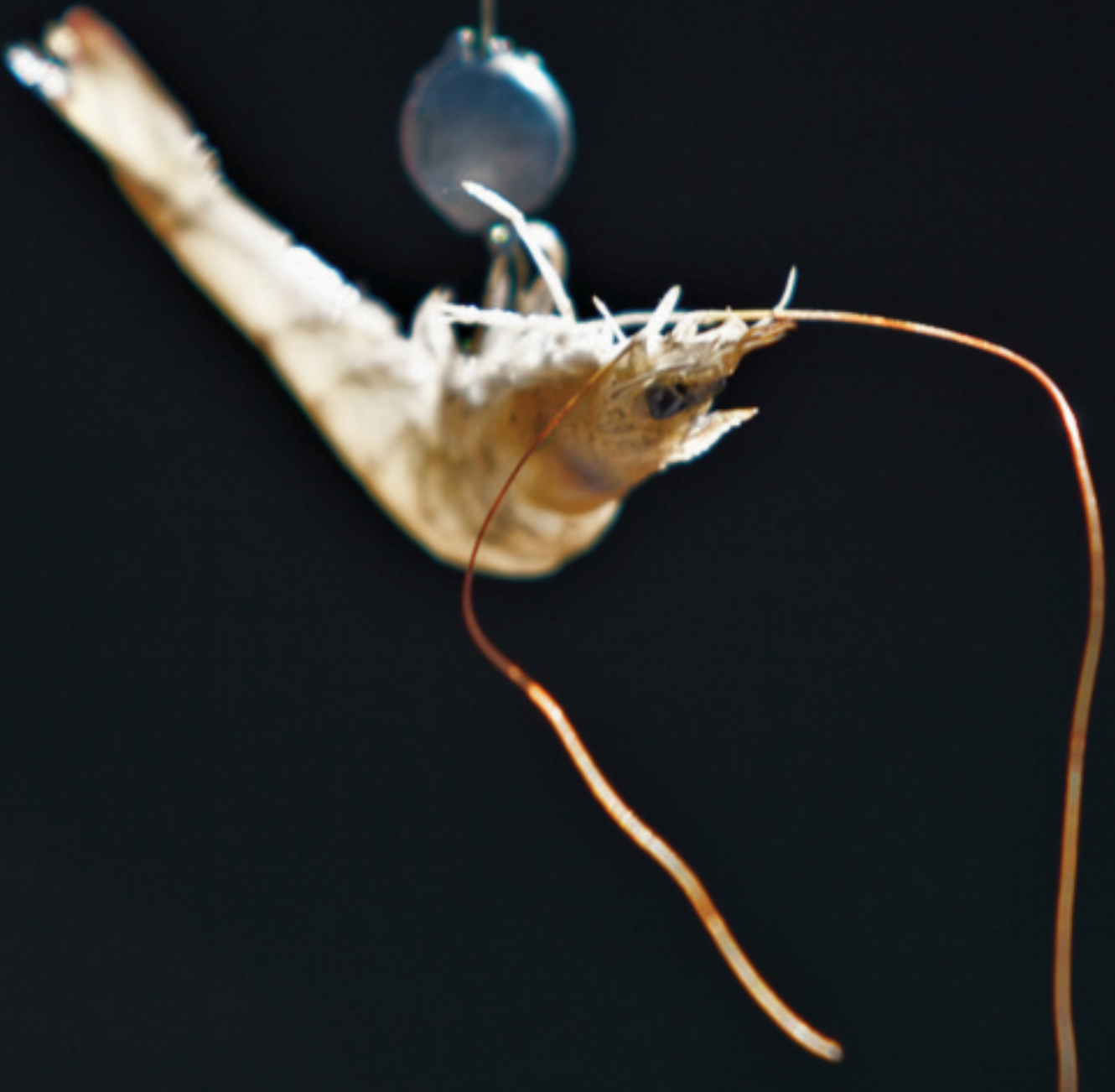

MODEL REGULATION

to CONTROL THE SPREAD OF AQUATIC INVASIVE SPECIES VIA BAIT



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This publication was funded by a grant from the U.S. Fish and Wildlife Service and the Gulf States Marine Fisheries Commission under Award No. F19A0084, and supported by the U.S. Department of Commerce's National Oceanic and Atmospheric Administration under NOAA Award NA18OAR4170080 and the Mississippi-Alabama Sea Grant Consortium. The views expressed herein do not necessarily reflect the views of any of these organizations.



TABLE OF CONTENTS

Introduction	1
Methodology.....	3
General Findings	5
Scope of Model Bait Regulation	9
Model Bait Regulation	14
Appendix A: Model Bait Regulation with Explanatory Notes	17

Introduction

Bait is a vector for the introduction of invasive species into state waters. Controlling bait to prevent the spread of invasive species requires two approaches to protect natural resources: stopping the use of invasive bait; and addressing how bait containers introduce aquatic invasives. State invasive species prevention programs are intended to control what is put into the waters of a state so that the state's natural resources flourish.

The Mississippi-Alabama Sea Grant Legal Program (MASGLP) received funding from the U.S. Fish and Wildlife Service and the Gulf States Marine Fisheries Commission to develop a model regulation to limit the spread of aquatic invasive species by the use of bait. The regulation is intended for states that are members of the Gulf and South Atlantic Regional Panel on Aquatic Invasive Species (GSARP). Those members are: Alabama, Georgia, Florida, Louisiana, Mississippi, North Carolina, Puerto Rico, South Carolina, and Texas.

MASGLP researched state laws and regulations of GSARP states and other jurisdictions to prepare the Model Bait Regulation. Multiple products resulted from the research. MASGLP developed an online resource allowing public access to the Model Bait Regulation and this report, which explains and examines the research findings and provides a comment and response section to help explain further how the Model Bait Regulation was developed. The website also provides links to the relevant statutes and regulations pertaining to invasive species and bait for each GSARP state. The online resource facilitates access to each state's relevant laws and regulations related to the use of bait and controlling the spread of aquatic invasive species.

Background into Invasive Species Regulation

Invasive species have been a problem in the United States for over 170 years. The earliest laws to address the problem targeted species that were harmful to agricultural or navigational interests. Invasive species laws that identify problematic species, however, tend to be a step behind the invasion.

To some extent it is fair to describe natural resources laws as identifying invasive species after the harm has started to occur. The federal Lacey Act in 1900 attempted to limit importing invasive species, but several identified species were already established – such as English sparrows (also known as house sparrows) and starlings – and stopping imports came too late. A 1960 amendment to the Lacey Act removed sparrows and starlings for that reason.¹ The dominant law addressing aquatic invasive species, the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990² (NANPCA), was enacted after zebra mussels were discovered in the Great Lakes. The fact that zebra mussels are now spread across more than 30 states³ indicates the limits of banning the import of a species after it is established. Amendments to NANPCA addressed the pathway – ballast water from overseas – and regulatory revisions continue to try to stop the introduction of additional species.

