

**ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
CREATING RULES**

The Wisconsin Natural Resources Board proposes an order to create ch. NR 198 relating to grants for the control of aquatic invasive species.

FH-27-04

Analysis Prepared by the Department of Natural Resources

Statutes interpreted: s. 23.22(2)(c), Stats.

Statutory authority: ss. 23.22(2)(c) and 227.11(2)(a), Stats.

Explanation of agency authority: This order implements s. 23.22(2)(c), Stats., which directs the department to promulgate rules to establish a procedure to award cost-sharing grants for up to 50% of the costs of projects to control invasive species. The rules must establish the criteria for determining eligible projects and eligible public and private grant recipients, allow cash and non-cash contributions as eligible costs share and consider the recommendations of the Invasive Species Council. Amendments under Act 33 make available \$500,000 each fiscal year for cost-sharing grants to be awarded to units of local government for the control of invasive species that are aquatic and specifies that eligible projects shall include education and inspection activities at boat landings.

Related statute or rule: The rule's general provisions and structure are similar to the Department's lake and river grant programs rules, NR 190, 191 and 195 which is intended to provide consistency in grant administration. This rule will also assist the department in achieving the statutory goals of s. 23.24 Aquatic Plants, which designates invasive plants and provides the authority to regulate how these plants are controlled.

Plain language analysis: The rule describes the eligibility, project requirements and procedures for receiving applications and awarding grants for the control of aquatic invasive species (AIS). The proposed rule is broken into four subchapters. The first subchapter contains general provisions including definitions and the financial and administrative requirements that apply to all projects. Subchapters two, three and four each describe a specific subcategory of grants for implementing a three tier strategy for controlling AIS: 1) education, prevention and planning; 2) controlling new or "pioneer" infestations; and 3) controlling established infestations.

Grants are available to conduct projects on all waters of the state, including lakes, rivers, streams, wetlands and the Great Lakes. The public and private entities that are eligible to receive grant awards includes all those entities that are eligible for a lake or river grant with local governmental units having first priority for the initial \$500,000 of available funds. Grants operate on a reimbursement basis, meaning sponsors must incur costs and seek reimbursement from the state. Volunteer labor and donated services, equipment and other "in-kind" items can be used to meet the sponsor's required 50% match. Priorities emphasize prevention and control new infestations of AIS.

Subchapter II describes projects intended to help sponsors conduct educational programs, develop prevention and control plans and monitor waterbodies for the presence of AIS. Watercraft inspection and education projects following the guidelines of the Department's Clean Boats, Clean Waters program are listed as a specific grant activity. Recognizing that towns or counties will propose projects encompassing multiple waterbodies, the maximum grant amount is proposed to be \$75,000. Watercraft inspection projects are limited to \$2,500 per public boat launch facility up to the maximum grant amount. Sponsors can apply twice a year, February and August, for these grants. Though a reimbursement program, a 25% cash advance is allowed for these activities.

Subchapter III describes grants specifically for controlling new or pioneer infestations of AIS. Under these projects sponsors can report a new infestation to the Department who will confirm the species, determine the appropriate method of control and authorize the sponsor to conduct the project. A grant application is completed at this time so that the sponsor can be reimbursed for 50% up to \$10,000 for the actual costs of the project once it is satisfactorily completed and reported to the Department. Intended as a rapid response, these grants are offered continuously on a first come first serve basis so that new infestations can be quickly controlled as they are discovered and before they become established. A portion of the statewide appropriation will be held out of the competitive cycle for these projects so that a continuous supply of money is available through out the year.

Subchapter IV provides up to \$75,000 to sponsors to conduct control projects that are included in a plan approved by the Department. The rule describes the elements needed in a plan and the process for submitting the plan to the Department for approval. These projects are intended to provide for the eradication or substantial reduction and long term control of AIS with the goal to restore native aquatic life communities. Since control techniques for many AIS are less than perfected and new AIS are likely to expand into Wisconsin, experimental or demonstration projects are eligible to allow opportunity to learn and refine methods of lasting control. Sponsors can apply twice a year, February and August, for these grants.

