

2001 DRAFTING REQUEST

Bill

Received: **09/15/2000**

Received By: **gibsom**

Wanted: **Soon**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Grinde**

This file may be shown to any legislator: **NO**

Drafter: **gibsom**

May Contact:

Alt. Drafters:

Subject: **Nat. Res. - boats snomos ATVs**
Nat. Res. - nav. waters

Extra Copies:

Pre Topic:

DOA:.....Grinde -

Topic:

Aquatic plants

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	gibsom 09/21/2000	wjackson 09/29/2000	pgreensl 10/02/2000	_____	lrb_docadmin 10/02/2000		
/1	gibsom 01/03/2001	wjackson 01/04/2001	jfrantze 01/05/2001	_____	lrb_docadmin 01/05/2001		S&L
/2	rkite 01/12/2001	wjackson 01/13/2001	pgreensl 01/14/2001	_____	lrb_docadmin 01/15/2001		S&L

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/3	rkite 02/13/2001	wjackson 02/13/2001	rschluet 02/13/2001	_____	lrb_docadmin 02/13/2001		S&L

FE Sent For:

<END>

2001 DRAFTING REQUEST

Bill

Received: **09/15/2000**

Received By: **gibsom**

Wanted: **Soon**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Grinde**

This file may be shown to any legislator: **NO**

Drafter: **gibsom**

May Contact:

Alt. Drafters:

Subject: **Nat. Res. - boats snomos ATVs**
Nat. Res. - nav. waters

Extra Copies: **DNR (per MGG 01-16-01)**

copy of 1/2"
e-mailed
Per MGG
01-16-01

[Handwritten signature]

Pre Topic:

DOA:.....Grinde -

Topic:

Aquatic plants

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	gibsom 09/21/2000	wjackson 09/29/2000	pgreensl 10/02/2000	_____	lrb_docadmin 10/02/2000		
/1	gibsom 01/03/2001	wjackson 01/04/2001	jfrantze 01/05/2001	_____	lrb_docadmin 01/05/2001		S&L
/2	rkite 01/12/2001	wjackson 01/13/2001	pgreensl 01/14/2001	_____	lrb_docadmin 01/15/2001		S&L

1/13 WJ 2/13
[Handwritten initials]
2-13-1

FE Sent For:

<END>

2001 DRAFTING REQUEST

Bill

Received: **09/15/2000**

Received By: **gibsom**

Wanted: **Soon**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Grinde**

This file may be shown to any legislator: **NO**

Drafter: **gibsom**

May Contact:

Alt. Drafters:

Subject: **Nat. Res. - boats snomos ATVs**
Nat. Res. - nav. waters

Extra Copies:

Pre Topic:

DOA:.....Grinde -

Topic:

Aquatic plants

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	gibsom 09/21/2000	wjackson 09/29/2000	pgreensl 10/02/2000	_____	lrb_docadmin 10/02/2000		
/1	gibsom 01/03/2001	wjackson 01/04/2001	jfrantze 01/05/2001	_____	lrb_docadmin 01/05/2001		S&L
/2	rkite 01/12/2001	wjackson 01/13/2001	pgreensl 01/14/2001	_____	lrb_docadmin 01/15/2001		S&L

FE Sent For:

2001 DRAFTING REQUEST

Bill

Received: **09/15/2000**

Received By: **gibsom**

Wanted: **Soon**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Grinde**

This file may be shown to any legislator: **NO**

Drafter: **gibsom**

May Contact:

Alt. Drafters:

Subject: **Nat. Res. - boats snomos ATVs**
Nat. Res. - nav. waters

Extra Copies:

Pre Topic:

DOA:.....Grinde -

Topic:

Aquatic plants

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	gibsom 09/21/2000	wjackson 09/29/2000	pgreensl 10/02/2000	_____	lrb_docadmin 10/02/2000		
/1	gibsom 01/03/2001	wjackson 01/04/2001	jfrantze 01/05/2001	_____	lrb_docadmin 01/05/2001		S&L
/2	rkite 01/12/2001	wjackson 01/13/2001	pgreensl 01/14/2001	_____	lrb_docadmin 01/15/2001		S&L

FE Sent For:

<END>

2001 DRAFTING REQUEST

Bill

Received: 09/15/2000

Received By: gibsom

Wanted: Soon

Identical to LRB:

For: Administration-Budget

By/Representing: Grinde

This file may be shown to any legislator: NO

Drafter: gibsom

May Contact:

Alt. Drafters:

Subject: Nat. Res. - boats snomos ATVs
Nat. Res. - nav. waters

Extra Copies:

~~1 DNR~~

Pre Topic:

DOA:.....Grinde -

Topic:

Aquatic plants

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	gibsom 09/21/2000	wjackson 09/29/2000	pgreensl 10/02/2000	B/4 1	lrb_docadmin 10/02/2000		
/1	gibsom 01/03/2001	wjackson 01/04/2001	jfrantze 01/05/2001	PG/Ko	lrb_docadmin 01/05/2001		S&L

1/13 WJ 12
1/4
PG

FE Sent For:

<END>

2001 DRAFTING REQUEST

Bill

Received: 09/15/2000

Received By: gibsom

Wanted: Soon

Identical to LRB:

For: Administration-Budget

By/Representing: Grinde

This file may be shown to any legislator: NO

Drafter: gibsom

May Contact:

Alt. Drafters:

Subject: Nat. Res. - boats snomos ATVs
Nat. Res. - nav. waters

Extra Copies: 1 DNR

Pre Topic:

DOA:.....Grinde -

Topic:

Aquatic plants

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	gibsom 09/21/2000	wjackson 09/29/2000	pgreensl 10/02/2000	_____	lrb_docadmin 10/02/2000		

FE Sent For:

1 wj 1/4
Jb 1/5
Jb 1/5
<END>

2001 DRAFTING REQUEST

Bill

Received: 09/15/2000

Received By: gibsom

Wanted: Soon

Identical to LRB:

For: Administration-Budget

By/Representing: Grinde

This file may be shown to any legislator: NO

Drafter: gibsom

May Contact:

Alt. Drafters:

Subject: Nat. Res. - boats snomos ATVs
Nat. Res. - nav. waters

Extra Copies: 1 DNR

Pre Topic:

DOA:.....Grinde -

Topic:

Aquatic plants

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1/?	gibsom	/pl WLj 9/29	10/1/00 PS	10/2 PS/JF			

FE Sent For:

<END>

2001-2003 Statutory Language Proposals

Division: WATER

Bureau: FISHERIES MANAGEMENT & HABITAT PROTECTION

Issue/Topic: AQUATIC PLANT MANAGEMENT & PROTECTION

Proposed Change: Repeal, amend and create statutory sections relating to purple loosestrife, Eurasian water milfoil and other non-native aquatic plants, granting rule-making authority for aquatic plant management and providing penalties. [LRB should already have a copy of a DNR draft proposing these statutory changes.]

Explanatory Note: The "Eurasian Water Milfoil in Wisconsin: A Report to the Legislature" proposed legislation to protect and promote diverse, stable, native aquatic plant communities. This legislation grants rule-making authority to the Department for designating "nuisance plants," for protecting native aquatic plants, and for controlling aquatic plants that cause nuisances. The legislative proposal includes the following:

- ① Eurasian water milfoil and curly leaf pondweed shall be included in the definition of "nuisance plants"
2. Any person must obtain an aquatic plant management permit issued by the department to plant, to plant, cultivate, stock, introduce, harvest, or to control aquatic plants in waters of the state.
3. Launching of watercraft with any aquatic plant attached to its exterior surface is prohibited, and posting of publicly owned boat access sites is required.
4. The department is granted rule-making authority for managing aquatic plants in waters of the state and the department may establish fees for the permits issued.
5. A forfeiture of \$200 for initial aquatic plant management violations shall be imposed, subsequent violations are punishable by a forfeiture of \$700 to \$2,000 or imprisonment for six to nine months; in addition, the court may order the violator to abate resulting nuisances and restore damaged natural resources.
6. A forfeiture of \$100 for sale, distribution or cultivation of any "nuisance plant" is imposed
7. The Department is directed to implement a statewide program for education, research, control and containment of nuisance plants and for aquatic plant protection.