¹ 74 Stat. 753. A Senate Report on the amendment concedes the loss: “From introductions into this country prior to 1900, these birds have extended their range throughout the country and no feasible means for controlling their numbers or range has been devised.” S. Rpt. 86-1883, Importation of Injurious Mammals, Etc., Committee on the Judiciary (August 20, 1960).

² 16 U.S.C. § 4701.

³ USGS, *Zebra Mussel*.

If the history of invasive species regulation has revealed anything, it has shown that legislation and regulation lag behind the introduction of new species, and thus, is ineffective at combatting the spread. For example, in 1899, the U.S. Congress enacted a law funding the removal of water hyacinth from the St. John's River in Florida, finding it seriously disrupted navigation. More than 60 years later, in 1954, Congress enacted a law making it illegal to transport water hyacinth in interstate commerce.⁴ Yet water hyacinth appears on GSARP states' lists of invasive species, and a google search will reveal dozens of retailers willing to ship water hyacinths in the United States. Clearly, the laws did not stop the spread of the species. On Dec. 27, 2020, that law was repealed.⁵

State laws, like federal laws, tend to focus on identifying an invasive species more than restricting how it is introduced. This approach poses a significant challenge with respect to bait. Bait poses two threats to the environment: the species itself may be invasive, and the container used to hold and transport bait may contain an invasive species either in the water or clinging to the container.⁶ Containers may have invasive plants or animals, or hold pathogens and viruses. Some of the most pernicious invasive species were unintentional introductions, notably zebra and quagga mussels, which came from bilge water from ships. In recent years it was reported that legal crayfish bait had pieces of an invasive plant in the container. Many invasive plants require only a shred to regenerate in a new water body. States that rely on existing bait regulations, especially in those states that excuse unintentional introductions, have limited ability to protect against the spread of invasive species.

Invasive species control usually involves developing a list of species allowed to be imported or released into a state. Generally, lists are in the form of black lists, which identify those species that are not allowed due to the known harm they present to native species and ecosystems. In contrast, a white list identifies species that are allowed based on determinations that they do not present a risk of invasion. If a species is not identified on the white list, it is prohibited. Therefore, a white list is more restrictive than a black list, as any species not on the list is barred from import or release.

Another method to control aquatic invasive species is to list and isolate particular waters that contain invasives and prohibit the harvest or transport of bait from those waters. The State of Minnesota, for example, identifies waterbodies containing certain pathogens and invasive species, and restricts removing species from those waterbodies.⁷ Another approach that some states take is to identify certain waters, notably for trout, where only specific types of bait may be used.⁸

Purpose

Most GSARP states have not addressed the spread of invasive species by users of bait in a comprehensive statewide format. They all have laws addressing aquatic invasive species, but those rules are not designed

⁴ 18 U.S.C. § 46.

⁵ Pub. L. 116-260, Tit. X, § 1002 (Dec. 27, 2020).

⁶ Personal communication to the author by Dennis Riecke, Environmental Coordinator, Mississippi Department of Wildlife, Fisheries and Parks.

⁷ Minn. Rules §§ 6216.0300, 6216.0400, 6216.0500.

⁸ See, e.g. O.C.G.A. § 27-4-50 (illegal to use live bait in trout waters); 15A N.C. Admin. Code § 10C.0205 (restricts live bait in trout waters at certain time of year); S.C. Code of Regs. R. 123-123 (prohibits certain baits in specific trout water).

to reduce the spread of species by fishing activities. For example, some GSARP states exempt the use of invasive species as bait from a general ban on introducing invasive species.⁹ Additionally, with the exception of Texas, GSARP states that restrict aquatic invasive species as bait do not restrict the use of containers such as live bait wells, which may also contain an invasive, such as plants or pathogens. Therefore, a Model Bait Regulation that addresses the use of bait could control the introduction of both animal and plant invasives, and depending on state resources, could help contain the spread of pathogens.

Additionally, laws and regulations identifying aquatic invasive species frequently are separate from bait regulation, and often scattered among multiple agencies. This can lead to a lack of uniformity within a state's regulations on how it defines certain terms such as waters, bait, or game fish. It may also lead to confusion regarding compliance. Thus, a Model Bait Regulation is a useful device for a state to link aquatic invasive species with the use of bait.

Because the Model Bait Regulation was drafted considering the laws of nine states, including the territory of Puerto Rico, some provisions of the model may be beyond some states' existing statutory authority, despite efforts to use universal language. The Model Bait Regulation is a tool for states to examine existing aquatic invasive species and bait regulations to identify opportunities for legal reform. It is not necessary for states to adopt the Model Bait Regulation verbatim to achieve its overarching goals.

Methodology

Research identified three barriers to enacting effective regulations to reduce the introduction and spread of invasive species via bait: expense in setting up effective programs, lack of statutory authority to take effective action, and no public commitment to change behavior related to use of bait. The reasons why these barriers exist are beyond the scope of this effort, but they may owe in part to the fact that restricting the use of live bait may be unpopular with recreational anglers, or that some people may think that nature can resolve imbalances without intervention, leading to a lack of public support for control measures. The Model Bait Regulation can increase public awareness to the harm caused by invasive species introduced as a consequence of bait use, establish uniform expectations about desired behaviors to limit the spread of invasives from bait use, and make careless introductions result in bigger consequences to the offender.

The investigation began with a review of each of the GSARP states' laws and regulations pertaining to bait and addressing invasive species more generally, including invasive species control for the purpose of agricultural protection.¹⁰ Because the authority to control invasive species is shared among multiple state agencies within each GSARP state, the research considered laws and regulations pertaining to state departments of agriculture and departments of natural resources, which commonly are divided into marine and freshwater agencies.¹¹

⁹ See, e.g., 15A N.C. Admin. Code § 10C.0209; S.C. Code § 50-18-270.

¹⁰ Because Puerto Rico's regulations are in Spanish, they were not reviewed.

¹¹ The research also included consideration of some state health department authority, which includes identifying harmful pests and pathogens. However, that authority is limited to species that may harm human health, and is therefore not part of this discussion.

The investigation also searched multiple states outside of the Gulf Coast and Southeast for statutes and regulations addressing bait that could inform the drafting of a model. Those states included California, Connecticut, Iowa, Kentucky, Maine, Minnesota, Missouri, Montana, New Mexico, New York, Oregon, Pennsylvania, Wisconsin, and Wyoming. Additionally, the investigation reviewed a model municipal ordinance for aquatic invasive species.¹² Additional resources consulted included a report about the use of bait in the Mississippi River Basin prepared for the Mississippi River Basin Panel on Aquatic Nuisance Species¹³ and a report reviewing state laws pertaining to the spread of invasive species by recreational boating developed by the National Sea Grant Law Center.¹⁴

Generic statutory searches of GSARP rules were conducted to find definitions of the building-block words for the model regulation, such as bait, exotic, invasive, non-native, and waters of the state.

Searches were also conducted regarding enforcement of existing laws, including what the penalties are, and which agency has enforcement authority. This search included laws and caselaw searches, as well as news stories and personal interviews to supplement the lack of published court opinions for violations.