Comparison to federal regulations: Similar programs on the federal level are generally directed at assisting state programs for AIS control. Some habitat restoration grants administered through agencies such as the U.S. Fish and Wildlife Service are available locally and can be used to address AIS issues.

Comparison with rules in adjacent states: Minnesota has a small grant program for reimbursing the costs of treatments for Eurasian Water milfoil. They also have a program for "high-intensity Eurasian water milfoil technical assistance. Michigan has a small grants program (\$500 to \$2500) for activities very similar to those included in subchapter II. However, neither state has promulgated administrative rules for their programs. Michigan's program is administered through a contract with a non-profit organization.

Summary of factual data and analytical methods: None.

Analysis to determine effect on small business: None.

Anticipated costs incurred by private sector: These rules affect potential sponsors of management activities on the state's lakes, rivers and wetlands including local government, tribes and lake districts. The effects are believed to be positive, by providing cost sharing for activities that many are currently conducting. While the grant program is voluntary, there will be some increased cost to sponsors associated with the development of plans and for monitoring and reporting activities that are required for some projects under subchapters III and IV. However, cost sharing is available for these requirements as well. It is believed that these increased costs will be offset by the financial assistance available through the grants.

Effect on small business: Small business is not directly affected by the rule because grants are issued only to governmental units. Therefore, under s. 227.114, Stats., an initial regulatory flexibility analysis is not required. Environmental consultants and companies involved in nuisance species control should benefit from an increase in project activity resulting from an increase in the supply of money for these kinds of projects. In some cases, the rule requirements may increase the costs of conducting projects as noted above however; these costs would be passed through to the sponsor and eligible for cost sharing.

Agency contact:

Carroll Schaal

Phone: (608) 261-6423

Email: carroll.schaal@dnr.state.wi.us.

SECTION 1. Chapter NR 198 is created to read:

Chapter NR 198
AQUATIC INVASIVE SPECIES CONTROL GRANTS

Subchapter I – General Provisions

- NR 198.10 Purpose.
- NR 198.11 Applicability and eligible sponsors.
- NR 198.12 Definitions.
- NR 198.13 Sponsor accountability.
- NR 198.14 Grant payments.
- NR 198.15 Priorities and funding considerations.
- NR 198.16 Variances.

Subchapter II – Education, Prevention and Planning Projects

- NR 198.20 Purpose.
- NR 198.21 Applicability.
- NR 198.22 Eligible projects.
- NR 198.23 Applications and grant awards.

Subchapter III – Early Detection and Rapid Response Projects

- NR 198.30 Purpose.
- NR 198.31 Applicability.
- NR 198.32 Eligible projects.
- NR 198.33 Applications and grant awards.

Subchapter IV – Established Infestation Control Projects

- NR 198.40 Purpose.
- NR 198.41 Applicability.
- NR 198.42 Eligible and ineligible projects.
- NR 198.43 Plan submittal and approval.
- NR 198.44 Applications and grant awards.

Subchapter I - General Provisions

NR 198.10 Purpose. The purpose of this chapter is to establish procedures for awarding cost-sharing grants to public and private entities including local governmental units for the control of aquatic invasive species as provided for in s. 23.22(2)(c), Stats. Grants made under this program will assist local governments and other interests in efforts to help prevent and control the spread of aquatic invasive species in the waters of the state. These grants will assist local efforts to provide information and education on the types of existing and potential aquatic invasive species in Wisconsin, the threats they pose for the state's aquatic resources and the techniques available for their control. These grants will also assist in planning and conducting projects that will prevent the introduction of aquatic invasive species into waters where they currently are not present, controlling and reducing the risk of spread from waters where they are present and restoring native aquatic communities.

