

Great Lakes AIS Regulatory Analysis Project Update



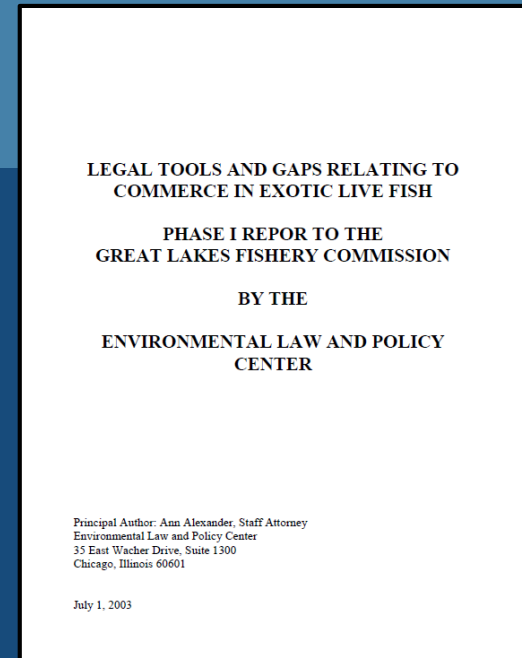
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Great Lakes Fishery Commission

Prepared for:
The Great Lakes AIS Panel – OIT Symposium
16 June 2020

Pre-Project Background

Regulatory Analyses:

- In 2000, the GLFC hired the Environmental Law and Policy Center (ELPC) to analyze regulatory gaps in the commerce of live Asian carp in the Great Lakes
 - The results were used by GL jurisdictions (through LAW) to strengthen regulations addressing live trade
 - In the past 20 years, LAW has requested smaller-scale regulatory analyses be conducted, presented by GLFC policy staff (e.g. grass carp, baitfish, VHS)
 - Intention is to inform CLC and others of significant gaps in regulations
 - Continue conversation about need for “commensurate” regulations among GL jurisdictions




	SILVER	BLACK	BIGHEAD	GRASS	
				DIPLOID	TRIPLOID
ILLINOIS	All activities banned	All activities banned	All activities banned	All activities banned	May be imported, transported, or stocked with Restricted Species Transportation Permit from DNR ¹
INDIANA	All activities banned	All activities banned	All activities banned	Can be permitted in a closed aquaculture facility but only for the production of triploids (no facilities currently permitted for diploids)	May be cultured and sold with permit and reporting requirements
MICHIGAN	All activities banned	All activities banned	All activities banned	All activities banned	All activities banned
MINNESOTA	All activities banned	All activities banned	All activities banned	All activities banned	All activities banned
OHIO	All activities banned	All activities banned	All activities banned	Importation prohibited, commercial harvest permitted	May be imported, stocked and sold with permit from Chief, Ohio Div of Wildlife ² ; commercial harvest permitted
PENNSYLVANIA	All activities banned	All activities banned	All activities banned	All activities banned	May be sold and possessed by permit from the PAFBC ³
NEW YORK	All activities banned	All activities banned	All activities banned	All activities banned	May be imported, possessed and stocked by permit only ⁴
WISCONSIN	All activities banned	All activities banned	All activities banned	All activities banned ⁵	All activities banned ⁶
ONTARIO	Live sale, culture and possession banned	Live sale, culture and possession banned	Live sale, culture and possession banned	Live sale and possession banned; not approved for culture	Live sale and possession banned; not approved for culture

¹ Must be greater than four inches ² Must be certified ³ Listed as a prohibited invasive species NR40.04 (2)(c)(2); regulations technically allow transportation, possession, transfer, and introduction with permit from DNR but a permit has never been issued for such activities

Additional Project Justification

Governors and Premiers Resolution to Enhance Regional Protections Against AIS:

- Calls for “States and Provinces to commit to harmonizing the objectives of AIS regulations to strengthen the basin-wide approach to AIS prevention and enforcement” 
- Steps to achieve this:
 1. Documentation of “...current regulatory approaches as well as existing fines and penalties for possession, transporting, selling, purchasing, and introducing AIS” [to be done in conjunction with/support from the AIS Task Force]
 2. LAW [and other groups identified in resolution] to “...develop consistent approaches to AIS prevention and enforcement throughout the basin” (Harmonization Initiative)