This information was sorted by category into different charts to facilitate a comparative analysis of the existing regulatory schemes. The charts revealed the disparities among states as well as those within them. They also identified some strong practices within some states on certain issues. These best practices were incorporated into the Model Bait Regulation. No state was found to have a holistic program that would limit the spread of invasives from the use of bait.

Summaries of these research findings for each GSARP state were compiled into an [online resource](#) for the public with links to those states' laws and regulations pertaining to the introduction and control of aquatic invasive species. This online version is an edited version of the information discovered and is intended as a general resource for the public.¹⁵

In addition to reviewing original source materials of statutes and regulations, the investigation consulted with natural resource experts throughout the development process. For example, after reviewing GSARP statutes and regulations, each GSARP state received a summation copy of those rules for comments. In addition to receiving written comments, initial findings were presented to GSARP members during an online seminar, where the members provided input on the efficacy of existing measures and ideas for regulatory modifications. Notes from that meeting were incorporated into the draft. Separately, a larger group of state fishery managers was consulted during an online meeting of the Southeastern Association of Fishery and Wildlife Agencies Fishery Resources Committee explaining the project, its findings, and the scope of the Model Bait Regulation. The agency officials were consulted on best practices and ideal provisions.

¹² 4 Matthews Municipal Ordinances § 52:4.50 (Westlaw 3d ed.).

¹³ Jeffrey Gunderson, *Live Aquatic Bait Pathway Analysis, State of the Live Bait Industry and its Laws, Regulations and Policies in the Mississippi River Basin*. (Note: this report considered only one of the GSARP states – Texas.)

¹⁴ National Sea Grant Law Center, *From Theory to Practice: A Comparison of State Watercraft Inspection and Decontamination Programs to the Model Legal Framework* (rev'd Dec. 2018).

¹⁵ MASGLP, *Significant Laws and Regulations Addressing Invasive Species and Bait*.

All comments were considered, and substantive comments and responses are provided in Appendix A, which is an annotated red-line version of the draft regulation.

The draft Model Bait Regulation was circulated to the state attorneys who cover natural resource issues in GSARP states. These contacts were provided by GSARP representatives. Some of the states circulated the draft to natural resource agency staff as well. Written comments from those experts were incorporated into the revisions and are presented within this document.

General Findings

In general, the research revealed that while states have many laws and regulations pertaining to bait, the primary purpose of those laws is to protect against wasting natural resources by imposing harvest restrictions and requiring record keeping to identify harvest quantities. This singular focus indicated a need for a model regulation to address the use of bait to limit the spread of aquatic invasive species.

Lists of Invasives Are Problematic

Identifying problematic species is the typical method of invasive species management found in the review of GSARP state rules. Generally, a state will list invasive species whose presence in the state is prohibited or restricted. Invasive species lists typically are created via regulation, meaning they are rigid and may not be updated to recognize new invasives in a timely manner. For example, Alabama has a regulatory list of aquatic invasive plants that was last updated in 1999.¹⁶ Accordingly that list does not contain common salvinia (*Salvinia minima*) or Cuban bulrush (*Cyperus blepharoleptos* or *Oxycaryum cubense*), which were found in the state more recently. A notable exception to regulatory or legislative list-making is South Carolina. Its Department of Natural Resources is authorized by statute to maintain and publish “a list of any species, varieties, or strains of nonindigenous organisms known or suspected to present an adverse impact to fish or marine resources of this State” without any stated requirement for notice and comment rulemaking or other regulatory process.¹⁷

Lists may also be problematic where they do not adequately address the threat from invasives. For example, Mississippi allows only *penaeus* species of shrimp as bait.¹⁸ However, *penaeus* is the main species of shrimp cultivated in Asia where the white spot symptom virus is known to wipe out entire farms of *Liopenaeus vannamei* (aka *Penaeus vannamei*).¹⁹ While the shrimp itself might not be an invasive, it could carry an invasive pathogen.

Research also identified different levels of permissiveness within GSARP states for using non-native species as bait. Some GSARP states list in regulation or statute which non-native bait is allowed. For example, the North Carolina Department of Agriculture and Consumer Services exempts 19 species

¹⁶ Ala. Admin. Code r. 220-2-.124.

¹⁷ S.C. Code § 50-5-45.

¹⁸ 22 Miss. Admin. Code Pt. 6, R. 05.

¹⁹ Mohammedsaeed Ganjoor, *A Short Review on Infectious Viruses in Cultural Shrimps*, Fisheries and Aquaculture Journal (2015).

from the general prohibition on introducing exotic species.²⁰ Florida regulations prevent using or transporting live goldfish or carp for bait for freshwater fish in any waters.²¹ In contrast, Mississippi regulations allow those with a commercial fishing license to use goldfish,²² and South Carolina allows fathead, goldfish, and golden shiners to be used as bait despite a law prohibiting nonindigenous fish.²³

Many states allow bream/sunfish to be used for bait, which does not pose a risk of invasion, but adds to the complexity of regulation in the area because they are game fish, which typically are restricted from being used as bait.²⁴ For example, Mississippi limits game fish used as bait in marine waters to bream/sunfish for trotlines.²⁵

Existing Bait Regulations Often Do Not Regulate the Use of Bait

Most existing bait laws and regulations do not apply to the user of bait. Instead, most state rules address the behavior of bait sellers or those who harvest bait for sale. This creates a regulatory gap, as the behavior of the users of bait results in the intentional or unintentional introduction of aquatic invasive species.

Research showed that, in general, most GSARP state regulations set bait limits to protect against overfishing, particularly of game fish or shrimp. The regulatory restrictions rarely limit the use of bait, or more particularly, rarely regulate the use of bait with the purpose of limiting the spread of invasive species. An example of a statute that protects game fish from being overfished is an Alabama law which prohibits the use of game fish as bait.²⁶ Another example of bait laws designed to protect native fish is Louisiana's limits on the size of seines and dip nets used to catch legal bait species.²⁷ Another approach to natural resource protection is found in the Florida Administrative Code's requirement that those who sell marine bait must keep track of where they caught the fish.²⁸ That helps the state identify locations and quantities of fishes. Texas makes it a civil offense to leave edible fish or bait to die without intending to eat or use the fish as bait.²⁹ These examples illustrate, by omission, the need for a Model Bait Regulation for GSARP states that is drafted to protect natural resources from invasives, as existing rules focus instead on limiting the stress on natural resources.

Research identified some GSARP state bait restrictions that address the introduction of aquatic invasive species, with Texas offering the most comprehensive regulatory scheme. These restrictions are notable for addressing the behavior of the angler, rather than the commercial bait dealer. For example, Texas boaters must drain all bilges, live wells, motors, and "other similar receptacles and systems"

²⁰ N.C. Stat. § 106-761. This includes: bluegill, some sunfish, some crappie, some bass, some catfish, golden shiner, fathead minnow, some trout, common carp, and crayfish (*procambarus*). N.C. Stat. § 106-761(b).

²¹ Fla. Admin. Code § 68A-23.007(2).