NR 198.11 Applicability and eligible sponsors. This chapter applies to all counties, cities, towns, villages, tribes, public inland lake protection and rehabilitation districts, and town sanitary districts and other local governmental units as defined in s. 66.0131(1)(a), Stats., qualified lake associations as defined in s. 281.68 (1) (b), Stats., that charge an annual membership fee of not less than \$5 and not more than \$50, qualified school districts as defined in s. 281.68 (3m) (c), Stats, qualified nonprofit conservation organizations as defined in s. 23.0955 (1), Stats., and river management organizations as defined in s. NR 195.02(2), applying for financial assistance under s. 23.22(2)(c), Stats., for an aquatic

invasive species control project for any waters of the state including lakes, rivers, streams, wetlands and the Great Lakes.

NR 198.12 Definitions. The following definitions apply to terms used in this chapter:

(1) "Aquatic invasive species" means non-indigenous water or wetland-dwelling organisms or their hybrids whose introduction into aquatic ecosystems causes or is likely to cause adverse economic, recreational or environmental impacts or harm to human health.

(2) "Control" means to cut and remove, otherwise remove, destroy, suppress or prevent the introduction or spread of aquatic invasive species.

(3) "Department" means the Wisconsin department of natural resources.

(4) "Grant period" means the time period stated in the grant agreement during which the sponsor is eligible to expend program grant funds for a project.

(5) "Local share" means that portion of the cost of the project other than state funds administered by the department.

(6) "Pioneer infestation," means a small population of aquatic invasive species in the early stages of colonization, or re-colonization, in a particular water body or portion thereof. For rooted aquatic plants, a pioneer infestation is a localized bed that has been present less than 5 years, or is a re-colonization following the completion of an established infestation control project under subch. IV, and is less than 5 acres in size or less than 5% of lake area whichever is greater.

(7) "Project" means an activity to control aquatic invasive species, including education that is approved for grant funding.

(8) "Project priority list" means a ranking by the department of completed grant project applications in the order of their scheduled receipt of funds.

(9) "Sponsor" means the public or private entity including the local unit of government that is applying for and receiving a grant under s. 23.22(2)(c), Stats., and this chapter.

(10) "Waterbody" means any lake, pond, stream, spring or wetland or portion thereof that is a water of the state.

NR 198.13 Sponsor accountability. (1) Accounting for all project funds shall conform to generally accepted accounting principles and practices, and shall be tracked by the sponsor in a separate account. Documents to support grant expenditures shall be maintained in sufficient detail to show that grant funds are used for the purpose for which the grant was made. All financial records, including invoices and canceled checks or bank statements, that support all project costs claimed by the sponsor shall be maintained and available for inspection for 3 years after the date the department makes the final payment.

(2) The sponsor shall submit to the department a claim for reimbursement on forms provided by the department at any time but not more than once every 3 months and not later than 6 months after the

end of the grant period. The sponsor is eligible for reimbursement only for project costs incurred during the grant period stated in the grant award. All costs claimed for reimbursement shall be documented and shall be consistent with the grant agreement relative to expenditures made within the grant period, within the scope of work, and within estimated costs. Progress reports shall be submitted with each reimbursement request.

(3) The sponsor may request, for good cause, a grant agreement amendment for expenditures in excess of those identified as estimated costs in the grant agreement. The sponsor shall submit a request before the project end date.

(4) The department may conduct an audit of all of the sponsor's records relating to the project after the department has made the final payment. The department may request that the sponsor repay any adjustment that is the result of a post audit.

(5) All water tests that require laboratory analyses and that are part of the project shall be analyzed by a laboratory selected by the department.

(6) Any grant awarded for funding of a project that includes collection of physical or chemical data may be conditioned upon the sponsor being required to implement a quality assurance and quality control plan approved by the department.

(7) Data and information acquired as part of the project shall be reported to the department in a format and with a frequency specified by the department in the grant agreement.

(8) All projects shall have as an element a final report that is in an electronic format specified by the department and suitable for use by the general public. For some projects the department may allow the use of standardized forms as a substitute for a final report.