Regulating Aquatic Invasive Species in
the Great Lakes Basin:
A Review of State and Provincial Approaches

Prepared for the
Ontario Ministry of Natural Resources and Forestry
and the
AIS Task Force of the
Council of Great Lakes Governors and Premiers

by:

Isobel W. Heathcote, PhD
Wyndham Research Inc.
Bracebridge, Ontario

July 2015

Building Consensus to Identify and Address Priority AIS and Vectors in the Great Lakes

Project partners:

- National Sea Grant Law Center
- Great Lakes Commission*
- Great Lakes ANS Panel
- *Governors and Premiers AIS Task Force*
- Great Lakes Fishery Commission
 - Law Enforcement Committee*
 - Council of Lake Committees (managers)
 - Council of GL Fishery Agencies (chiefs)

Purpose: Provide a **legal assessment** of variability in **regulated species lists** and related **authorities**, and identify **priority actions** to address identified **gaps** and **vectors of concern**.

This work will be critical in achieving the ambitious objectives set forth in the *Resolution* and will help CLC (JSP signatories) achieve long-standing LAW objective to strengthen regulatory protections against AIS

Project Objective #1

Develop comprehensive comparison of existing regulations

- State, tribal, and provincial jurisdictions' individual lists of prohibited and regulated aquatic species;
- Great Lakes Regulated Species List (GLC 2019);
- Gov. & Premier's AIS Task Force "least wanted" list
- Lacey Act Injurious Wildlife list (18 U.S.C. §42)
- Regulating AIS in the Great Lakes Basin: A Review of State and Provincial Approaches (OMNRF 2015)

Fish	Invertebrates	Plants
<ul style="list-style-type: none">• Bighead carp• Silver carp• Grass carp• Black carp• Northern snakehead• Stone moroko• Zander• Wels catfish• Tench	<ul style="list-style-type: none">• Killer shrimp• Yabby (crayfish)• Golden mussel• Marmorkreb• New Zealand Mud Snail	<ul style="list-style-type: none">• Hydrilla• Brazilian elodea• Water soldier• European water chestnut• Parrot feather• European Frogbit• Yellow Floating Heart

