercialization or sale of an aquatic species that possesses live organisms of that prohibited or restricted species shall be compensated at fair market value by this state for the loss of that species product in the person's possession in this state when the species was placed on the prohibited species list or restricted species list.

(5) Aquatic species that on April 15, 2015 are, as live organisms, not in commercial trade in this state or are unknown to or unanticipated by the relevant department may be added to the permitted species list upon evaluation using the risk assessment procedure described under subsection (2) or (3), as applicable. After the creation of the initial permitted species list, any person involved in the commercialization or sale of aquatic species may petition the relevant department to review and add a new aquatic species to the permitted species

list for future commercialization and sale in this state. The petitioner has the burden of demonstrating that the species passes the risk assessment under subsection (2) or (3), as applicable. The petitioner shall provide information that is requested by the relevant department to perform the risk assessment. Any prior background materials generated as a result of a federal agency review and identified by the petitioner shall be considered by the department. The petitioner shall pay a reasonable fee that does not exceed the administrative costs for the relevant department to review the petitioned species. The relevant department may, but is not required to, review on its own initiative an aquatic species for placement on the permitted species list.

History: Add. 2014, Act 537, Eff. Apr. 15, 2015;—Am. 2016, Act 477, Eff. Apr. 5, 2017.

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