²² 40 Miss. Admin. Code Pt. 3, R. 3.1.G.4.

²³ S.C. Code § 50-13-1635.

²⁴ See, e.g., Fla. Admin. Code § 68A-23.007(1) (setting a maximum size); Ala. Stat. Ann. § 9-11-90; 40 Miss. Admin. Code Pt. 3, R. 3.1.G.2 (allowing commercial licensees to use up to 100 daily).

²⁵ 40 Miss. Admin. Code Pt. 3, R. 3.1.G.2.

²⁶ Ala. Code Ann. § 9-11-89.

²⁷ La. Rev. Stat. § 56:323.

²⁸ Fla. Admin. Code § 68E-5.003.

²⁹ Tex. Parks & Wildlife Code § 66.011.

before driving on a public road after leaving a waterbody.³⁰ In general, however, state laws that address angler behavior are narrow, protecting only certain bodies of water or prohibiting only the use of certain species. For example, Georgia prohibits the use of live fish for bait in waters designated as trout waters,³¹ and by regulation, designates some streams as “artificial bait streams,” and prohibits the use of “blueback herring in all freshwaters of the state” (with some exceptions).³² South Carolina makes it illegal to use any nonindigenous fish as bait that is not already established, but allows goldfish.³³

Regulations to restrict transporting bait from its source waters is one way to address bait user’s contribution in spreading invasives. In 2019, Alabama made it illegal to transport live bait away from the waters from which they were caught.³⁴ The rule excludes the possession or use of live baitfish from commercial baitfish producers and bait shops, even of bait from out of state, provided the fish were not “wild caught.”³⁵ Texas requires that live bait that has contact with public waters may be used only in the freshwater body from which the bait was obtained.³⁶ While other states have laws or regulations prohibiting the release of aquatic species into waters from which they were not taken, those rules have an exception for bait.³⁷

The Model Regulation Can Aid Recreational Fishers by Reducing Confusion

Research revealed that GSARP states have a patchwork quilt of statutes and regulations pertaining to invasive species and bait. This includes overlapping definitions, exceptions for bait use, and overlapping jurisdictions. For example, the research identified more than one state with four different statutory or regulatory definitions of “waters” or “waters of the state.” More definitions are found if “coastal waters” are included. Some of this repetition is due to states enacting laws and regulations to enable enforcement of federal laws, such as the Clean Water Act. Accordingly, many “waters of the state” definitions address pollutants. While an expansive definition of waters of the state is helpful – because introducing invasives into any water source could be problematic – there is the potential for confusion. Similarly, “bait” is not defined in GSARP natural resource regulations, or applies only to certain narrow circumstances,³⁸ or otherwise is used as a verb or describes pest control or false advertising. Baitfish is defined by some states to distinguish species from game fish.³⁹ Additionally, the term used to describe nonindigenous species that pose a threat to natural resources includes “noxious”, “exotic”, “non-native”, “injurious”, as well as “invasive.”

Certain states have exceptions for invasive species as bait. South Carolina, for example, makes it illegal to place or release any species imported from another state or jurisdiction into public waters of South Carolina

³⁰ Tex. Admin. Code tit. 31, § 57.1001(1).

³¹ O.C.G.A. § 27-4-50.

³² Ga. Comp. R. & Regs. 391-4-3-.13.

³³ S.C. Code § 50-13-1635.

³⁴ Ala. Admin. Code r. 220-2-.162.

³⁵ Ala. Admin. Code r. 220-2-.162.

³⁶ 31 Tex. Admin. Code 57.1001.

³⁷ See, North Carolina: 15A N.C. Admin. Code § 10C.0209; South Carolina: S.C. Code § 50-13-1635.

³⁸ See, e.g. Ga. Comp. R. & Regs. § 391-2-4-.11 (defining bait minnow for saltwater fishing); 15A N.C. Admin. Code § 10C.0205 (to define live bait in public trout waters); Ala. Admin. Code r. 220-3-.66 (to define live saltwater bait for harvesting in certain marine areas).

³⁹ See, e.g. S.C. Code § 50-13-10.

without a permit, but the law does not apply to the use of live bait.⁴⁰ This could give the impression that any species from another state may be used as live bait. However, another statute, which is codified non-sequentially,⁴¹ makes it unlawful to use any nonindigenous fish as bait that is not already established in the water body being fished, with a few named exceptions. North Carolina has a similar overlap, obscured more deeply by the relevant statutes applying to two separate departments. Laws regarding bait and fishing give authority to the North Carolina Wildlife Resources Commission. However, a law identifying exceptions for using non-native fish as bait is found under that state's Department of Agriculture and Consumer Services.⁴²

Overlapping authorities at the state level may lead to conflicting information on identifying illegal practices or species, thus complicating the enforcement of invasive species rules. In fact, in GSARP states, invasive species lists are issued by departments of agriculture or departments of natural resources and sometimes both. Agriculture departments frequently have authority over aquatic invasive species, in addition to plant pests, as they often oversee aquaculture in the state.

Notification of Waters Containing Invasive Species

While statutory or regulatory lists of invasive species were not hard to find using legal search engines, little information was found on waters of a state containing invasives. The United States Geological Survey has both maps and lists of affected waters,⁴³ but a similar source was not found at the state level or linked to state websites on fishing. Some states do have maps showing all fishing areas.⁴⁴

Enforcement

As part of the development of the Model Bait Regulation, the research examined how natural resource offenses were punished, focusing on invasive species. In general, it is unclear whether the fines are adequate, as it appears enforcement is minimal, possibly due to the expense and difficulty of monitoring all fishing. Additionally, as mentioned, the laws and regulations restricting stocking fish or transporting fish commonly exclude the use of bait.⁴⁵ In essence, recreational users of bait in GSARP states have few restrictions on how and where they use bait, and with the exception of Texas, no restrictions on how containers holding water and bait may be disposed of after leaving the water.⁴⁶ One state explicitly excludes the unintentional introduction or spread of invasive species from its law that prohibits the introduction of non-native species.⁴⁷

An additional obstacle is that the lion's share of state invasive enforcement authority is found in agriculture departments. Without stronger underlying statutory authority – to conduct searches or establish quarantines, for example – natural resource departments have fewer enforcement options.

⁴⁰ S.C. Code § 50-18-270(A).

⁴¹ S.C. Code § 50-13-1635.

⁴² N.C. Stat. § 106-761(b).

⁴³ USGS, *Invasive Species Program*.

⁴⁴ See, e.g. Georgia, *Department of Natural Resources Interactive Fishing Map*; North Carolina Wildlife Commission, *Where to Fish*.

⁴⁵ North Carolina: 15A N.C. Admin. Code § 10C.0209; South Carolina: S.C. Code § 50-18-270.

⁴⁶ 31 Tex. Admin. Code § 57.1001.

⁴⁷ Ala. Code Ann. § 9-20-3.