= 89 species, 12 jurisdictions

Objective #1 Deliverables

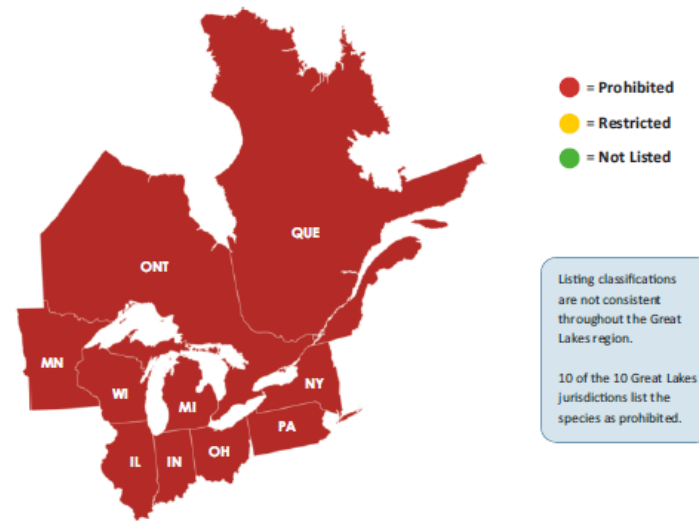
	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
1	Common Name	Genus species	Notes/Comments	IL ^{1,4}	IN	MI ²	MN ³	NY ⁴	OH	ONT	PA	QBC	WI ⁵	Fed-US	Fed-CAN
2	Sterlet	<i>Acipenser ruthenus</i>	in the aquarium trade	x									r		
3	Sturgeons, non-indigenous	<i>Acipenseridae (family)</i>		x								x			
4	Blueback herring	<i>Alosa aestivalis</i>		x											
5	Alewife	<i>Alosa pseudoharengus</i>					r					x	x		
6	Anguilla, non-indigenous	<i>Anguillidae (family)</i>		x								x			
7	Chinese pond mussel	<i>Anodonta woodiana</i>		x											
8	Japanese mystery snail	<i>Bellamyia japonica</i> ; <i>Cipangopaludina japonica</i>	MN: all <i>Cipangopaludina</i> spp.	x				x					r		
9	Faucet snail	<i>Bithynia tentaculata</i>					x						x		
10	Spiny water flea	<i>Bythotrephes longimanus</i> , <i>Bythotrephes cederstroemii</i>		x			r	x					x		
11	Goldfish	<i>Carassius auratus</i>	in the aquarium trade				r	r				x (as bait)	r		
12	Crucian carp	<i>Carassius carassius</i>		x			x		x					x	
13	Prussian carp	<i>Carassius gibelio</i>		x			x		x					x	
14	Fish hook water flea	<i>Cercopagis pengoi</i>		x				x					x		
15	Northern snakehead	<i>Channa argus</i>		x	x	x	x	x	x	x	x	x	x	x	x
16	Rainbow snakehead	<i>Channa bleheri</i>		x	x	x			x	x	x	x	x	x	x
17	Dwarf snakehead	<i>Channa gachua</i>		x	x	x			x	x	x	x	x	x	x
18	Blotched snakehead	<i>Channa maculata</i>		x	x	x			x	x	x	x	x	x	x
19	Bullseye snakehead	<i>Channa marulius</i>		x	x	x		x	x	x	x	x	x	x	x
20	Giant snakehead	<i>Channa micropeltes</i>		x	x	x		x	x	x	x	x	x	x	x
21	Yabbie	<i>Cherax destructor</i>		x		x	x		x	x	x	x	x	x	
22	Marron	<i>Cherax tenuimanus</i>		x					x				x		
23	Chinese mystery snail	<i>Cipangopaludina chinensis</i> ; <i>Bellamyia chinensis</i>	MN: all <i>Cipangopaludina</i> spp.	x			r	x					r		
24	Walking catfish	<i>Clarias batrachus</i>		x				x					x	x	
25	Asiatic clam	<i>Corbicula fluminea</i>		x	x			x					x		
26	Asian clams	<i>Corbicula</i> spp.		x	x										
27	Grass carp	<i>Ctenopharyngodon idella</i>		x	x (+hybrids or	x	x	r	x	x	x	x	x		x
28	Red shiner	<i>Cyprinella lutrensis</i>						r					x		
29	Common carp, koi	<i>Cyprinus carpio</i>	in the aquarium trade				r	r					x		
30	Water flea	<i>Daphnia lumholtzi</i>		x				r					x		
31	Killer shrimp	<i>Dikerogammarus villosus</i>		x		x			x	x			x		
32	Zebra mussel	<i>Dreissena polymorpha</i>		x	x	x	x (genus)	x	x	x	x		r	x	x
33	Quagga mussel	<i>Dreissena rostriformis bugensis</i>		x	x	x	x (genus)	x	x	x	x		x		x
34	Chinese mitten crab	<i>Eriocheir sinensis</i>		x				x	x			x	x	x	
35	Walking catfish	family <i>Clariidae</i>		x	x (+hybrids or									x	
36	Eastern banded killifish	<i>Fundulus diaphanus diaphanus</i>		x					x						

Objective #1 Deliverables

Comparative Analysis of “Least Wanted” AIS in the Great Lakes

Bighead Carp

Hypophthalmichthys nobilis



“Prohibited” means different things in different jurisdictions. While possession, sale, and release is expressly illegal in all states where bighead carp is listed as prohibited, jurisdictions may be silent on other activities such as transport, purchase, or import.