Desired Effective Date: The act takes effect on the March 1 following the promulgation of any rule. The balance of the provisions takes place upon signing.

Contact Person: Eric Ebersberger, MB/5 (6-0181), Jeffrey B. Bode FH/3 (6-0502);
Jimmy Christenson, LS/5 (6-1318).

Draft Recommendations for Weed Law Program Revisions – 8/31/99

a procedure and criteria for ranking and awarding research grants.

Federal Weed Laws - All state prevention, control and education efforts shall be done in cooperation with federal laws, policies and programs. The state shall adopt by reference the federal noxious weed list such that state and local weed officials can cooperate with federal agencies to detect and eradicate these non-native noxious species prior to their becoming established in the state.

Disposal of noxious weeds – Control efforts that result in the need to dispose of invasive plants with viable propagules must be done in a way to minimize further spread of the plants. Flowers or seeds of plants which are known or suspected to be resistant to being killed in composting should be disposed of by burning, burying, landfill or other means that shall prevent the seed from escaping. The DNR, counties and municipalities must allow waste haulers an exemption to the yard waste composting rule to allow for noxious weeds and other invasive plants to be bagged and sent to the landfill.

Vegetation Management Plans - In cooperation with municipal, county or state weed officials and/or private consultants, public and private landowners and lakes association are encouraged to develop comprehensive vegetation management plans for their properties. This is especially important for properties and waters containing prohibited noxious weeds. State staff shall provide technical assistance on developing site specific management efforts for sites with state prohibited noxious weeds. County or municipal weed staff may provide assistance to landowners with county or municipal prohibited noxious weeds on their land. Cost-sharing funds for developing and/or implementing a vegetation management plan may be available.

Note to drafters: The section below in italics was taken from the past legislative language for an aquatic weed law that never passed. We would like to incorporate it into this broader bill.

Non-native aquatic plants degrade native plant communities, wildlife habitat, and recreational used in Wisconsin's lakes and rivers. Disturbance of native aquatic plant communities by individuals removing native plant species or introducing non-native (exotic) species can degrade water resource values. This legislation grants rule-making authority to the department for designating "nuisance plants," for protecting native aquatic plants, and for controlling aquatic plants that cause nuisances. The objective of the rules shall be to protect and promote diverse, stable, native aquatic plant communities. The legislation includes the following:

- 2. Any person must obtain an aquatic plant management permit issued by the department of Natural Resources to plant, cultivate, stock, induce, harvest or to control aquatic plants in waters if the state. The department may establish fees for the permits issued.*
- 3. Launching of watercraft or trailer with any aquatic plant attached to its exterior surface is prohibited, and posting of publicly owned boat access sites is required.*
- 4. The department of Natural Resources is granted rule-making authority for managing aquatic plants in waters if the state.*
- 5. A forfeiture of \$200 for initial aquatic plant management violations shall be imposed, subsequent violations are punishable by forfeiture of \$700 to \$2,000 or imprisonment for six to nine months; in addition,, the court may order the violator to abate resulting nuisance and restore damaged natural resources.*
- 6. A forfeiture of _____ for sale, distribution or cultivation of any "nuisance plants: is imposed*
- 7. The Department of Natural Resources is directed to implement a statewide program for education, research, control and containment of nuisance plants.*

Draft Recommendations for Weed Law Program Revisions – 8/31/99

SECTION . 66.955 (3) of the statutes is renumbered 23.23 (4) (ar) and amended to read: 23.23 (4) (ar) The department may conduct research on the control of invasive plants. The natural resources

secretary and the secretary of agrivulture, trade and consumer protection may authorize any person to plant or cultivate noxious plants for the purpose of controlled experimentation or to assist with control and prevention efforts.

SECTION . 66.955 (4) of the statutes is renumbered 23.23 (4) (ag) and amended to read: 23.23 (4) (ag) The department of natural resources shall make a reasonable effort to implement a statewide program for education, research, control and containment of invasive plants.

SECTION . 66.955 (5) of the statutes is renumbered 23.23 (5) and amended to read: 23.23 (5) Any person who knowingly violates sub. (1m) shall forfeit not more than \$100. Each violation of sub. (1m) is a separate offense.

(1) AQUATIC PLANT MANAGEMENT PERMIT.

- (a) No person may do any of the following unless the person has a valid aquatic plant management permit issued by the department.*
 - (1) Plant, cultivate, stock or introduce non-native aquatic plants into the waters of the state.*
 - (2) Harvest native aquatic plants from the waters of the state.*
 - (3) Control aquatic plants in the waters of the state by applying chemicals, introducing biological agents or using mechanical means.*
- (b) The department may require that the following occur before it issues a permit under this subsection:*
 - 1. The applicant for the permit submit a plan as to how the aquatic plants shall be managed.*
 - 2. The department approve the plan.*
- (c) The department may delegate Ag Plant Management ...*

(2) LAUNCHING OF WATERCRAFT

- (a) No person may place a trailer or a watercraft into the waters of the state if the trailer or watercraft has any aquatic plant attached to its exterior surfaces.*
- (b) A warden or other law enforcement officer may request that a person remove and properly dispose of aquatic plants that are attached to the exterior surfaces of a trailer or watercraft before it is placed in the waters of the state. A person who refuses to obey the request is subject to the forfeiture under sub. (8) (a).*
- (c) This subsection does not apply to a person who places a trailer into the waters if the state for the purpose of removing a watercraft from those waters at the same launch site on the same day that the person launched the watercraft.*

(3) POSTED NOTICES. *The owner of a boat access site that is open for use by the public or by members of a club or other association shall post and maintain a notice at the site that contains a summary of the provisions under sub. (4). The department shall print the notice and make copies of the notice available to the owners required to post the notice under this section.*

(4) EXEMPTIONS.

- (a) Subsection (2)(a) 2 and 3 and any rules promulgated under sub. (7) (b) do not apply to a riparian property owner who manually harvests aquatic plants that are causing a nuisance and that are located within 150 feet or 3' depth from a point on the owner's riparian property.*
- (b) Subsection (2) (a) 2 and any rules promulgated under sub. (7) (b) do not apply to a person*

Draft Recommendations for Weed Law Program Revisions – 8/31/99

who manually harvests, per day, less than 5 pounds of native aquatic plants when weighed wet or less than one pound of seed from aquatic plants.

(c) *The department may, by rule, waive any requirement of this section that applies to waters of the state that are entirely confined and retained completely on the property of one property owner.*

(5) RULES; FEES.

(a) *The department may promulgate rules under this section to protect and develop diverse and stable communities of native aquatic plants and to control communities of aquatic plants that cause nuisances.*

(b) *The rules promulgated under par. (a) may specify all of the following:*

1. *The quantity of aquatic plants that may be planted, cultivated, stocked, introduced or harvested under a permit issued under sub. (2).*
2. *The species of aquatic plants that may be managed under a permit issued under sub. (2).*
3. *The area where aquatic plants may be managed under a permit issued under sub. (2).*
4. *The methods that may be used to manage aquatic plants under a permit issued under sub. (2).*
5. *The times during which aquatic plants may be managed under a permit issued under sub. (2).*
6. *The allowable methods of using and disposing of aquatic plants that are harvested or controlled under a permit issued under sub. (2) (a) 2 or 3.*
7. *The conditions and extent of delegated aquatic plant management oversight for a waterbody under a department approved plan under sub. (2) (c).*

(c) 1. *The department may establish by rule fees for permits issued under sub. (2).* 2. *For waters of the state that are entirely confined and retained completely on the property of one property owner, the department, by rule, may establish a different fee than the one established under sub. (7) (c) 1, or may require no fee, for permits issued under sub. (2).*

(6) PENALTIES.