One example of how a department of agriculture has broader authority to respond to a threat against natural resources is the regulation of the giant apple snail in Mississippi. The giant apple snail is an aquatic invasive species, which are under the purview of the Mississippi Department of Marine Resources or the Department of Wildlife, Fisheries and Parks. Yet when the apple snail was found to affect Mississippi agriculture, in particular, rice, the state Department of Agriculture and Commerce issued an emergency regulation immediately identifying quarantined areas, and limited the intrastate movement of “Ornamentals, nursery stocks, or any other plants, soil, sand, peat, or any other articles which may be responsible for movement of the applesnail.”⁴⁸ Neither Mississippi Department of Marine Resources nor the Department of Wildlife, Fisheries and Parks was found to have the authority to quarantine upon finding an invasive species.

One natural resource agency among GSARP states was found to have quarantine authority, albeit limited. The Florida Fish Wildlife and Conservation Commission may quarantine and confiscate noxious aquatic plant materials adhering to boats or trailers – but the authority extends only to the noxious plant material and not to the object carrying the invasive. Compare that to the Florida Department of Agriculture and Consumer Services (DAC), which has broader authority over noxious weeds. The DAC may quarantine a nursery, orchard, or place, and inspect stock and seize it if it poses a threat.⁴⁹

Scope of Model Bait Regulation

The best practices identified in the project’s research phase were adopted into the Model Bait Regulation. In general, the difference between GSARP states’ regulations and this model is that the Model Bait Regulation offers a more comprehensive look at bait as a vector for aquatic invasive species, its lists are not bound by the regulatory process, there is more public notice of the status of invasives in the state, and the restrictions are in one regulatory location. Its primary focus is on the use of bait, allowing existing state regulations to control licensed sales of bait but with additional limits on the commercial harvest of bait in freshwater.

Where a state already defines any of the terms defined within the model, the state could substitute its definition by providing a cross-reference. However, the scope of the substituted definition needs to be the same as found in the Model Bait Regulation. For example, it is not enough for a state to have defined “aquatic invasive species” in existing regulation if that definition does not include pathogens or if that definition lists only those species that are considered by the state to qualify.

Identification of Species

The Model Bait Regulation is designed to be more responsive than existing state regulations by not requiring states to go through a statutory or regulatory process to identify an aquatic invasive species. Instead, species may be identified by the state using the best scientific practices. Additionally, a list of

⁴⁸ [Emergency Rule 39](#) (dated September 2001, effective August 22, 2001), now 2 Miss. Admin. Code Pt. 1, Subpt. 3, Ch. 01, §§ 102.3, 134. See also, Mike Pursley, *Protecting Mississippi Waterways from Aquatic Invasive Species*, Water Log (March 2020).

⁴⁹ Tex. Parks & Wildlife Code § 66.011.

non-native species that may be allowed as bait in state waters is designed as a narrow white list to be based on knowledge that such use does not pose a threat to the native habitat.

The Model Bait Regulation's proposed white list, however, will not resolve the conflicts between what different states permit as bait. It will still be up to each state to decide which non-native bait can be used in its waters. To help control the interstate spread of invasive species and to address the inconsistencies among the GSARP lists of approved bait species, the Model Bait Regulation restricts the interstate movement of bait by requiring a permit. Most states prohibit the introduction of new species from out of state, but do not address indigenous species from other sources, which may bring invasives, either as a pathogen or in the water in their containers. Some GSARP states already do this, such as Mississippi, which bars selling minnows, non-game fish, or nonnative fish out of state.⁵⁰

Another way the Model Bait Regulation is designed to improve existing regulatory systems is by having a broader definition of aquatic invasive species than found in most GSARP states. The definition captures more than plants and animals by including "bacteria, viruses, and other pathogens." It is designed to address instances where the bait itself may be native or non-invasive, such as shrimp or the American eel, but could contain an invasive disease, such as white spot, or an exotic nematode parasite, respectively.

Other definitions were added to promote homogeneity within a state's regulations. Cross-references for a term with multiple meanings and definitions could result in a problematic definition. Thus, the Model Bait Regulation includes a definition of waters of the state, with a note that a GSARP state could incorporate by reference the appropriate "waters of the state" definition from existing law or regulation to avoid redundancy or confusion. The Model Bait Regulation also defines "bait" for fishing. The definition of "game fish" was defined by cross-referencing an existing regulatory definition. However, because the model regulation allows removing only game fish from waters where invasive species are present, which could incidentally limit the scope of recreational fishing, the restriction on harvesting only game fish could be modified to include "rough fish native to the state."

Identification and Notice of Water Bodies Containing Aquatic Invasive Species

The Model Bait Regulation introduces a new process to make the public more aware of water bodies containing invasive species. For the most part, states have focused regulatory efforts at identifying problem species and then trying to eradicate them. However, GSARP states lack a list of water bodies containing invasive plants, animals, or pathogens. Some states identify water bodies by statute or regulation where only limited types of bait may be used in an effort to restrict the introduction of invasives via bait.⁵¹ These restrictions are narrow and are established via the time-consuming legal apparatus of regulation or statute. The proposed regulations would establish state lists of waters containing invasive species, and that list would be maintained by state officials, rather than by regulation, making it more responsive to changing environmental conditions.

⁵⁰ 40 Miss. Admin. Code Pt. 3, R. 3.1.G.4.

⁵¹ See Georgia: Ga. Comp. R. and Regs. 391-4-3-.13 (identifying certain streams as artificial lure streams); Mississippi: 11 Miss. Admin. Code Pt. 6, R. 2.4 (waters not on this list are categorized as fish and wildlife); North Carolina: 15A N.C. Admin. Code § 10C.0205 (establishes rules for fishing in "Public Mountain Trout Waters"); South Carolina: S.C. Code § 50-13-270 (makes it illegal to use certain baits/lures in waters specified in three different categories).

One way to limit the unintentional introduction of invasive species is to inform the public about where they are. The Model Bait Regulation does this in two ways: listing where they are located, and mapping those sites. As proposed, the maps and lists would be given with fishing licenses and be available online. These actions would serve the purpose of bringing the public's attention to the problem, which makes it more likely that they will participate in actions to limit the spread.

During the feedback and review phases of the project, some expressed concern with the additional regulatory burden this will add. However, states are aware of where they treat for invasive species. This model regulation would make that information easily available to the public. It does not require states to gather additional information. Available GIS mapping technology would make syncing treated water bodies with a map seamless. The fact that some states already map fishing locations indicates that this technology is available.

Aiding Recreational Fishers by Reducing Confusion

The Model Bait Regulation encourages relevant regulations to be compiled in single location, aiding recreational fishers in finding information. For example, as mentioned above, whilst North Carolina allows 19 non-native species otherwise listed as banned from state waters to be used as bait, that exception is under the Department of Agriculture and Consumer Services based on its aquaculture authority, which may not be where a recreational fisher searches for information on bait.⁵²

Clean, Drain, and Dry

An early draft of the Model Bait Regulation included a Clean, Drain, Dry provision used by many states outside of the GSARP region to limit the spread of invasive species. That program requires users of watercraft to empty bilges and other water-holding areas and then rinse their boats, trailers, and equipment and dry it – all at the take-out point from the waterway. This provision was not included in the final version based on input from GSARP representatives. Natural resource officials consider the program worthwhile but too expensive to implement effectively in GSARP states.⁵³ The consensus among GSARP representatives was there was not enough money to set up the program and enforce it.