Sell	Offer for Sale	Purchase	Transport	Import	Barter, Gift, Trade, Transfer	Possession	Release	Propagation	Lease, Loan
IL, IN, MI, MN, NY, OH, ONT, QUE, PA, WI	IL, MI, PA, WI, ONT	IL, IN, MN, NY, ONT, QUE, PA, WI	IL, MN, NY, ONT, QUE, PA, WI	IL, IN, MN, NY, OH, ONT, PA, WI	IL, IN, ONT, PA, WI	IL, IN, MI, MN, NY, OH, ONT, QUE, PA, WI	IL, IN, MI, MN, NY, OH, ONT, QUE, PA, WI	IL, IN, MN, NY, ONT, QUE	IL, IN, ONT
10	5	8	7	8	5	10	10	6	3

Least updated: October 2019



Classification:
prohibited,
restricted, not listed

Specific activities identified
in regulations

Objective #1 Deliverables

Comparative Analysis of “Least Wanted” AIS in the Great Lakes

Bighead

Hypophthalmic

Classifica

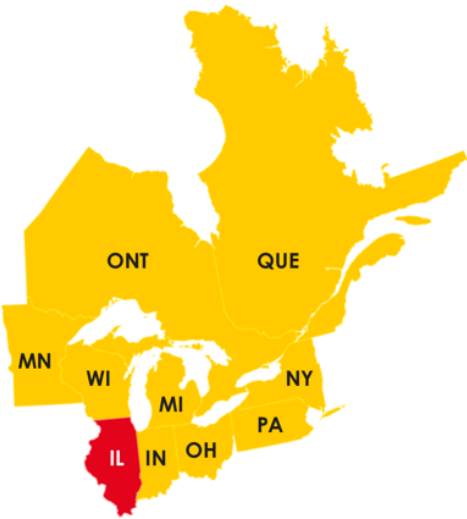


Comparative Analysis of “Least Wanted” AIS in the Great Lakes

Bighead Carp

Hypophthalmichthys nobilis

Activities Prohibited



- = All 10
- = Some
- = None

Comparative Analysis of “Least Wanted” AIS in the Great Lakes

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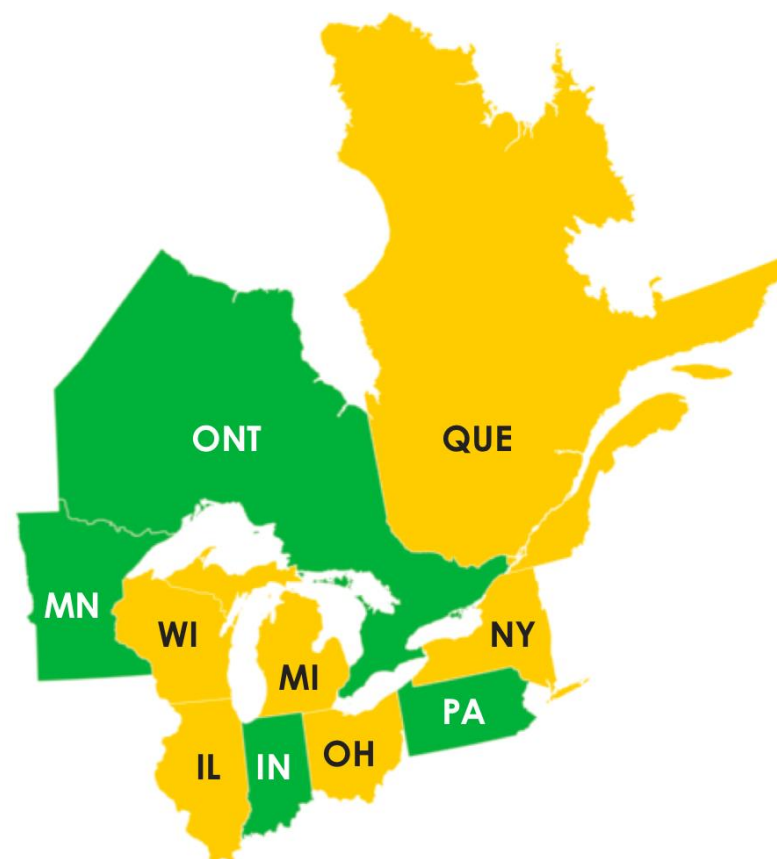
Tinca tinca