(9) The department may terminate a grant awarded under this chapter for nonperformance of any term or condition of the grant agreement, including conditions in any department permits issued as a part of the project, and the department may seek reimbursement of the state share previously distributed to the sponsor.

(10) If the department finds that the project has not been satisfactorily completed by the end of the grant period, the department may seek reimbursement of the state share previously distributed to the sponsor.

NR 198.14 Grant payments. (1) ELIGIBLE COSTS. Reasonable and necessary project costs, which are consistent with the approved project, as determined by the department, and incurred during the project period are eligible for reimbursement. Eligible costs include:

(a) Labor costs required for carrying out activities identified in the grant agreement. Costs shall be based on the sponsor's established rates for the position including salary, fringe benefits and other items determined to be appropriate by the department.

(b) Direct cost for professional service contracts, laboratory analysis, leased equipment and facilities printing, postage and similar items.

(c) The cost of necessary supplies and equipment used exclusively for project-related purposes. The costs of necessary equipment shall be pro-rated based on its useful life expectancy relative to the length of the project.

(d) Fees paid for any federal, state or local permits required to conduct the project.

(e) Reasonable costs necessary to complete a permit application required to implement a project awarded a grant if the costs are incurred within 12 months prior to the application deadline.

(f) The substantiated value of donated materials, equipment, services and labor as all or part of the local share of the project costs subject to all of the following:

1. All sources of local share donation shall be indicated when the grant application is submitted.

2. The maximum value of donated non-professional labor shall be \$8 per hour.

3. The value of donated equipment shall conform to the Wisconsin department of transportation highway rates for equipment.

Note: The county highway rates for equipment are formulated under s. 84.07. Stats., and can be found in chapter 5 of the State Highway Maintenance Manual published by the Wisconsin Department of Transportation, 4802 Sheboygan Avenue, Madison, WI 53705.

4. The value of donated materials and professional services shall conform to market rates and be established by invoice.

(g) Other costs determined by the department to be necessary to carry out a successful project.

(2) INELIGIBLE COSTS. Costs not directly associated with or necessary for the implementation of the project as determined by the department are ineligible for reimbursement. Ineligible costs include:

(a) Fines and penalties due to violation of, or failure to comply with, federal, state or local laws and regulations.

(b) Ordinary operating expenses of local government sponsors, such as salaries and expenses of public officials that are not directly related to the project.

(c) Purchase of aquatic plant harvesters, boats, autos or office furniture.

(d) Aquatic plant management activities that provide temporary or single season relief from nuisance conditions including plant harvesting operations, herbicide treatments and other control methods unless they are approved under a rapid response project in subch. III or recommended in a department approved plan under subch. IV.

(3) FINAL PAYMENT. The department shall withhold 10% of the state share for a final payment and may withhold final payment until final costs have been reviewed under s. NR 198.13 and the department has made a determination that the project has been satisfactorily completed. Sponsors may not make final payment to consultants until the department has approved a final report.

NR 198.15 Priorities and funding considerations. (1) Priorities for funding projects include projects that do any of the following:

(a) Involve multiple water bodies.

(b) Prevent the spread of aquatic invasive species through education and planning and monitoring.

(c) Control pioneer infestations of aquatic invasive species.

(d) Control established infestations of aquatic invasive species and restoring native aquatic species communities.

(2) Local governmental units shall receive first priority for awarding the initial \$500,000 of cost sharing.

(3) The department shall consider the following factors when considering a project for grant funding:

(a) The degree to which the project includes a prevention and control strategy.

(b) The degree to which the project will prevent the spread of aquatic invasive species.

(c) The degree to which the project protects or improves the aquatic ecosystem's diversity, ecological stability or recreational uses.

(d) The extent of the infestation in the water body.

(e) The degree to which the project will be likely to result in successful long-term control.

(f) The availability of public access to, and public use of, the waterbody.

(g) The degree to which the proposed project complements other management efforts.