(a) *Except as provided in par. (b), any person who violates a provision of this section or a rule promulgated under this section shall forfeit not more than \$200.*

(7) REPEATERS

(a) *In this subsection, "violation" means any violation under this section or any violation of a rule punishable under this section.*

(b) *Except as provided in par. (c), if a person is convicted of a violation and has one or more convictions, within the 5 years prior to the current conviction, for one or more violations, the person shall be fined not more than \$700 or imprisoned for not more than 6 months or both. The prosecution shall allege and prove the prior convictions in the manner specified in s. 29.995.*

If a person is convicted of a violation and has 3 or more convictions, within the 3 years prior to the current conviction, for one or more violations, the person shall be fined not more than \$2,000 or imprisoned for not more than 9 months or both. The prosecution shall allege and prove the violation.

Positions – The following positions will be required to implement this program:

- Statewide Weed Program Manager to be located in DATCP
- Statewide Weed Coordinator to be located in DNR
- Statewide Weed Educator to be located in UW Extension

Funding needs – (figures given below are early estimates of the need and are subject to change)

- Technical and cost-sharing assistance for landowners with control of statewide prohibited noxious weeds (\$30,000/yr)



State of Wisconsin
2001 - 2002 LEGISLATURE

1P1
LRB-0313/N
MGG: /: : : :
WLJ

DOAS
TODAY

D-N

DOA:.....Grinde – Aquatic plants

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

LPS:
Please print
with line numbers.

DO NOT
GEN CAT

AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 23.23 (title)[✓] of the statutes is repealed.

SECTION 2. 23.23 (1)[✓] of the statutes is repealed.

SECTION 3. 23.23 (2)[✓] of the statutes is repealed.

SECTION 4. 23.23 (3)[✓] of the statutes is repealed.

SECTION 5. 23.23 (4) (a)[✓] of the statutes is repealed.

SECTION 6. 23.23 (4) (b)[✓] of the statutes is renumbered 23.235 (4m)[✓] and amended

to read:

23.235 (4m)[✓] The department shall make a reasonable effort to educate the

* authorities in charge of the maintenance of all federal, state and county trunk

highways and all forest and park land in this state on methods to identify and control purple loosestrife and multiflora rose. The department of transportation and all other authorities in charge of the maintenance of highways, forests and parks may cooperate with the department in efforts under this ~~paragraph~~ ^{sub} subsection.

History: 1987 a. 41.

SECTION 7. 23.23 (4) (c) of the statutes is repealed.

SECTION 8. 23.235 (title) of the statutes is repealed and recreated to read:

23.235 (title) **Multiflora rose.**

History: 1987 a. 41; 1999 a. 150 s. 616; Stats. 1999 s. 23.235

SECTION 9. 23.235 (1) of the statutes is repealed.

SECTION 10. 23.235 (2) of the statutes is amended to read:

23.235 (2) Except as provided in sub. (3), no person may sell, offer for sale, distribute, plant or cultivate ^{plain space} any nuisance weed multiflora rose or seeds thereof.

History: 1987 a. 41; 1999 a. 150 s. 616; Stats. 1999 s. 23.235

SECTION 11. 23.235 (3) of the statutes is amended to read:

23.235 (3) The department may conduct research on the control of nuisance weeds multiflora rose. The secretaries of natural resources and of agriculture, trade and consumer protection may authorize any person to plant or cultivate nuisance weeds multiflora rose for the purpose of controlled experimentation.

History: 1987 a. 41; 1999 a. 150 s. 616; Stats. 1999 s. 23.235

SECTION 12. 23.235 (4) of the statutes is repealed.

SECTION 13. 23.24 of the statutes is created to read:

23.24 Aquatic plants. (1) DEFINITIONS. In this section:

- (a) "Aquaculture" has the meaning given in s. 93.01 (1d).
- (b) "Aquatic plant" means a submergent, emergent or floating-leaf plant or any part thereof. "Aquatic plant" does not mean wild rice.

(c) "Control" means to destroy by applying chemicals, introducing biological agents or using mechanical means.

(d) "Cultivate" means to intentionally maintain the growth or existence of aquatic plants.

(e) "Distribute" means to sell, offer to sell, distribute for no consideration, or offer to distribute for no consideration.

(f) "Introduce" means to plant, cultivate, stock, or release.

(g) "Invasive aquatic plant" means an aquatic plant that is designated under sub. (2) (b) 1.

(h) "Manage" means to introduce, remove, or control.

(i) "Native" means indigenous to the waters of this state.

(j) "Nonnative" means not indigenous to the waters of this state.

(k) "Person" means ...

(L) (k) "Waters of this state" means any surface waters within the territorial limits of this state.

(2) PROGRAM ESTABLISHED. (a) The department shall establish a program for the waters of this state to do all of the following:

1. Protect and develop diverse and stable communities of native aquatic plants.
2. Control and contain invasive aquatic plants.
3. Regulate how nonnative aquatic plants are cultivated.
4. Regulate how aquatic plants are harvested.
5. (4) Provide education and conduct research concerning invasive aquatic plants.

(b) Under the program implemented under par. (a) the department shall do all of the following:

(2) Designate by rule which aquatic plants are invasive aquatic plants for purposes of this section. The department shall designate Eurasian water milfoil,

* curly leaf pondweed^g and purple loosestrife as invasive aquatic plants and may designate any other aquatic plant as an invasive aquatic plant if it has the ability to significantly displace desirable aquatic vegetation or reduce the yield of products produced by aquaculture.

* 2. ^g Administer and establish by rule procedures and requirements for the issuing of permits required under sub. (3).[✓]

* (c) The requirements promulgated under par. (b) 2.[✓] may ~~specific~~^{g specify} any of the following:

1. The quantity of aquatic plants that may be managed under an aquatic plant permit.

2. The species of aquatic plants that may be managed under an aquatic plant permit.

3. The areas in which aquatic plants may be managed under an aquatic plant permit.

* 4. The methods that may be used to managed^g aquatic plants under an aquatic plant permit.

5. The times during which aquatic plants may be managed under an aquatic plant permit.

6. The allowable methods for disposing or using aquatic plants that are harvested or controlled under an aquatic plant permit.

* 7. The requirements for plans that the department may require under sub. ^g(3) (b).[✓]

(3) PERMITS. (a) No person may do any of the following in the waters of this state unless the person has a valid aquatic plant permit issued under the program established under sub. (2).^g

LPS:
Please
check
for
extra
spaces.

Introduce

- 1. ~~Cultivate~~ ^{Introduce} nonnative aquatic plants.
- 2. ~~Harvest~~ ^{Remove} aquatic plants.
- 3. Control aquatic plants.

(b) The department may require that an application for an aquatic plant permit contain a plan for the department's approval as to how the aquatic plants will be ~~introduced, removed, cultivated, harvested~~ and controlled.

(c) The department may establish a fee for an aquatic plant permit. The department may establish a different fee for an aquatic plant permit to manage aquatic plants that are located in a body of water that is entirely confined on the property of one property owner.

* (4) EXEMPTIONS FROM PERMITS. (a) The permit requirement under sub. (3) (a) 2. does not apply to a riparian property owner who manually ~~harvests~~ ^{removes} invasive aquatic plants that are located within 150 feet from any point on the riparian property.

(b) The permit requirement under sub. (3) (a) 2. does not apply to any person who manually ~~harvests~~ ^{removes} in one day native aquatic plants that are not invasive aquatic plants if the amount ~~harvested~~ ^{removed} weighs less than 5 pounds when weighed wet or results in less than one pound of seed.

(c) The department may promulgate a rule to waive the ^{permit} requirement of having a permit under sub. (3) (a) for any body of water that is entirely confined on the property of one property owner.

* (5) DISTRIBUTION PROHIBITED. No person may distribute an invasive aquatic plant.

(6) PENALTIES. (a) Except as provided in par. (b), any person who violates sub. (3) shall forfeit not more than \$200.