Classification



- = Prohibited
- = Restricted
- = Not Listed

Activities Prohibited



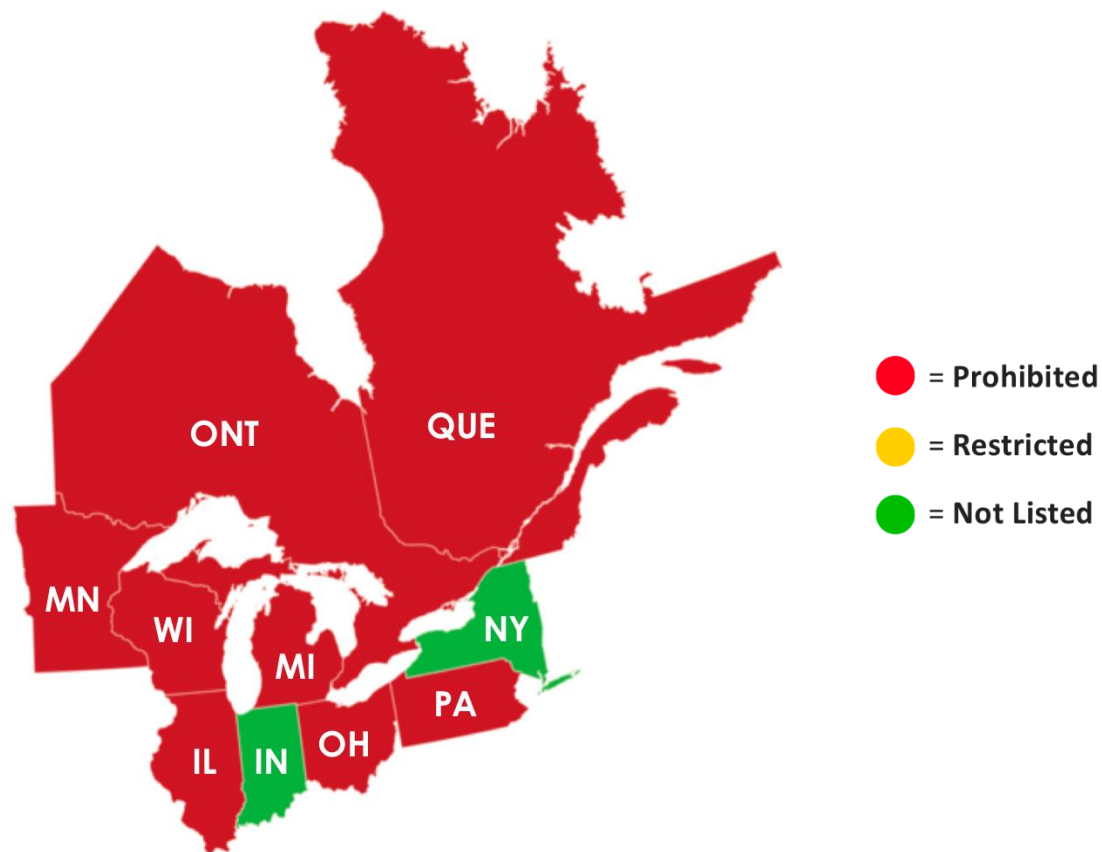
- = All 10
- = Some
- = None

Comparative Analysis of “Least Wanted” AIS in the Great Lakes

Yabby

Cherax destructor

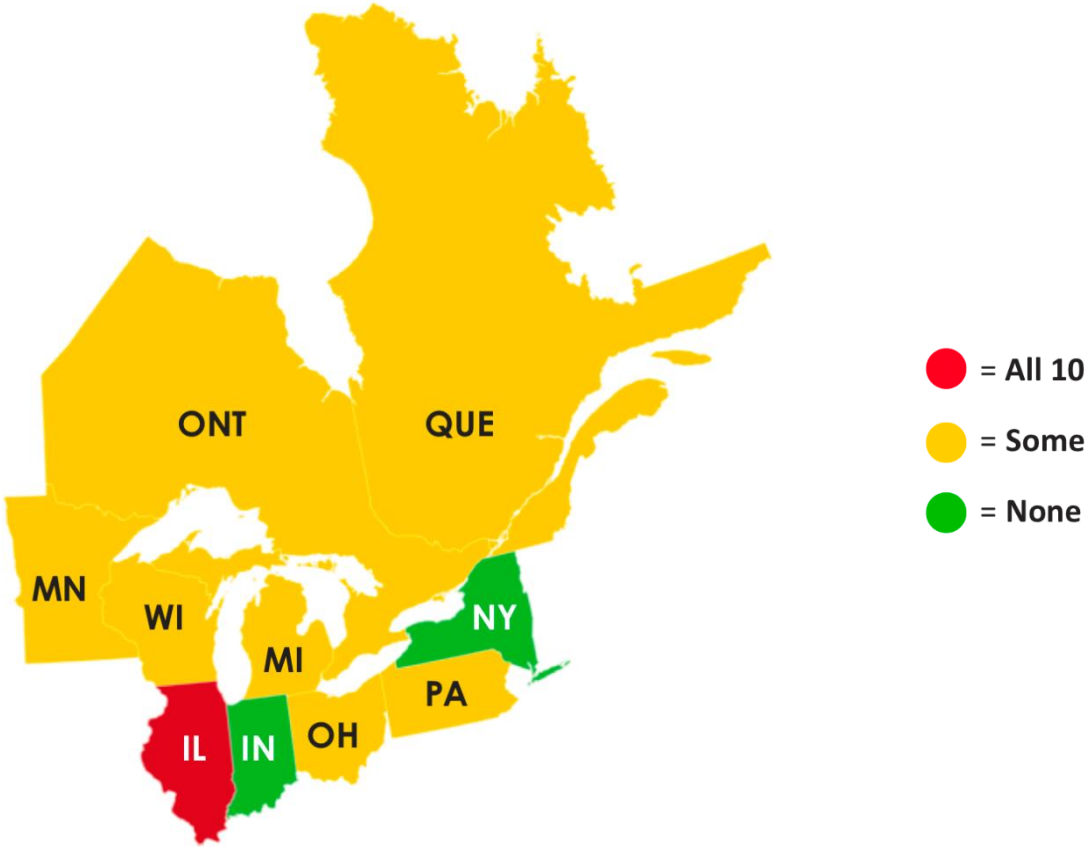
Classification