(h) Community support and commitment, including past efforts to control aquatic invasive species.

(i) Whether the sponsor has previously received a grant for a similar project for the same water body.

NR 198.16 Variances. The department may approve in writing a variance from a requirement of this chapter upon the written request of a sponsor if the department determines that a variance is essential to effect necessary grant actions or program objectives and where special circumstances make a variance in the best interest of the program. Before approving a variance, the department shall take into account factors such as good cause and circumstances beyond the control of the sponsor. The department may not grant variances from statutory requirements.

Subchapter II - Education, Prevention and Planning Projects

NR 198.20 Purpose. Education projects are intended to broaden the public's awareness and understanding of, and ability to identify, aquatic invasive species, the threats they pose to the health of aquatic ecosystems, the measures to prevent their spread and the management practices used for their control. Prevention projects are intended to prevent the introduction of new aquatic invasive species into a waterbody or prevent the spread of aquatic invasive species from an infested waterbody to an uninfested waterbody. Planning projects are intended to assist in the development of plans for the prevention and control of aquatic invasive species.

NR 198.21 Applicability. This subchapter applies to all sponsors for and recipients of aquatic invasive species education, prevention and planning grants.

NR 198.22 Eligible projects. (1) Projects eligible for funding under this subchapter include:

(a) The dissemination of information about aquatic invasive species consistent with the department's statewide education strategy for controlling invasive species including, but not limited to, attending or conducting workshops, training or coordinating volunteer monitors and other education programs.

(b) Monitoring, mapping and reporting of data about presence or absence of aquatic invasive species to provide baseline information and monitor trends in a waterbody or waterbodies.

(c) Development of plans for the prevention and control of aquatic invasive species.

(d) Watercraft inspection programs that include all of the following:

1. Inspectors that have attended a training workshop and received program materials provided or approved by the department prior to project initiation. Training may be part of the grant project.

2. Trained inspectors deployed at a boat launch site to conduct inspections, collect and report data, provide boater education and report suspect specimens.

3. Inspectors that staff boat launch facilities a minimum of 200 hours annually during weekends, holidays, fishing tournaments and other special events between May 1 and October 30 when public boating activity on lakes is the highest.

4. Data collected through an inspection that is reported through the statewide watercraft inspection database. These reports shall serve as the final report as required in s. NR 198.13(8).

Note: Guidance for conducting watercraft inspection programs, Clean Boats, Clean Waters Program, Volunteer Monitoring Guidance for Aquatic Invasive Species, publication #WT-780 can be obtained from the DNR, Bureau of Watershed Management, PO Box 7921, Madison, WI 53707.

(e) Studies and assessments as needed to aid in the prevention or control of aquatic invasive species.

Note: The department and university extension have developed educational materials and publications that are suitable for aquatic invasive species education, planning and prevention projects. To avoid unnecessary costs, duplication of effort and assure that consistent and accurate information is provided statewide, sponsors should first consider ordering copies of existing publications or adapting them before creating new publications.

NR 198.23 Applications and grant awards. (1) Applications shall be made on forms provided by the department. Applications shall be submitted to the region director for the region in which the project is located by August 1 or February 1 of each year for a project to be eligible for a grant award in the subsequent 6 month period.

Note: Forms may be obtained free of charge from the following DNR region headquarters located at:

1. Southeast -- 2300 N. Dr. Martin Luther King Jr. Dr., Box 12436, Milwaukee 53212

2. South Central -- 3911 Fish Hatchery Road, Fitchburg 53711

3. Northeast -- 2984 Shawano Ave., Box 10448, Green Bay, WI 54313

4. Northern/Rhineland -- 107 Sutliff Ave., Rhineland 54501

5. Northern/Spooner -- 810 West Maple St., Spooner 54801

6. West Central -- 1300 W. Clairemont Ave., Call Box 4001, Eau Claire 54702

(2) A complete application shall contain the following information:

(a) A brief description of the project's goals and objectives including a description of the waters on which the project will take place and how the results of the project will lead to the control of aquatic invasive species.