SECTION 13

* (b) A person who violates sub. (3) and who, within 5 years before the arrest of the current conviction, was previously convicted of a violation of sub. (3) shall forfeit not less than \$700 and not more than \$2,000 or shall be imprisoned for not less than 6 months and not more than 9 months or both.

(c) The court may order a person who is convicted under par. (b) to abate any nuisance caused by the violation, restore any natural resource damaged by the violation, or take other appropriate action to eliminate or minimize any environmental damage caused by the violation.

(d) A person who violates sub. (5) shall forfeit not more than \$100.

* ****NOTE: The definition of "waters of this state" found in s. 23.24 (1) of this draft is based on the definition found in s. 30.50 (14). I did not include the reference from that definition to the "boundary waters" because I felt it was redundant.

* ****NOTE: We need to consider defining the word "person" given the case law interpreting s. 990.01 (26) and the recent OAG decision on what person means in s. 29.604 (the endangered and threatened species provisions).

* ****NOTE: I substituted the word "any" for "all" in s. 23.24 (2) (c). "All" was the word used in the drafting instructions, but I did not think the intent was to restrict DNR to all or nothing in promulgating these rules.

SECTION 14. 30.124 (1) (intro.) of the statutes is amended to read:

* 30.124 (1) (intro.) Notwithstanding ss. 30.12, ~~30.125~~, 30.20, 30.44 and 30.45 and if the department finds that the activity will not adversely affect public or private rights or interests in fish and wildlife populations, navigation or waterway flood flow capacity and will not result in environmental pollution, as defined in s. 299.01 (4), the department may do all of the following on public lands or waters:

History: 1987 a. 294; 1989 a. 31; 1995 a. 227; 1997 a. 248.

SECTION 15. 30.124 (1) (a) of the statutes is amended to read:

* 30.124 (1) (a) Cut aquatic ~~vegetation~~ plants, as defined in s. 30.715 (1) (a), without removing the ~~vegetation~~ them from the water, for the purpose of improving waterfowl nesting, brood and migration habitat.

History: 1987 a. 294; 1989 a. 31; 1995 a. 227; 1997 a. 248.

SECTION 16. 30.125[✓] of the statutes is repealed.

SECTION 17. 30.715 (1)[✓] of the statutes is created to read:

30.715 (1) In this section:

* (a) "Aquatic plant" means a submergent, emergent[✓] or floating-leaf plant[✓] or any part thereof. "Aquatic plant" does not mean wild rice.

* (b) "Public boat access site" means a[✓] site that provides access to a navigable water for boats and that is open to the general public for free or for a charge or that is open only to certain groups of persons for a charge.

SECTION 18. 30.715 (2)[✓] of the statutes is created to read:

30.715 (2) No person may place or use a boat or boating equipment or place a boat ~~trainer~~^{trailer} in a navigable water if the person has reason to believe that the boat, boat trailer[✓] or boating equipment has any aquatic plants attached.

SECTION 19. 30.715 (4) (a)[✓] of the statutes is created to read:

30.715 (4) (a) Remove aquatic plants from a boat, boat trailer[✓] or boating equipment before placing it in a navigable water

SECTION 20. 30.715 (4) (b)[✓] of the statutes is created to read:

30.715 (4) (b) Remove or not place a boat, boat trailer[✓] or boating equipment in a navigable water if the law enforcement officer has reason to believe that the boat, boat trailer[✓] or boating equipment has aquatic plants attached.

SECTION 21. 30.715 (5) of the statutes is created to read:

30.715 (5) (a) The department shall prepare a notice that contains a summary of the provisions under this section and shall make copies of the notice available to owners required to post the notice under par. (b).[✓]

(b) Each owner of a public boat access site shall post and maintain the notice described in par. (a).[✓]

****NOTE: This definition of "public boat access site" in s. 30.715 is intended to include all such sites except for private sites where access is limited to the owners and persons who are authorized by the owners to use the site and who are not required to pay a fee.

****NOTE: I was provided language creating an exemption under s. 30.715 for using a trailer to remove a boat from the water at the same launch site on the same day. Please call me to discuss the rationale for this exemption so I am certain of the rationale for this provision before I draft it.

****NOTE: The penalties for violations of ^s30.721 (2), (3) and (6) ^g are the default penalties found in s. 30.80 (1). OK?

SECTION 22. 30.725 (title) of the statutes is renumbered 30.715 (title) and amended to read:

30.715 (title) Placement of boats, trailers and equipment; Lower St. Croix River in navigable waters.

History: 1995 a. 397.

SECTION 23. 30.725 (1) of the statutes is renumbered 30.715 (3).

SECTION 24. 30.725 (2) (a) of the statutes is renumbered 30.715 (4) (c).

SECTION 25. 30.725 (2) (b) of the statutes is renumbered 30.715 (4) (d).

SECTION 26. 30.725 (3) of the statutes is renumbered 30.715 (6) and amended to read:

30.715 (6) No person may refuse to obey the order of a law enforcement officer who is acting under sub. (2) ^g(~~6~~).

History: 1995 a. 397.

SECTION 27. 30.92 (4) (b) 8. b. of the statutes is amended to read:

30.92 (4) (b) 8. b. Acquisition of capital equipment that is necessary to cut and remove aquatic plants ~~that are aquatic nuisances or~~ that are detrimental to fish habitat if the acquisition is pursuant to a plan to cut and remove aquatic plants that is approved by the department.

History: 1977 c. 274; 1979 c. 34 s. 2102 (39) (a); 1979 c. 154, 221; 1981 c. 20; 1983 a. 27 ss. 870, 2202 (38); 1985 a. 29, 332; 1989 a. 31, 160; 1991 a. 39, 269; 1995 a. 8, 27, 349; 1997 a. 27 ss. 1144q, 1144r, 1144s, 1145, 1146, 1146d, 1146g, 1146h, 550g; 1997 a. 79, 248; 1999 a. 9; 1999 a. 150 s. 672.

SECTION 28. 30.92 (4) (b) 8. ^b of the statutes is created to read:

30.92 (4) (b) 8. ^{bp.} ~~bm~~ Acquisition of capital equipment that is necessary to cut and harvest invasive aquatic plants, as defined in s. 23.24 (1) (g), if the equipment will be used to harvest them as authorized by a permit issued under s. 23.24 ⁽³⁾

SECTION 29. 281.17 (2) of the statutes is amended to read:

281.17 (2) The department shall supervise chemical treatment of waters for the suppression of algae, aquatic weeds, swimmers' itch and other nuisance-producing plants and organisms that are not regulated by the program established under s. 23.24 ⁽²⁾ It may purchase equipment and may make a charge for the use of the same and for materials furnished, together with a per diem charge for any services performed in such work. The charge shall be sufficient to reimburse the department for the use of the equipment, the actual cost of materials furnished, and the actual cost of the services rendered.

History: 1995 a. 227 ss. 380, 384, 387, 389, 392, 418, 420; 1995 a. 378 s. 43; 1997 a. 27, 35; 1999 a. 147.

SECTION 9337: Initial applicability; natural resources.

(1) AQUATIC PLANT REMOVAL EQUIPMENT. The treatment of section 30.92 (4) (b) 8. ^{bp.} ~~bm~~ of the statutes first applies to the acquisition of capital equipment for which an application for financial assistance for the acquisition is submitted to the department of natural resources.

****NOTE: Please check with program people to make sure a feasibility study is not required for acquisition of capital equipment to remove aquatic plants under s. 30.92. If one is required, you will need to call me to discuss the redrafting of this initial applicability provision.

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0313/dn ^{P1}

MGG:.....
Wlj

I have prepared a preliminary draft for various reasons:

1. The drafting instructions and model draft I received had incomplete or conflicting instructions and incorrect cross-references so it was difficult to ascertain the intent of the draft.
2. The drafting instructions did not address how ss. 23.23 and 23.235 dealing with purple loosestrife were to be treated. The draft repeals the provisions under these sections that deal with purple loosestrife. Please review these repeals carefully.
3. I have included a lot of embedded notes in the draft. Please review them and the draft carefully. In your review, note that there are ^{four} different possible categories of aquatic plants: native non-nuisance plants; native nuisance plants; nonnative non-nuisance plants, and nonnative nuisance plants. Using the definitions, please make sure that each reference to aquatic plants achieves your intent.
4. Note that the draft repeals s. 30.125.

Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0313/P1dn
MGG:wj:pg

October 2, 2000

I have prepared a preliminary draft for various reasons:

1. The drafting instructions and model draft I received had incomplete or conflicting instructions and incorrect cross-references so it was difficult to ascertain the intent of the draft.
2. The drafting instructions did not address how ss. 23.23 and 23.235 dealing with purple loosestrife were to be treated. The draft repeals the provisions under these sections that deal with purple loosestrife. Please review these repeals carefully.

I have included a lot of embedded notes in the draft. Please review them and the draft carefully. In your review, note that there are four different possible categories of aquatic plants: native non- nuisance plants; native nuisance plants; nonnative non- nuisance plants, and nonnative nuisance plants. Using the definitions, please make sure that each reference to aquatic plants achieves your intent.

Note that the draft repeals s. 30.125.

Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215

Gibson-Glass, Mary

From: Grinde, Kirsten
Sent: Tuesday, January 02, 2001 3:41 PM
To: Gibson-Glass, Mary
Subject: FW: Water Program Comments on LRB--0313/P1 re: aquatic plants

All these changes look fine to me. Let me know or feel free to contact the department if you need clarification or have other questions on the draft.

-----Original Message-----

From: Ebersberger, Eric K
Sent: Tuesday, January 02, 2001 3:27 PM
To: Grinde, Kirsten
Cc: Koshere, Frank J; Felker-Donsing, Susan
Subject: FW: Water Program Comments on LRB--0313/P1 re: aquatic plants

Kirsten:

I've attached below the comments of the program regarding draft LRB--0313/P1. Questions about the specifics of the comments are best addressed to Frank Koshere (715/392-0807), the Department's statewide aquatic plant management coordinator. However, I am happy to be a liaison for any questions you or Mary Gibson-Glass may have.

Thank you (and Mary) again for your patience. This proposal is important to the Department.

Eric
Eric Ebersberger
DNR Bureau of Management & Budget
608/266-0818
ebers@dnr.state.wi.us

Here are comments referenced to the pages and line numbers of draft LRB--0313/P1:

p. 2 - lines 23, 24. Under 23.24(1)(c). Suggest adding to "control" to also mean "dewatering, dessication, freezing, or burning". If "mechanical means" may legally/technically include the above, then it's covered, but "mechanical means" has traditionally meant using motorized machinery, and the items I mentioned generally fell under the generic term "physical controls".

p. 3 -line 17. Under 23.24(2)(a) 4. Suggest referring "regulate how plants are managed" instead of "harvested". The definitions section gives the word "manage" great latitude to include removal (of which harvesting is one method). The Department wants to regulate "management" not just harvest. The word "manage" is then used later on p.4, lines 7-15. Lines 17 and 18 refer to "harvested or controlled under an aquatic plant permit", using the word harvest the first time after its use on p.3-line17. Lines 7-15 describe details of "management" under a permit. Using the word manage on p3 line 17 will offer more consistency.

p. 4 - lines 1 and 2. Under 23.24(2)(b) 1. Add a reference to "the ability to cause significant adverse change to desirable aquatic habitat". This would then include invasive plants that don't necessarily displace vegetation, but occupy a new niche, such as floating plants that may colonize open waters where macrophytic plants presently do not grow. Water chestnut (Trapens), Salvinia are plants that come to mind as potential invasives that behave in this effect.

p. 5 -line 2, 5, 6. Under 23.24 (3) (b) & (c) . The text refers to "an aquatic plant permit". We would prefer to refer to "an aquatic plant management permit." This would codify the concept of management and that it includes all of the defined activities.

Additionally, the following comments refer to Mary Gibson-Glass's notes within her draft. If you have questions about these comments, please call me.

In the first note on page 8 of the draft, Mary had questioned the rationale for creating an exemption under s. 30.715 for using a trailer to remove a boat from the water at the same launch site on the same day. The rationale is that there are cases, e.g., where boaters living close to a lake limit their boating to that lake, although they are not riparian owners so they have no dock. These people may launch their boat in the morning, remove it at noon, and then return to the same

↓ see next page

lake in the afternoon. They may argue that it is overly burdensome to remove all aquatic plants from their ~~boat~~ ^{trailer} after taking it out in the morning, only to return to the same lake a few hours later--without visiting any other waterbody in the meantime.

In the second note on page 8 of the draft, Mary ^{yes} had questioned whether the Department is okay with "the penalties for violations of s. 30.721 (2), (3), and (6)" being the default penalties found in s. 30.80 (1). I am assuming that, rather than s. 30.721, the reference should be to s. 30.715. (I find no existing or proposed s. 30.721) Assuming the reference is to s. 30.715 (2),(3), and (6), the penalty provisions of s. 30.80 (1) are okay.

In the note at the end of page 9 of the draft, Mary recommends checking with program people to make sure a feasibility study is not required for acquisition of capital equipment to remove aquatic plants under s. 30.92. Our opinion is that a feasibility study is not required.

We're fine with all the other notes within Mary's draft.

This makes no sense.

No duty to inspect by boat owner.

Reason to believe is best unless plants actually seen

Gibson-Glass, Mary

From: Ebersberger, Eric K
Sent: Friday, December 29, 2000 10:34 AM
To: Gibson-Glass, Mary
Subject: FW: Aquatic Plant Statutory Language Proposal [LRB--0313/P1]

Importance: High

Eric Ebersberger
DNR Bureau of Management & Budget
608/266-0818
eberse@dnr.state.wi.us

From: Ebersberger, Eric K
Sent: Friday, December 29, 2000 10:31 AM
To: Grinde, Kirsten
Cc: Staggs, Mike D; Bode, Jeff B; Koshere, Frank J; Felker-Donsing, Susan
Subject: Aquatic Plant Statutory Language Proposal (LRB--0313/P1)
Importance: High

Kirsten:

Thank you for extending until 4:30 pm on January 2nd the time within which we have to comment on LRB--0313/P1. I realize that we've had this draft since October 2nd, and I apologize for the delay.

Mike Lutz (7-7456) of DNR legal services has provided the following comments on the draft (Mike provided these comments promptly back in October):

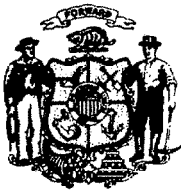
"Nice job on this! Some suggestions. See (4)^o on exemptions from permit on page 5. We traditionally try to limit a riparian owner's activities to the area in front of his or her property. While no one may care if he removes invasive weeds beyond his property, you cannot be sure. I'd recommend that this refer to the waters adjacent to an owner's property and out 150 feet. I'm troubled by the 5 pound exemption in (4)(b). This will allow anyone to remove any plants at any location. On streams and rivers these plants belong to the owner of the bed and are not for the taking. This also allows a property owner to slowly remove all the emergent vegetation from in front of his or her property. I'd suggest limiting this exception by a qualifier such as where necessary to gain access to open water."

I suspect that the FH program may have additional comments. However, I realize that if those comments are not conveyed to you by the end of the day on January 2nd, they will not be considered.

Thank you again for your patience.

Eric

Eric Ebersberger
DNR Bureau of Management & Budget
608/266-0818
eberse@dnr.state.wi.us



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0313/PJ 1
MGG:wlj:pg

RMR

DOOR O-Note

DOA:.....Grinde – Aquatic plants

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

DO NOT GEN

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

~~This is a preliminary draft. An analysis will be provided in a later version.~~

INS ✓
ANL

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 23.23 (title) of the statutes is repealed.