Comparative Analysis of “Least Wanted” AIS in the Great Lakes

Yabby
Cherax destructor

Activities Prohibited

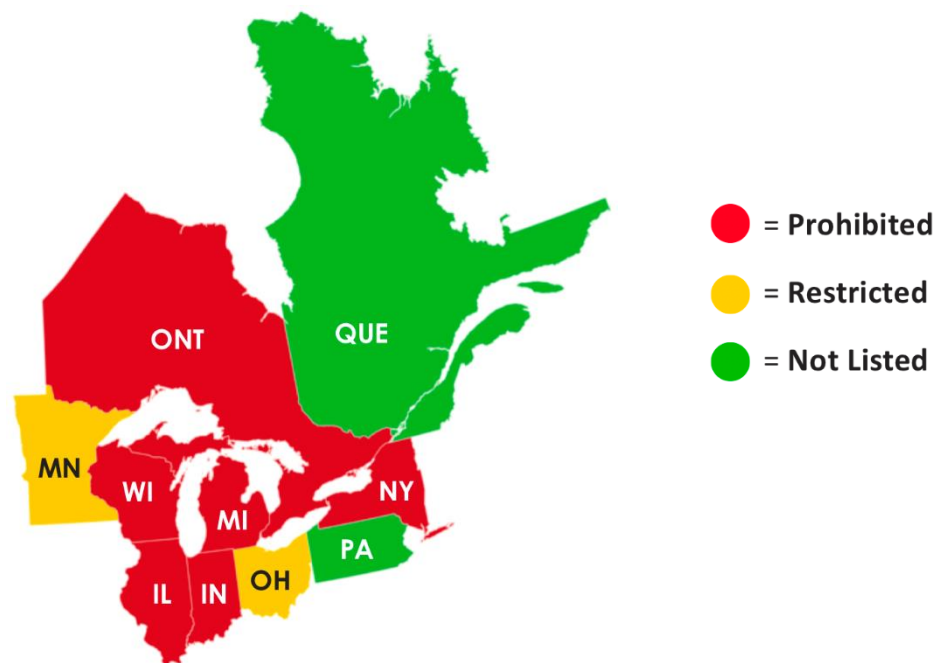


Comparative Analysis of “Least Wanted” AIS in the Great Lakes

Parrot feather

Myriophyllum aquaticum

Classification



Listing classifications are not consistent throughout the Great Lakes region.