Additional comments to the draft Model Bait Regulation noted that much of that clean-drain-dry activity was outside the scope of bait. In the interest of presenting a narrowly-tailored regulation addressing bait, acknowledging the consensus that enforcement is unlikely in GSARP states, and noting the additional jurisdictional conflicts introduced by addressing recreational boating, the draft Model Bait Regulation was revised to focus bait on containers, eliminating references to cleaning watercraft and trailers. This provision would fill a gap in most GSARP regulations. The Model Bait Regulation requires bait containers to be emptied at the site, replacing water, if needed, by a source other than that waterbody, such as spring or dechlorinated tap water.

⁵² 15A N.C. Admin. Code § 10C.0209.

⁵³ *But see*, 31 Tex. Admin. Code § 58.150.

Public Awareness

The Model Bait Regulation addresses the need for public awareness of invasive species and how they are spread using bait. It includes a provision adding a small fee to fishing licenses to assist with enforcement and identification requirements. That fee is modeled on the policies of the Pittman-Robertson Act⁵⁴ and Dingell-Johnson Act⁵⁵ in which small amounts of hunting or fishing license fees are contributed to funds to maintain or improve the resources the hunters and fishers use. In addition to catching the attention of licensees, the fee will also help fund fliers or other sources of information for licensed fishers, explaining the expense of controlling invasive species and what actions can protect resources. Many states will need legislation to impose this fee.

Burden on Recreational Fishers

While the Model Bait Regulation will modify some recreational fishing practices, it does not appear to pose a significant hardship on recreational fishers – financial or otherwise. Recreational fishers are already following rules regarding harvest limits and types, approved gear, and times and places of fishing, all which follow obtaining a license by giving personal information to the state. One express change called for by the Model Bait Regulation is that fishers would have to keep the receipt for purchased bait while using the bait and produce it to state officials upon request. Otherwise, the Model Bait Regulation would require little time, money, or attention by fishers, who are already licensed by the state, and therefore, participate under a regulatory scheme. The fact is, fishing is highly regulated, even recreational fishing, for the public purpose of conserving natural resources so that more people can enjoy recreational fishing.

Some wildlife officials objected during the feedback and comment phase to provisions that would limit how people stock their private ponds by restricting taking species from water bodies containing invasive species. The Model Bait Regulation restricts removing species from waters known to have invasives. Regardless of whether the removal is by anglers fish-by-fish, or by people stocking their private ponds in large quantities, behavior that contributes to spreading invasive species would have to change.

The Need for Expanded Authority

Research showed limits in state natural resource agencies' statutory authority, especially as compared to agricultural agencies also tasked with controlling invasive species. The Model Bait Regulation cannot give powers to natural resource agencies. However, it suggests a provision authorizing state testing of imported bait and destruction of bait when invasives are identified. While this may exceed the authority of most natural resource agencies, the practice is within the purview of state departments of health or agriculture. Including it may bring attention to the need to test species used for bait, such as shrimp, even when imported for other purposes.

The Model Bait Regulation is designed to describe all authorities related to the use of bait that could lead to the spread of invasive species. It is written to contain the necessary regulations to control the spread of invasive species by bait without having to cross-reference other laws or regulations. It is designed

⁵⁴ 16 U.S.C. §§ 669 – 669h-1.

⁵⁵ 16 U.S.C. §§ 777-777k.

to be enforced by state natural resource agencies but acknowledges that states delegate invasive species management to more than one department. Therefore, the goal of establishing one source for bait restrictions regarding invasive species may not be possible until natural resource agencies have broader authority to test and restrict the movement of species.

[An annotated version of the Model Bait Regulation including comments received from states and the responses may be found in Appendix A.]

Section 1. Purpose

To prevent the introduction of non-native invasive species, known as aquatic invasive species, into the waters of the state via bait and related fishing practices.

Section 2. Definitions

The following terms as used in this regulation are defined below:

- A. *“Aquatic invasive species” shall mean any invasive, non-native plant or animal organism, including bacteria, viruses, or other pathogens, which threatens the environmental condition of the waters of the state or aquatic life. Organisms do not need to be officially listed by the state to be considered an aquatic invasive species. Species listed on the state list of commercially traded bait are not deemed aquatic invasive species while they are on that list.*
- B. *“Bait” means any substance used to attract fish via ingestion. Aquatic bait is bait that lives in water.*
- C. *“Game fish” means those fish defined by the state in regulation or law as game fish.*
- D. *“Non-native species” means any species not found naturally in the state at the time of the first European settlers, whether or not that species is deemed invasive or harmful.*
- E. *“Person” shall mean any natural person, any form of business or social organization, and any other governmental or nongovernmental legal entity, including their agents.*
- F. *“Species” shall include alive and dead specimens, including the eggs, larvae, or any part capable of regeneration or reproduction.*
- G. *“Waters of the state” means waters of any river, stream, watercourse, pond, lake, coastal, or surface water, wholly or partially under the jurisdiction of the state, natural or artificial, and marine waters under the jurisdiction of the state.*

Section 3. Prohibitions and Requirements for Bait

- A. (i) *Live aquatic bait may be obtained only from the waters in which it will be used, or by purchase from any person authorized by the state to sell that type of bait within the state.*
- (ii) *Live bait taken from the waters of the state may not be transported, traded, or sold outside of the state without a permit.*

- B. *Commercial bait sellers must record the location where bait was harvested and maintain those records for two years. The state is authorized to review those records upon demand and without warrant.*
- C. (i) *No person shall sell or use any living non-native species as bait, with the exception of species listed by the state as currently traded commercial bait;*

(ii) *The state shall maintain a publicly available list of non-native species currently traded as commercial bait that, based on the best scientific information, are not invasive or otherwise harmful to the native environment. That list will be available online on the website of the appropriate state agency, as well as upon request, and will identify the date of the most recent update.*
- D. *Buyers shall keep a dated receipt showing purchase of bait for the duration they possess the bait, and shall produce it upon demand by authorized state officials.*
- E. *Any bait, as well as the contents of its container, imported from outside the state may be tested by the state for the presence of invasive species or pathogens. Upon finding pathogens that pose a risk to human or environmental health, the state may destroy the bait and all the contents of its container without compensation to any party.*

Section 4. Prohibitions and Requirements for Rinsing and Draining Bait Containers

- A. *No person shall empty bait boxes, live wells, or other similar receptacles and systems holding or capable of holding water (other than used for drinking water) into waters of the state where the bait or water did not originate.*
- B. *When keeping live bait, all bait containers shall be drained at the source of the water in the container. The water may be replaced only from sources other than the waterbody, such as spring water or dechlorinated tap water.*

Section 5. Restriction on Taking Fish from Waterbodies with Aquatic Invasive Species

Except where specifically permitted, only game fish (including eggs or larvae) may be taken from bodies of water where aquatic invasive species are identified as being present by maps maintained by the state as required under Section 7.