3 SECTION 2. 23.23 (1) of the statutes is repealed.

4 SECTION 3. 23.23 (2) of the statutes is repealed.

5 SECTION 4. 23.23 (3) of the statutes is repealed.

6 SECTION 5. 23.23 (4) (a) of the statutes is repealed.

7 SECTION 6. 23.23 (4) (b) of the statutes is renumbered 23.235 (4m) and amended

8 to read:

9 23.235 (4m) The department shall make a reasonable effort to educate the

10 authorities in charge of the maintenance of all federal, state, and county trunk

1 highways and all forest and park land in this state on methods to identify and control
 2 purple loosestrife and multiflora rose. The department of transportation and all
 3 other authorities in charge of the maintenance of highways, forests, and parks may
 4 cooperate with the department in efforts under this ~~paragraph~~ subsection.

5 **SECTION 7.** 23.23 (4) (c) of the statutes is repealed.

6 **SECTION 8.** 23.235 (title) of the statutes is repealed and recreated to read:

7 **23.235 (title) Multiflora rose.**

8 **SECTION 9.** 23.235 (1) of the statutes is repealed.

9 **SECTION 10.** 23.235 (2) of the statutes is amended to read:

10 23.235 (2) Except as provided in sub. (3), no person may sell, offer for sale,
 11 distribute, plant, or cultivate ~~any nuisance weed~~ multiflora rose or seeds thereof.

12 **SECTION 11.** 23.235 (3) of the statutes is amended to read:

13 23.235 (3) The department may conduct research on the control of nuisance
 14 weeds multiflora rose. The secretaries of natural resources and of agriculture, trade
 15 and consumer protection may authorize any person to plant or cultivate nuisance
 16 weeds multiflora rose for the purpose of controlled experimentation.

17 **SECTION 12.** 23.235 (4) of the statutes is repealed.

18 **SECTION 13.** 23.24 of the statutes is created to read:

19 **23.24 Aquatic plants. (1) DEFINITIONS.** In this section:

20 (a) "Aquaculture" has the meaning given in s. 93.01 (1d).

21 (b) "Aquatic plant" means a submergent, emergent, or floating-leaf plant or
 22 any part thereof. "Aquatic plant" does not mean wild rice.

(23) (c) "Control" means to ^{cut, remove, or} destroy ^{by} by applying chemicals, ^{by} introducing biological
 (24) agents, or ^{by} using mechanical means.

25 (d) "Cultivate" means to intentionally maintain the growth or existence of.

by using a process that involves dewatering, desiccation, burning, or freezing.

1 (e) "Distribute" means to sell, offer to sell, distribute for no consideration, or
2 offer to distribute for no consideration.

3 (f) "Introduce" means to plant, cultivate, stock, or release.

4 (g) "Invasive aquatic plant" means an aquatic plant that is designated under
5 sub. (2) (b) 1.

6 (h) "Manage" means to introduce, remove, or control.

7 (i) "Native" means indigenous to the waters of this state.

8 (j) "Nonnative" means not indigenous to the waters of this state.

9 (k) "Person" means ...

10 (k) ~~(L)~~ "Waters of this state" means any surface waters within the territorial limits
11 of this state.

12 (2) PROGRAM ESTABLISHED. (a) The department shall establish a program for
13 the waters of this state to do all of the following:

14 1. Protect and develop diverse and stable communities of native aquatic plants.

15 2. ~~Control and contain invasive aquatic plants.~~

16 3. ~~Regulate how nonnative aquatic plants are cultivated.~~ *introduced*

17 20 ~~4. Regulate how aquatic plants are harvested.~~ *managed*

18 30 ~~5. Provide education and conduct research concerning invasive aquatic plants.~~

19 (b) Under the program implemented under par. (a), the department shall do all
20 of the following:

21 1. Designate by rule which aquatic plants are invasive aquatic plants for
22 purposes of this section. The department shall designate Eurasian water milfoil,
23 curly leaf pondweed, and purple loosestrife as invasive aquatic plants and may
24 designate any other aquatic plant as an invasive aquatic plant if it has the ability to

cause significant adverse change to desirable aquatic habitat, to

1 significantly ^{to} displace desirable aquatic vegetation, or reduce the yield of products
2 produced by aquaculture.

3 2. Administer and establish by rule procedures and requirements for the
4 issuing of ^{aquatic plants management} permits required under sub. (3).

5 (c) The requirements promulgated under par. (b) 2. may specify any of the
6 following:

7 1. The quantity of aquatic plants that may be managed under an aquatic plant
8 permit.

9 2. The species of aquatic plants that may be managed under an aquatic plant
10 permit.

11 3. The areas in which aquatic plants may be managed under an aquatic plant
12 permit.

13 4. The methods that may be used to manage aquatic plants under an aquatic
14 plant permit.

15 5. The times during which aquatic plants may be managed under an aquatic
16 plant permit.

17 6. The allowable methods for disposing or using aquatic plants that are
18 ^{removed} harvested or controlled under an aquatic plant permit.

19 7. The requirements for plans that the department may require under sub. (3)
20 (b).

21 (3) PERMITS. (a) Unless ^a ~~the~~ person has a valid aquatic plant permit issued
22 under the program established under sub. (2), no person may do any of the following
23 in the waters of this state:

24 1. Introduce nonnative aquatic plants.

25 2. Remove aquatic plants.

management

1 3. Control aquatic plants.

2 (b) The department may require that an application for an aquatic plant permit
3 contain a plan for the department's approval as to how the aquatic plants will be
4 introduced, removed, and controlled.

5 (c) The department may establish a fee for an aquatic plant permit. The
6 department may establish a different fee for an aquatic plant permit to manage
7 aquatic plants that are located in a body of water that is entirely confined on the
8 property of one property owner.

9 (4) EXEMPTIONS FROM PERMITS. (a) The permit requirement under sub. (3) (a) *located*
10 2. does not apply to a riparian property owner who manually removes invasive
11 aquatic plants that are located within 150 feet from any point on the shoreline within
12 the boundaries of the riparian
owners
property.

13 (b) The permit requirement under sub. (3) (a) 2. does not apply to any person
14 who manually removes in one day native aquatic plants that are not invasive aquatic
15 plants if the amount removed weighs less than 5 pounds when weighed wet or results
16 in less than one pound of seed.

17 (c) The department may promulgate a rule to waive the permit requirement
18 under sub. (3) (a) for any body of water that is entirely confined on the property of
19 one property owner.

20 (5) DISTRIBUTION PROHIBITED. No person may distribute an invasive aquatic
21 plant.

22 (6) PENALTIES. (a) Except as provided in par. (b), any person who violates sub.
23 (3) shall forfeit not more than \$200.

24 (b) A person who violates sub. (3) and who, within 5 years before the arrest of
25 the current conviction, was previously convicted of a violation of sub. (3) shall forfeit

1 not less than \$700 nor more than \$2,000 or shall be imprisoned for not less than 6
2 months nor more than 9 months or both.

3 (c) The court may order a person who is convicted under par. (b) to abate any
4 nuisance caused by the violation, restore any natural resource damaged by the
5 violation, or take other appropriate action to eliminate or minimize any
6 environmental damage caused by the violation.

7 (d) A person who violates sub. (5) shall forfeit not more than \$100.

****NOTE: The definition of "waters of this state" found in s. 23.24 (1) (k) of this draft is based on the definition found in s. 30.50 (14). I did not include the reference from that definition to the "boundary waters" because I felt it was redundant.

****NOTE: We need to consider defining the word "person" given the case law interpreting s. 990.01 (26) and the recent OAG decision on what person means in s. 29.004 (the endangered and threatened species provisions).

****NOTE: I substituted the word "any" for "all" in s. 23.24 (2) (c). "All" was the word used in the drafting instructions, but I did not think the intent was to restrict DNR to all or nothing in promulgating these rules. OIC

8 **SECTION 14.** 30.124 (1) (intro.) of the statutes is amended to read:

9 30.124 (1) (intro.) Notwithstanding ss. 30.12, ~~30.125~~, 30.20, 30.44, and 30.45,
10 and if the department finds that the activity will not adversely affect public or private
11 rights or interests in fish and wildlife populations, navigation, or waterway flood
12 flow capacity and will not result in environmental pollution, as defined in s. 299.01
13 (4), the department may do all of the following on public lands or waters:

14 **SECTION 15.** 30.124 (1) (a) of the statutes is amended to read:

15 30.124 (1) (a) Cut aquatic ~~vegetation~~ plants, as defined in s. 30.715 (1) (a),
16 without removing the ~~vegetation~~ them from the water, for the purpose of improving
17 waterfowl nesting, brood, and migration habitat.