6 of the 10 Great Lakes jurisdictions list the species as prohibited.

The species is restricted in Ohio and Minnesota

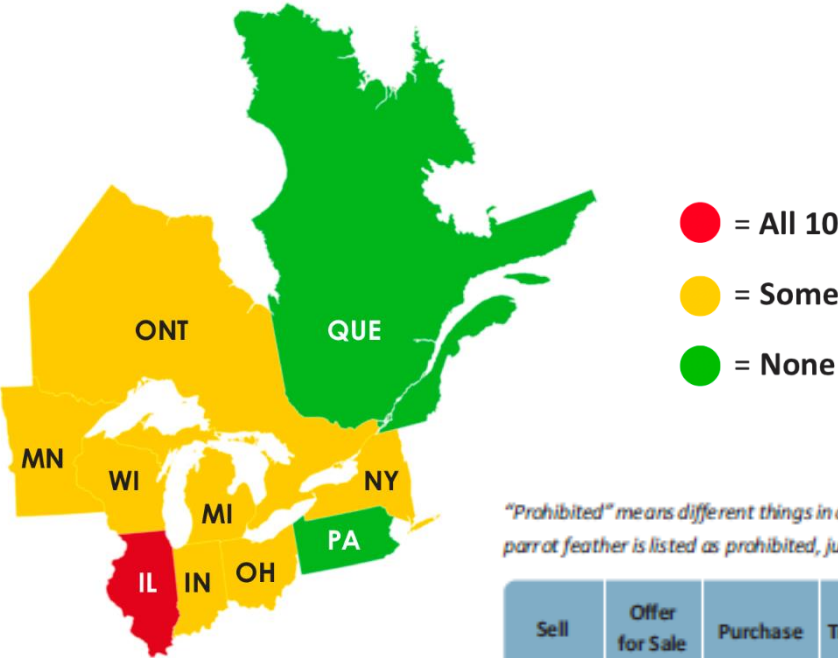
It is unlisted in Pennsylvania and Quebec.