Section 6. Fee for Fishing Licenses

- A. *The license/renewal fee of state fishing licenses will be increased by \$2. That money will be used for state projects to inform the public, and to remove or contain aquatic invasive species found in bodies of water where fishing occurs. Any fees generated will move forward from year to year if not expended, and do not revert to the general fund.*
- B. *In addition to receiving the license, all licensed fishers will receive written information from the state on the hazards aquatic invasive species pose to the state, and the costs to the state of controlling aquatic invasive species.*

Section 7. Maps

The state will maintain a map of the waters of the state identifying all aquatic invasive species currently found or recently eradicated (within the previous nine months) in each water body. That map will be publicly available online. The map will be updated at least every six months.

Section 8. Penalties

A violation of any section of this law shall be a misdemeanor. In addition to any criminal penalty, the state may assess civil fines equal to the cost of abating the harm caused by the violation. In addition to any other penalty or fine, the state may suspend or revoke all state fishing licenses.

Section 9. Additional Authorities

- A. Upon reasonable suspicion that a violation has occurred or is occurring, the state shall have the authority to demand any record or receipt required under this section without warrant.*

- B. The state may inspect any bait-related equipment upon demand for compliance with this regulation.*

Section 10. Effect on Other Regulations

The requirements of this article should be considered minimum requirements. To the extent that any requirement conflicts with existing state regulation that directly or indirectly addresses the introduction of aquatic invasive species by fishing, the regulation that is most protective of the environment shall prevail and punishment shall be according to its terms.

This annotated version of the Model Bait Regulation highlights key points of discussion and comments raised during the feedback and review phase. While all comments were considered, and many revisions were made based on those comments, only those comments requiring explanation are provided below. Substantive changes made in response to comments by state natural resource agency officials are designated as follows: new text appears in blue and deleted text is shown as stricken-out.

Section 1. Purpose

To prevent the introduction of non-native invasive species, known as aquatic invasive species, into the waters of the state via bait and related fishing practices.

Section 2. Definitions

The following terms as used in this regulation are defined below:

- A. *“Aquatic invasive species” shall mean any invasive, non-native plant or animal organism, including bacteria, viruses, or other pathogens, which threatens the environmental condition of the waters of the state or aquatic life. Organisms do not need to be officially listed by the state to be considered an aquatic invasive species. Species listed on the state list of commercially traded bait are not deemed aquatic invasive species while they are on that list.*

- B. *“Bait” means any substance used to attract fish via ingestion. Aquatic bait is bait that lives in water.*

Comment: Bait is not defined.

Response: A definition of “bait” was added upon finding that many GSARP states lack a regulatory definition for fish bait, albeit bait may be defined under game codes, pest control regulation, or advertising regulations. For ease of administration, the definition could apply to both marine and freshwater fish.

- C. *“Game fish” means those fish defined by the state in regulation or law as game fish.*

- D. *“Non-native species” means any species not ~~indigenous to the state~~ found naturally in the state at the time of the first European settlers, whether or not that species is deemed invasive or harmful.*

Comment: The term “not indigenous” begs the question of when that categorization is made, as many species have become indigenous over time.

Response: The term was modified to eliminate the word indigenous and to reflect the more current understanding that “non-native species” refers to species introduced to a state’s environment after the arrival of European settlers.

- E. “Person” shall mean any natural person, any form of business or social organization, and any other governmental or nongovernmental legal entity, including their agents.
- F. “Species” shall include alive and dead specimens, including the eggs, larvae, **or any part capable of regeneration or reproduction.**
- G. “Waters of the state” means waters of any river, stream, watercourse, pond, lake, coastal, or surface water, wholly or partially ~~within the~~ **under the jurisdiction** of the state, natural or artificial, and marine waters ~~within the~~ **under the jurisdiction** of the state.

Comment: One commenter noted that its state laws includes waters “in the state” and waters “of the state.”

Response: The definition was revised from “waters within the jurisdiction of the state,” which was intended to mean within the legal jurisdiction rather than a physical boundary, to “waters under the jurisdiction of the state” to clarify the issue.

Section 3. Prohibitions and Requirements for Bait

- A. (i) Live **aquatic** bait may be obtained only from the waters in which it will be used, or by purchase from ~~a licensed commercial bait dealer~~ **any person authorized by the state to sell that type of bait** within the state.

Comment: This section contemplates only aquatic bait but not bait such as crickets and earthworms.

Response: Draft was modified adding “aquatic” before bait to eliminate the possibility of it being interpreted as prohibiting the use of non-aquatic species.

Comment: The draft rule limited purchasing bait only from “licensed commercial bait dealers.” However, that conflicts with current rules in at least one state in which live bait may be sold by licensed live bait shrimp dealers and licensed commercial fishermen.

Response: The subsection was revised to allow purchase from people authorized by the state to sell bait.

- (ii) Live bait taken from the waters of the state may not be transported, traded, or sold outside of the state **without a permit.**

Comment: How will this operate with water bodies at the boundary of two states?

Response: While many states already have rules in place limiting the sale of bait outside of the state despite having shared water boundaries, the regulation was modified to allow

states to issue a permit to allow sale across state lines. The permit could be part of a commercial bait license.

Comment: One commenter noted that this would not address the intrastate spread of invasives in instances where they are not native to a watershed outside of their natural range.

Response: The provisions within the Model Bait Regulation which address mapping and limiting the movement of fish from designated waterbodies could help with this problem. However, a regulation that would identify indigenous species by region and prevent their movement across regions would add a significant enforcement burden on state officials and require anglers to have greater knowledge and responsibility. Such a regulation is more in the nature of a quarantine and could be created under a state's authority for specific species.

- B. *Commercial bait sellers must record the location where bait was harvested and maintain those records for two years. The state is authorized to review those records upon demand and without warrant.*

Comment: If the Model Bait Regulation intends to replace or augment the authorization for state inspection with a reporting requirement, it should represent the ideal and allow states to tone their regulations down if necessary.

Response: States have extensive requirements for licensed commercial bait dealers. The Model Bait Regulation is intended to establish minimum procedures to disrupt existing good regulatory practices as little as possible. Some states may already have stricter requirements. Section 10 addresses such conflicts.

- C. *(i) No person shall sell or use any living non-native species as bait, with the exception of species listed by the state as currently traded commercial bait;*

*(ii) The state shall maintain a publicly available list of non-native species currently traded as commercial bait **that, based on the best scientific information, are not invasive or otherwise harmful to the native environment.** That list will be available online on the website of the appropriate state agency, **as well as upon request,** and will identify the date of the most recent update.*

Comment: Compare to S.C. Code § 50-13-1635: it is unlawful to use any nonindigenous fish as bait that is not already established in the water body being fished except the following minnows: fathead, golden shiners, and goldfish including black salties.