18 **SECTION 16.** 30.125 of the statutes is repealed.

19 **SECTION 17.** 30.715 (1) of the statutes is created to read:

20 30.715 (1) In this section:

1 (a) “Aquatic plant” means a submergent, emergent, or floating–leaf plant or
2 any part thereof. “Aquatic plant” does not mean wild rice.

3 (b) “Public boat access site” means a site that provides access to a navigable
4 water for boats and that is open to the general public for free or for a charge or that
5 is open only to certain groups of persons for a charge.

6 **SECTION 18.** 30.715 (2) of the statutes is created to read:

7 30.715 (2) No person may place or use a boat or boating equipment or place a
8 boat trailer in a navigable water if the person has reason to believe that the boat, boat
9 trailer, or boating equipment has any aquatic plants attached.

10 **SECTION 19.** 30.715 (4) (a) of the statutes is created to read:

11 30.715 (4) (a) Remove aquatic plants from a boat, boat trailer, or boating
12 equipment before placing it in a navigable water

13 **SECTION 20.** 30.715 (4) (b) of the statutes is created to read:

14 30.715 (4) (b) Remove or not place a boat, boat trailer, or boating equipment
15 in a navigable water if the law enforcement officer has reason to believe that the boat,
16 boat trailer, or boating equipment has aquatic plants attached.

17 **SECTION 21.** 30.715 (5) of the statutes is created to read:

18 30.715 (5) (a) The department shall prepare a notice that contains a summary
19 of the provisions under this section and shall make copies of the notice available to
20 owners required to post the notice under par. (b).

21 (b) Each owner of a public boat access site shall post and maintain the notice
22 described in par. (a).

OR ~~****NOTE: This definition of “public boat access site” in s. 30.715 is intended to include all such sites except for private sites where access is limited to the owners and persons who are authorized by the owners to use the site and who are not required to pay a fee.~~

***NOTE: I was provided language creating an exemption under s. 30.715 for using a trailer to remove a boat from the water at the same launch site on the same day. Please call me to discuss the rationale for this exemption so that I am certain of the rationale for this provision before I draft it.

***NOTE: The penalties for violations of s. 30.721 (2), (3), and (6) are the default penalties found in s. 30.80 (1). OK? *no*

715

1 **SECTION 22.** 30.725 (title) of the statutes is renumbered 30.715 (title) and
2 amended to read:

3 **30.715 (title) Placement of boats, trailers, and equipment; Lower St.**
4 **Croix River in navigable waters.**

5 **SECTION 23.** 30.725 (1) of the statutes is renumbered 30.715 (3).

6 **SECTION 24.** 30.725 (2) (a) of the statutes is renumbered 30.715 (4) (c).
*SECTION 24. 30.725 (2) (a) of the statutes is renumbered 30.715 (4) (c).
SECTION 24. 30.725 (2) (a) of the statutes is renumbered 30.715 (4) (c).
SECTION 24. 30.725 (2) (a) of the statutes is renumbered 30.715 (4) (c).*

7 **SECTION 25.** 30.725 (2) (b) of the statutes is renumbered 30.715 (4) (d).

8 **SECTION 26.** 30.725 (3) of the statutes is renumbered 30.715 (6) and amended
9 to read:

10 30.715 (6) No person may refuse to obey the order of a law enforcement officer
11 who is acting under sub. (2) (4).

12 **SECTION 27.** 30.92 (4) (b) 8. b. of the statutes is amended to read:

13 30.92 (4) (b) 8. b. Acquisition of capital equipment that is necessary to cut and
14 remove aquatic plants ~~that are aquatic nuisances or~~ that are detrimental to fish
15 habitat if the acquisition is pursuant to a plan to cut and remove aquatic plants that
16 is approved by the department.

17 **SECTION 28.** 30.92 (4) (b) 8. bp. of the statutes is created to read:

18 30.92 (4) (b) 8. bp. Acquisition of capital equipment that is necessary to ~~cut~~ and
19 *remove* ~~harvest~~ invasive aquatic plants, as defined in s. 23.24 (1) (g), if the equipment will
20 be used to ~~harvest~~ *control and remove* them as authorized by a *an aquatic plant management* permit issued under s. 23.24 (3).

21 **SECTION 29.** 281.17 (2) of the statutes is amended to read:

1 281.17 (2) The department shall supervise chemical treatment of waters for the
2 suppression of ~~algae, aquatic weeds, swimmers' itch and other~~ nuisance-producing
3 ~~plants and organisms~~ that are not regulated by the program established under s.
4 23.24 (2). It may purchase equipment and may make a charge for the use of the same
5 and for materials furnished, together with a per diem charge for any services
6 performed in such work. The charge shall be sufficient to reimburse the department
7 for the use of the equipment, the actual cost of materials furnished, and the actual
8 cost of the services rendered.

9 **SECTION 9337. Initial applicability; natural resources.**

10 (1) AQUATIC PLANT REMOVAL EQUIPMENT. The treatment of section 30.92 (4) (b)
11 8. b. and bp. of the statutes first applies to the acquisition of capital equipment for
12 which an application for financial assistance for the acquisition is submitted to the
13 department of natural resources.

****NOTE: Please check with program people to make sure a feasibility study is not
required for acquisition of capital equipment to remove aquatic plants under s. 30.92. If
one is required, you will need to call me to discuss the redrafting of this initial
applicability provision. *Nodkrayluc*

14

(END)

INS ANL

head → NATURAL RESOURCES
subhead → OTHER NATURAL RESOURCES

Aquatic plant management

The bill authorizes DNR to establish a program that protects aquatic plants that are native to this state and that regulates the introduction, cultivation, removal, and control (management) of aquatic plants. The bill defines controlling aquatic plants to mean using chemicals, biological agents, mechanical means, or processes that involve withholding water, drying, burning, or freezing.

Under current law, the only specific authority DNR has regarding aquatic plant management is the authority to develop a statewide program to control purple loosestrife. Under the new program, the types of aquatic plants that will be regulated include Eurasian water milfoil, curly leaf pondweed, and purple loosestrife. Under this program, DNR shall issue aquatic plant management permits. DNR shall promulgate rules to regulate the conditions under which aquatic plants may be managed. These conditions include restrictions on the quantity and species of aquatic plants that are subject to the permit and the areas in which the aquatic plants may be managed. The bill prohibits any person from cultivating or introducing aquatic plants that are not native to this state and from removing or controlling any type of aquatic plant without such a permit. DNR may establish a fee for this permit. The bill exempts waterfront property owners from this permitting requirement for the manual removal of aquatic plants that are located within 150 feet of the owner's shoreline. The bill also exempts from the permitting requirement the manual removal of aquatic plants in order to gain access to open water. The bill repeals the current law that makes the cutting of weeds in navigable water a nuisance if they are not removed. District attorneys, DNR, and private individuals may file suit to have a nuisance removed from navigable bodies of water.

Placement of boats and boating equipment in navigable waters

Under current law, a person may not have a boat, boat trailer, or boating equipment in the Lower St. Croix River if the person has reason to believe that the boat, equipment, or trailer has zebra mussels attached. This bill creates a similar law under which a person may not place these items in any navigable water if the person has reason to believe that there is any type of aquatic plant other than wild rice attached to the boat, trailer, or equipment. The bill also authorizes a law enforcement officer, including a conservation warden, to require that a person remove aquatic plants from a boat, boat trailer, or boating equipment before placing the boat, trailer, or equipment in the water or to require that a person remove a boat, trailer, or equipment from the water if the law enforcement officer has reason to believe that there are aquatic plants attached.