Comparative Analysis of “Least Wanted” AIS in the Great Lakes

Parrot feather

Myriophyllum aquaticum

Activities Prohibited

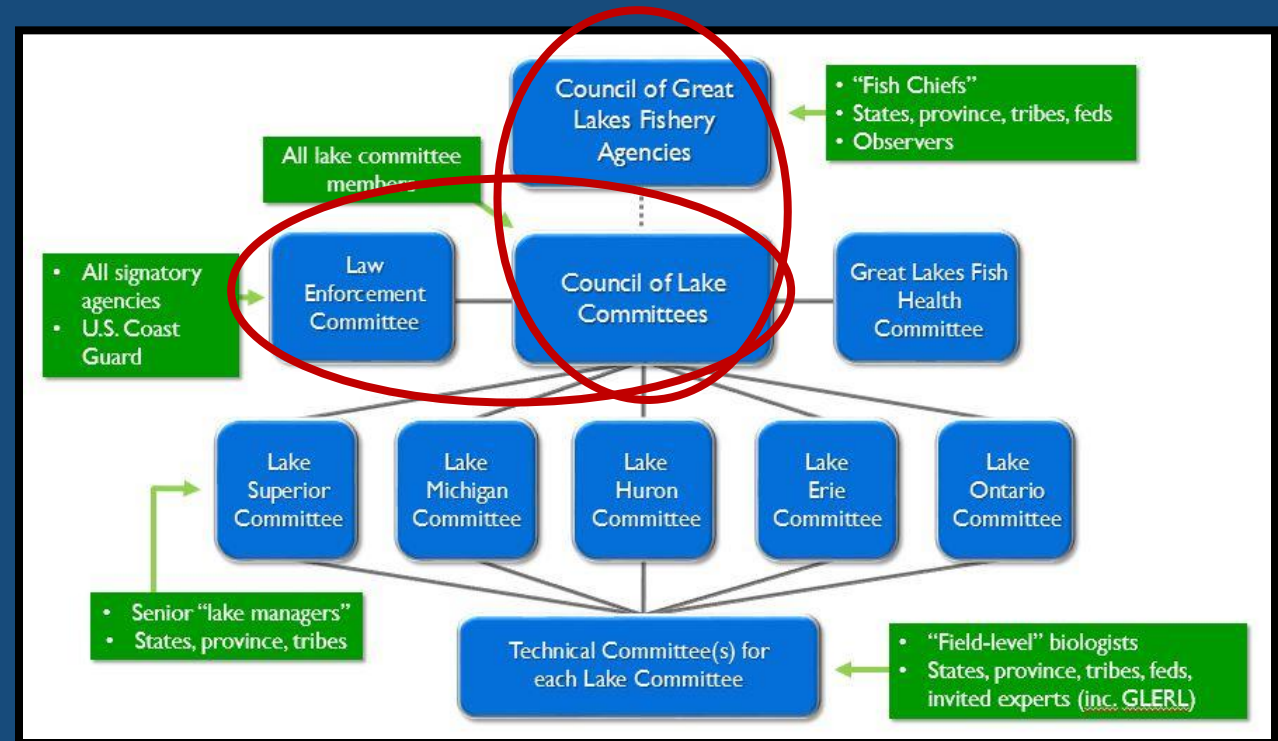


“Prohibited” means different things in different jurisdictions. While possession, sale, and release is expressly illegal in all states where parrot feather is listed as prohibited, jurisdictions may be silent on other activities such as transport, purchase, or import.

Sell	Offer for Sale	Purchase	Transport	Import	Barter, Gift, Trade, Transfer	Possession	Release	Propagation	Lease, Loan
IL, IN, MI, NY, OH, WI, ONT	IL, IN, MI, OH, WI, ONT	IL, NY, WI, ONT	IL, NY, WI, ONT	IL, NY, WI, ONT	IL, IN, OH, WI, ONT	IL, MI, NY, WI, ONT	IL, IN, MI, MN, NY, WI, ONT	IL, NY, OH	IL, ONT
7	6	4	4	5	5	5	7	4	2

Next Steps

- Present results so far:
 - Great Lakes Law Enforcement Committee (May 2020)
 - Great Lakes Aquatic Nuisance Species Panel (June 2020)
 - Council of Lake Committees (fall 2020)
 - Council of Great Lakes Fishery Agencies (TBD)
 - Governor's and Premiers' Conference & AIS Task Force (date TBD)
- Continue working with the NSGLC on project objectives....



Project Objectives

- ✓ **Develop comprehensive comparison of existing regulations**
- 2. Undertake analysis of key pathways and activities to determine whether and how such activities are regulated by the states and provinces in the context of the regulated species list
- 3. Identify gaps and variabilities in authorities
- 4. Organize and facilitate a “Building Consensus” workshop(s)
 - Ask specific questions re interpretation
 - Engage key decision-makers in the state and provincial regulatory process
 - Create collaborative learning and priority-setting
 - Achieve consensus on policy goals and necessary legal framework to address gaps and variability in approaches



Timeline

Activity	2019							2020					
	Jun	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June
Conduct legal review of existing regulations.													
Pathways analysis.													
Organize and facilitate BC workshop.													
Prepare workshop summary report.													

(Timeline started Oct. 2019)

May 2020: No cost extension granted until December 31, 2020

A stylized map of the Great Lakes region, including Lake Superior, Lake Michigan, Lake Huron, Lake Erie, and Lake Ontario, rendered in a light blue color against a dark blue background. The map shows the outlines of the lakes and the surrounding landmasses.

Questions?