(b) A complete description of the project methods.

(c) An itemized budget for the full costs of the project including a calculation of the department's share of the project that will ultimately be reimbursed and a statement of the sponsor's capacity for financing its completion.

(d) A time line for project completion.

(e) A signed and dated resolution from the sponsor authorizing the application and identifying a representative to act on its behalf.

(f) A description of the existing and proposed availability of public access to, and public use of, the waterbody.

(g) A description of how the project is consistent with existing plans or management efforts for the water body.

(h) Other information as may be required by the department to evaluate the project.

(3) The department shall review the application for completeness and may return the application with a request in writing for more detailed information. The application is not considered complete until the additional information requested by the department has been received.

(4) The department shall issue grant awards based upon the priorities and considerations established in s. NR 198.15.

(5) The total state share of the cost of an education, prevention and planning project may not exceed 50% of the total project cost.

(6) The maximum amount of a grant award shall be \$75,000.

(7) State share of the costs of a watercraft inspection program is limited to \$2,500 for each public boat launch facility not to exceed 50% of the total project cost up to the maximum grant amount.

(8) Notwithstanding s. NR 198.13(2), the department may distribute up to 25% of the state share of the project costs to the sponsor following acceptance of the grant agreement by the sponsor.

Subchapter III - Early Detection and Rapid Response Projects

NR 198.30 Purpose. Grants awarded under this subsection are intended to provide for the early identification of and rapid response to control pioneer infestations of aquatic invasive species before they become established. These projects are intended for waters where the presence of aquatic invasive species is relatively new and the area of coverage is limited such that there is a high likelihood that they can be removed or significantly reduced and managed at low densities.

NR 198.31 Applicability. This subchapter applies to all sponsors applying for a grant for an early detection and rapid response project.

NR 198.32 Eligible projects. Early detection and rapid response projects provide a means for sponsors to quickly control recently discovered aquatic invasive species infestations and later receive reimbursement from the department for a portion of the cost of the project by following the procedure described in this section. The procedure is as follows:

(1) The sponsor shall immediately notify the department when a pioneer infestation is suspected in a waterbody. The sponsor shall collect a specimen and submit it to the department using the following procedures:

(a) Collect an entire intact adult specimen. For plants include the roots, stems, flowers and fruits. Try to find plants flowering or fruiting.

(b) Ice or refrigerate the specimen immediately.

(c) Make a label that includes: the date collected, the person who collected the specimen, the township, range and section, county, and waterbody name of where the specimen was collected. Include topographic map or plat map if possible.

(d) Submit the specimen to the department within 3 days.

(2) The department shall verify the species and may authorize control if it is determined to be a controllable pioneer infestation. For authorized projects, the department shall specify the conditions and procedures under which the project may take place and issue any required permits.

(3) The sponsor shall implement control of the aquatic invasive species through means authorized by the department.

(4) For authorized projects, the department shall specify pre- and post-control monitoring, follow-up control and reporting requirements that the sponsor shall implement including:

(a) A contingency plan for effective monitoring and a response strategy for controlling the reappearance of the aquatic invasive species.

(b) A prevention plan to reasonably assure that re-introduction of the aquatic invasive species will not occur.

(5) Following authorization, the sponsor shall complete a grant application for the project.

(6) The sponsor shall report to the department the results of the completed project and request reimbursement for the state's share of the project.

NR 198.33 Applications and grant awards. (1) Applications shall be made on forms provided by the department. Applications may be submitted at any time following the authorization of the project in s. NR 198.32(2) to the region headquarters in which the project is located.