FE-SL

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0313/02dn
MGG:wlj:pg

1. Note my changes to the definition of control. I added the phrase "cut, remove, or" I also used the phrase "by using a process" in the new language requested by DNR to convey the fact that we are talking about drying, freezing, and burning that are not acts of nature.
2. I have made the change you requested in s. 23.24 (2) (a) Subd. 4. When the word "managed" instead of "harvested" is used in the last subdivision, it is no longer necessary to include the language in s. 23.24 (2) (a) 3rd and 4th of the preliminary draft because controlling and cultivating are included in the definition of managing. I also substituted other verbs for the verb "harvest" in ss. 23.24 (2) (c) 6th and 30.92 (4) (b) 8. bp.
3. The exemptions under s. 23.24 (4) (a) are based on suggestions from DNR attorney Mike Lutz. Note that the exemptions are expanded to include any type of aquatic plant. Mike and I agreed that the typical riparian owner or boater would not know the difference between an invasive aquatic plant and a noninvasive aquatic plant.
4. I have not drafted the exemption for using a trailer at the same public access site on the same day because it does not work with the text under s. 30.715 (3), (4) and (6). The ^{TWO} scenarios under those provisions are that aquatic plants or zebra mussels must be removed if they are seen on the boat, boat trailer, or boating equipment and that the boat, boat trailer, or boating equipment should not be in the water if there is reason to believe that there are zebra mussels or aquatic plants present. If there was a duty to inspect before placing the item in the water, there could be an exemption from that duty for trailers that had already been in the water once that day, but the exemption does not seem logical given the way the provisions are currently structured.
5. Based on my conversation with Mike Lutz, "person" is not defined for purposes of s. 23.24.
6. Note that a boat, boat trailer, or boating equipment may not be placed in a navigable water if it has any type of aquatic plant on it.

Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0313/1dn
MGG:wlj:jf

January 5, 2001

1. Note my changes to the definition of control. I added the phrase "cut, remove, or." I also used the phrase "by using a process" in the new language requested by DNR to convey the fact that we are talking about drying, freezing, and burning that are not acts of nature.
2. I have made the change you requested in s. 23.24 (2) (a). When the word "managed" instead of "harvested" is used in subd. 4., it is no longer necessary to include the language in s. 23.24 (2) (a) 2. and 3. of the preliminary draft because controlling and cultivating are included in the definition of managing. I also substituted other verbs for the verb "harvest" in ss. 23.24 (2) (c) 6. and 30.92 (4) (b) 8. bp.
3. The exemptions under s. 23.24 (4) (a) are based on suggestions from DNR attorney Mike Lutz. Note that the exemptions are expanded to include any type of aquatic plant. Mike and I agreed that the typical riparian owner or boater would not know the difference between an invasive aquatic plant and a noninvasive aquatic plant.
4. I have not drafted the exemption for using a trailer at the same public access site on the same day because it does not work with the text under s. 30.715 (3), (4), and (6). The two scenarios under those provisions are that aquatic plants or zebra mussels must be removed if they are seen on the boat, boat trailer, or boating equipment and that the boat, boat trailer, or boating equipment should not be in the water if there is reason to believe that there are zebra mussels or aquatic plants present. If there was a duty to inspect the item before placing it in the water, there could be an exemption from that duty for trailers that had already been in the water once that day, but the exemption does not seem logical given the way the provisions are currently structured.
5. Based on my conversation with Mike Lutz, "person" is not defined for purposes of s. 23.24.
6. Note that a boat, a boat trailer, or boating equipment may not be placed in a navigable water if it has any type of aquatic plant on it.

Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215

Gibson-Glass, Mary

From: Grinde, Kirsten
Sent: Wednesday, January 10, 2001 1:00 PM
To: Gibson-Glass, Mary
Subject: FW: LRB--0313/dn (Aquatic Plants)

Mary,

Below are the suggested changes to LRB-0313 from DNR. It varies from the e-mail message attached to Jeff Bode's apology in that fish farms would be exempted by statute under item 6 rather than by rule as Eric's original e-mail proposed. I have spoken with DNR regarding that change and they agree that a statutory exemption should be fine.

Let me know if you have any questions.

-----Original Message-----

From: Ebersberger, Eric K
Sent: Wednesday, January 10, 2001 11:25 AM
To: Grinde, Kirsten
Cc: Lutz, Michael; Bode, Jeff B
Subject: LRB--0313/dn (Aquatic Plants)

Kirsten:

We have the following comments on the most recent draft. Mike Lutz, LS/5, (7-7456) and Jeff Bode, FH/3, (6-0502) are best equipped to discuss the specifics of our recommendations. Thanks again for your patience and understanding, I believe we've got it all together on this language now.

1) Re: Sections 1 through 12 [ss. 23.23 and 23.235]. The draft repeals the provisions under these sections that deal with purple loosestrife. In her drafter's notes accompanying the first draft of this language, Mary asked that we review these repeals carefully, and, now that several people have reviewed this, we've decided that we do not want to repeal them.

2) Re: Section 13 [s. 23.24 (1) (b)] we suggest the following change:

(b) "Aquatic plant" means a planktonic, submergent, emergent, or floating-leaf plant or any part thereof. "Aquatic plant" ~~does not mean wild rice.~~

3) Re: Section 13 [s. 23.24 (1) (c)] we suggest the following change:

(c) "Control" means to cut, remove, ~~or destroy, or suppress by applying chemicals, by introducing biological agents, by using a process that involves dewatering, dessication, burning, or freezing, or by using mechanical means.~~

4) Re: Section 13 [s. 23.24 (3) (a)] we suggest the following change:

(a) Unless a person has a valid aquatic plant management permit issued under the program established under sub. (2), no person may do any of the following ~~in the waters of the state~~:

1. Introduce nonnative aquatic plants into waters of the state.
2. Manually remove aquatic plants from navigable waters.
3. Control aquatic plants in waters of the state by applying chemicals.
4. Control aquatic plants in navigable waters by introducing biological agents, by using a process that involves dewatering, dessication, burning, or freezing, or by using mechanical means.

5) Re: Section 13 [s. 23.24 (3) (c)] we suggest the following change:

(c) The department may establish a fees for ~~an~~ aquatic plant management permits. ...

6) Re: Section 13 [s. 23.24 (4)], the Department recommends reworking this exemption section as follows:

- (4) EXEMPTIONS FROM PERMITS. (a) The permit requirement under sub. (3) (a) does not apply to the following:
1. the manual removal of plants from privately owned beds of navigable waters with permission of the landowner.
 2. the harvesting of wild rice as authorized by s. 29.607.
 3. waterbodies registered as fish farms under s. 95.60. *stream beds*

(b) The department may promulgate a rule to waive the permit requirement under sub. (3) (a) for:

1. any body of water that is confined to the property of one owner.
2. a riparian owner who manually removes aquatic plants within the boundaries of the owner's riparian zone. [See NR 326 for parallels]
3. the control of purple loosestrife.
4. chemical treatment for the purpose of controlling bacteria on swimming beaches, or plants that interfere with the use of water for potable purposes and the protection of public health by governmental agencies.

The Department also recommends creating the following section immediately following s. 23.24 (4) [See NR 107 for parallels]:

(5) Sensitive Areas (a) the department may designate critical or unique fish and wildlife habitat including seasonal or lifestage requirements, or offering water quality erosion control benefits to the body of water as sensitive areas.

(b) Notwithstanding subsection (4), the department may require aquatic plant management permits for sensitive areas.

7) Because we're proposing a comprehensive aquatic plant protection package, for consistency purposes, we also need to amend s. 29.741 (2) as follows:

(2) No person shall take, remove, sell, or transport from the public waters of this state ~~to any place beyond the borders of the state~~, any duck potato, wild celery, or any other plant or plant product except wild rice native in said waters and commonly known to furnish food for game birds.

Eric Ebersberger
DNR Bureau of Management & Budget
608/266-0818
eberse@dnr.state.wi.us

*water that abuts prop +
does not interfere w/ other
rights*