Response: The Model Bait Regulation accomplishes the same goal as the South Carolina law of prohibiting nonindigenous fish while allowing a few exceptions, but it is more responsive to fishing needs and environmental changes, by requiring a list of allowed nonindigenous bait to be maintained by state scientists, rather than the state legislature.

Comment: Having such a list outside of regulations would provide additional flexibility for amendment but would eliminate the vital opportunity for public comment on allowable species.

Response: The provision was revised to refer to “best science” to increase public confidence in the decision of the state scientists. Research showed regulatory lists are not updated regularly. However, states wishing to maintain regulatory lists instead could revise the provision.

- D. *Buyers shall keep a dated receipt showing purchase of bait for the duration they possess the bait, and shall produce it upon demand by authorized state officials.*
- E. *Any bait, as well as the contents of its container, imported from outside the state may be tested by the state for the presence of invasive species or pathogens. Upon finding pathogens that pose a risk to human or environmental health, the state shall **may** destroy the bait and all the contents of its container without compensation to any party.*

Section 4. Prohibitions and Requirements for Rinsing and Draining Bait Containers

- ~~A. (i) Any person using watercraft, a trailer, or other gear or systems capable of holding water or that has been in contact with the waters of the state is required to wash all such equipment upon removing it from the water and prior to leaving the immediate water access.~~
- ~~(ii) The requirement to wash watercraft and other gear does not apply where the next use of the watercraft will be in the same body of water and the equipment will not be transported from the immediate water access between uses.~~

Alternative

- ~~A. Any person using watercraft, a trailer, or other gear or systems capable of holding water or that has been in contact with the waters of the state is required to wash all such equipment upon removing it from the water and prior to leaving water access. Equipment is considered cleaned when it has no visible plants, aquatic animals, and/or mud.~~
- ~~B. All bait boxes, bilges, live wells, or other similar receptacles and systems holding or capable of holding water (other than used for drinking water) shall be dumped into waters of the state where the water originated before leaving the water access.~~
- ~~C. All equipment including watercraft, gear, and receptacles that hold water shall be dried for at least five days before being used again in any waters, or towel dried at the water access.~~
- A. No person shall empty bait boxes, bilges, live wells, or other similar receptacles and systems holding or capable of holding water (other than used for drinking water) into waters of the state where the bait or water did not originate.

- B. *When keeping live bait, all bait containers shall be drained at the source of the water in the container. The water may be replaced only from sources other than the waterbody, such as spring water or dechlorinated tap water.*

Section 5. Restriction on Taking Fish from Waterbodies with Aquatic Invasive Species

Except where specifically permitted, only game fish (including eggs or larvae) may be taken from bodies of water where aquatic invasive species are identified as being present by maps maintained by the state as required under Section 7.

Comment: This is redundant with Section 7B, which allows the state to prohibit the removal of bait by commercial baiters from lakes identified as having aquatic invasive species, as bait are nongame fishes.

Response: Section 5 addresses both commercial and recreational removal of nongame fish from waterbodies identified by the state as containing aquatic invasive species, accordingly Section 7B was eliminated. Also, some states allow some game fish to be used as bait (for example, 40 Miss. Admin. Code Pt. 3, R. 3.1 allows licensed commercial fishers to use bream/sunfish for bait).

Comment: This would potentially undermine some programs that target invasive species for commercial harvest as a control strategy.

Response: The regulation was modified to address this concern by adding “except where it is specifically permitted.”

Comment: Some are concerned that the way this rule is written it does not allow for nongame fish to be taken, killed, and used as bait.

Response: The purpose of this provision is to limit the spread of species. Thus, it purposefully does not allow fish to be used as bait away from the waterbody from which it was taken.

Comment: Some states have few game fish listed, and are concerned that this regulation would prohibit catching so-called rough fish.

Response: For states where this regulation would not allow fishing for common native species, the state could revise the Model Bait Regulation to address rough fish. Note that this restriction is in place only where invasives are present and not in all state waters.

Section 6. Fee for Fishing ~~and Recreational Boating~~ Licenses

- A. *~~State fishing licenses will add a \$2 per license/renewal fee to any other cost.~~ The license/renewal fee of state fishing licenses will be increased by \$2. That money will be used for state projects to inform the public, and to remove or contain aquatic invasive species on bodies of water where fishing occurs. Any fees generated will move forward from year to year if not expended, and do not revert to the general fund.*

~~B. Recreational boating licenses will add a \$2 per license/renewal fee to any other cost. That money will be used for state projects to remove or contain aquatic nuisance species on bodies of water where fishing and/or recreational boating occurs.~~

Comment: States may require statutory authority to add new fees.

Response: Some statutory changes may be required to increase the license fees. The Model Bait Regulation was revised to frame the fee as an increase, rather than a new fee, to allow those state agencies authorized to set license fee amounts to do so.

~~C.B. In addition to receiving the license, all licensed fishers and boaters will receive written information from the state on the hazards aquatic invasive species pose to the state, and the costs to the state of controlling aquatic invasive species.~~

Section 7. Maps

~~A. The state will maintain a map of the waters of the state identifying all aquatic invasive species currently found or recently eradicated (within the previous nine months) in each water body, as well as identifying the dates and methods of all eradication efforts. That map will be publicly available online. The map will be updated at least every six months.~~

~~B. The state may prohibit commercial bait harvest from certain waterbodies, based on the risk from aquatic nuisance species. That list shall be publicly available and updated annually.~~

Comment: It may prove too costly and difficult to track all eradication efforts. Recommend limiting the map's scope to tracking those species that pose a risk of transfer via the use of bait.

Response: This section was modified to require states to map waters containing aquatic invasive species but not to track eradication efforts. This subsection does not require states to acquiring new data. It establishes a method of cross-referencing that data and would make that data more accessible to the public.

Comment: The Model Bait Regulation affords more flexibility in lake designation outside of the rule-making process that would be beneficial to state agencies by facilitating rapid, preventative response to new invasions.

Section 8. Penalties

*A violation of any section of this law shall be a misdemeanor. In addition to any criminal penalty, the state may assess civil fines equal to the cost of abating the harm caused by the violation. In addition to any other penalty or fine, ~~the violator will surrender all state fishing and boating licenses and registrations for a period of one year.~~ **the state may suspend or revoke all state fishing licenses.***

Section 9. Additional Authorities

~~The State shall have the authority to demand any record or receipt required under this section without warrant. The State may inspect any watercraft and related equipment upon demand for compliance with this section. Upon reasonable suspicion of a violation of this section, the state may seize any equipment, to be returned upon a finding of not guilty in a court of law, or upon a decision of the state not to prosecute civilly or criminally.~~

A. Upon reasonable suspicion that a violation has occurred or is occurring, the State shall have the authority to demand any record or receipt required under this section without warrant.

B. The State may inspect any bait-related equipment upon demand for compliance with this regulation.

Section 10. Effect on Other Regulations

The requirements of this article should be considered minimum requirements. To the extent that this conflicts with existing state regulation that directly or indirectly addresses the introduction of aquatic invasive species by fishing ~~or other recreational activities~~, the regulation that is most protective of the environment shall prevail and punishment shall be according to its terms.