Note: Forms may be obtained free of charge from the following DNR region headquarters located at:

1. Southeast-- 2300 N. Dr. Martin Luther King Jr. Dr., Box 12436, Milwaukee 53212

2. South Central -- 3911 Fish Hatchery Road, Fitchburg 53711

3. Northeast-- 2984 Shawano Ave., Box 10448, Green Bay, WI 54313

4. Northern/Rhineland -- 107 Sutliff Ave., Rhineland 54501

5. Northern/Spooner-- 810 West Maple St., Spooner 54801

6. West Central -- 1300 W. Clairemont Ave., Call Box 4001, Eau Claire 54702

(2) A complete application shall contain the following information:

(a) The name of the waterbody on which the project will take place, the targeted aquatic invasive species and a map showing the location proposed for control.

(b) An estimated budget for the full costs of the project including a calculation of the department's share of the project that will ultimately be reimbursed.

(c) The signature of a representative authorized by resolution to act on behalf of the sponsor.

(d) Copies of any required permit applications.

(3) The department shall review the application and may approve it for a grant award.

(4) The department shall issue grant awards for authorized projects in the order they are received until all the annual funding allotted for early detection and rapid response projects is awarded. The grant period for early detection and rapid response projects shall begin on the date control is authorized under s. NR 198.32(2).

(5) The total state share of the cost of an early infestation control project may not exceed 50% of the total project costs up to maximum of \$10,000.

Subchapter IV – Established Infestation Control Projects.

NR 198.40 Purpose. The purpose of this subchapter is to establish the procedures for the administration of grants to sponsors for implementing projects to control established infestations of aquatic invasive species. Established infestations are substantial reproducing populations of aquatic invasive species that are not pioneer infestations.

NR 198.41 Applicability. This subchapter applies to all sponsors applying for grants for implementing a project to control an established infestation of aquatic invasive species.

NR 198.42 Eligible and ineligible projects. (1) Projects eligible for funding under this subchapter include any of the following:

(a) A department-approved project recommendation included in a management plan adopted by the sponsor for the control of aquatic invasive species.

(b) Purple loosestrife biocontrol projects.

(c) Other projects that are recommended in or authorized under a statewide management plan for control of aquatic invasive species.

(d) Research and demonstration projects that test new or alternative control practices under a study design approved by the department.

(2) For projects on lakes, adequate public boating access, as defined in s. NR 1.91(4) or (6), is required.

(3) Activities not eligible for funding under this subchapter include: dredging; routine chemical treatments or mechanical harvesting of aquatic plants to provide seasonal nuisance relief, and maintenance and operation of aeration systems and mechanical structures used to suppress aquatic plant growth. Structural facilities for providing boat washing stations are not eligible.

Note: Equipment associated with boat washing facilities is eligible as provided for in s. NR 198.14(1)(c).

NR 198.43 Plan submittal and approval. Sponsors shall prepare a management plan and submit it to the department for approval before applying for a control project under s. NR 198.42(1)(a).

(1) A management plan shall include all of the following:

(a) An identification of the problems or threat to the aquatic ecosystem presented by the aquatic invasive species including recreational uses and other beneficial functions up to the time of

application, and how these uses and functions may have changed because of the presence of aquatic invasive species.

(b) A description of the historical control actions taken or those that are in progress.

(c) A thorough characterization of the waterbody's aquatic ecosystem's historical and current condition, including at least one year of current base line data quantifying the extent of the infestation.

(d) An assessment of the fishery, wildlife and aquatic plant community.

(e) An identification of the need for the protection and enhancement of fish and wildlife habitat, endangered resources, and other local natural resource concerns.

(f) Identification of the management objectives needed to maintain or restore the beneficial uses of the aquatic ecosystem.

(g) Identification of target levels of control needed to meet the objectives.

(h) Identification and discussion of the alternative management actions considered and proposed for aquatic invasive species control including expected results.

(i) An analysis of the need for and a list of the proposed control actions that will be implemented to achieve the target level of control.

(j) A discussion of the potential adverse impacts the project may have on non-targeted species, drinking water or other beneficial waterbody uses.

(k) A prevention strategy to reasonably assure that new introductions of aquatic invasive species will not infest the waterbody.

(L) A contingency strategy for effectively monitoring and preventing the re-introduction of the aquatic invasive species after the initial control.

(m) Sufficient information for determining the feasibility of alternative control measures, including: costs; the relative permanence of the control; the potential for long-term control of the causes of infestation; and the baseline data required to measure subsequent change.

(2) Plans shall be submitted to the appropriate department regional office a minimum of 60 days prior to the application deadline for approval of recommendations and a determination of eligibility. When submitting a plan for approval, the following conditions apply:

(a) Plans shall be submitted in an electronic format along with one printed copy.

(b) The request for plan approval shall specify which plan recommendations the sponsor intends to implement with a grant application.

(c) The sponsor shall describe the process used to provide the public the opportunity to comment on the plan, provide a summary of the comments received and document the action by the sponsor in adopting the plan.

(d) Lake management plans approved for payment under ch. NR 190 do not constitute approval for project funding under this section. A sponsor may submit a plan completed under ch. NR 190 for approval under this section.

(3) The department shall complete its review within 45 days of receipt of the plan and may approve all, part or none of the plan recommendations or request additional information. The department shall state the basis for denying the approval of plan recommendations in writing to the sponsor.

NR 198.44 Applications and grant awards. A sponsor may propose a project for a grant based on recommended activities in a management plan approved by the department under s. NR 198.43 or for other activities identified in s. NR 198.42.

(1) Applications shall be made on forms provided by the department. Applications shall be submitted to the region director for the region in which the project is located by August 1 or February 1 of each year for a project to be eligible for a grant award in the subsequent 6-month period.

Note: Forms may be obtained free of charge from the following DNR region headquarters located at:

1. Southeast-- 2300 N. Dr. Martin Luther King Jr. Dr., Box 12436, Milwaukee 53212

2. South Central -- 3911 Fish Hatchery Road, Fitchburg 53711

3. Northeast -- 2984 Shawano Ave., Box 10448, Green Bay, WI 54313

4. Northern/Rhineland -- 107 Sutliff Ave., Rhineland 54501

5. Northern/Spooner -- 810 West Maple St., Spooner 54801

6. West Central -- 1300 W. Clairemont Ave., Call Box 4001, Eau Claire 54702

(2) A complete application shall contain the following information:

(a) A clear description of the project's goals and objectives including a description of the waters on which the project will take place, the targeted aquatic invasive species, the problems or threats the species pose to the waterbody and how the results of the project will lead to its control. If the targeted species is a plant or plants, a site map clearly depicting the locations of all existing vegetation types and the area proposed for control.

(b) Complete descriptions of the project methods including follow up activities necessary to maximize and extend the effectiveness of the project. Activities shall be conducted when it is most effective in controlling the target aquatic invasive species and protecting native species.

(c) Identification of the threat the infestation poses to adjacent waters.

(d) An itemized budget for the full costs of the project including a calculation of the department's share of the project that will ultimately be reimbursed and a statement of the sponsor's capacity for financing its completion.

(e) A general time line for project completion.

(f) A signed and dated resolution from the sponsor authorizing the application and identifying a representative to act on its behalf.

(g) Copies of all permits or pending permit applications necessary to complete the project. No grant may be awarded until all the necessary permits and approvals for the project have been obtained.

(h) A description of the existing and proposed availability of public access to, and public use of, the waterbody.

(i) A description of how the project is consistent with existing plans or management efforts for the waterbody.

(j) Other information as may be required by the department to evaluate the project.

(3) The department shall review the application for completeness and may return the application with a request in writing for more detailed information. The application is not considered complete until the additional information requested by the department has been received.

(4) The department shall issue grant awards based upon the priority list established in s. NR 198.15.

(5) The state share of the cost of the project may not exceed 50% of the total project costs up to a maximum state share of \$75,000.

SECTION 2. EFFECTIVE DATE. This rule shall take effect the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

SECTION 3. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on December 8, 2004.

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Scott Hassett, Secretary

(SEAL)