

**NATURAL RESOURCES BOARD AGENDA ITEM**

**SUBJECT:** Request authorization for public hearing for Board Order WT-09-08, revisions to NR 190, 191 and 195 relating to lake and river protection grants and NR 198 relating to aquatic invasive species control grants.

**FOR:** APRIL, 2008 **BOARD MEETING**

**TO BE PRESENTED BY:** Carroll Schaal, WT/4

**SUMMARY:**

In 2004, under State Statutes 23.22 (2)(c) Invasive Species, the Department promulgated rules for a cost share program for assisting public and private entities in controlling aquatic invasive species as NR 198 Aquatic Invasive Species (AIS) Control Grants. 2007 Act 20 increased the cost share rates, removed priority for local government sponsors and increased the allocation by \$2.8 million annually. The Bureau of Watershed Management is seeking approval to hold hearings on revisions to NR 198 that incorporate the new statutes and make additional changes that include larger maximum grant awards, an expanded list of potential sponsors, creates incentives and priorities for projects that integrate AIS control with other environmental protections and allows communities that are successfully and compliantly managing existing populations of AIS to recoup their aquatic plant management permit fees.

Additional changes that increase the value of donated labor used for local match from \$8 to \$12 and require application materials to be submitted in electronic format in the NR 198 revision are also proposed for the closely related lake and river grant programs NR 190, 191 and 195 for needed uniformity.

These changes are non-controversial and will be welcomed by the citizens and organizations controlling aquatic invasive species. Public hearings will be held later this summer with the intent to have the new rules in place in early 2009.

**RECOMMENDATION:** Authorize public hearings on Board Order WT-09-08, revisions to NR 190, 191 and 195 relating to lake and river protection grants and NR 198 Aquatic Invasive Species Control Grants

**LIST OF ATTACHED MATERIALS:**

- |    |                                     |   |     |                                     |          |
|----|-------------------------------------|---|-----|-------------------------------------|----------|
| No | <input type="checkbox"/>            | Fiscal Estimate Required                              | Yes | <input checked="" type="checkbox"/> | Attached |
| No | <input checked="" type="checkbox"/> | Environmental Assessment or Impact Statement Required | Yes | <input type="checkbox"/>            | Attached |
| No | <input type="checkbox"/>            | Background Memo                                       | Yes | <input checked="" type="checkbox"/> | Attached |

**APPROVED:**

/s/	3/24/08
_____ Bureau Director, Russell Rassmussen - WT/4	_____ Date
/s/	3/25/08
_____ Administrator, Todd Ambs - AS/5	_____ Date
/s/	4/11/08
_____ Secretary, Matt Frank	_____ Date
cc: Laurie J. Ross - AD/5 Carol Turner - LS/5	Carroll Schaal - WT/4 Tom Nowakowski - CF/8

DATE: March 20, 2008

TO: Natural Resources Board

FROM: Matthew Frank, Secretary

SUBJECT: Request Authorization for Public Hearings on Revisions to NR 198 Aquatic Invasive Species Control Grants, NR 190 Lake Management Planning Grants, NR 191 Lake Protection and Classification Grants and NR 195 River Protection Grants.

### **Why rule is being proposed**

The Bureau of Watershed Management requests approval to hold public hearings on revisions to NR 198 Aquatic Invasive Species (AIS) Control Grants to implement enabling legislation and facilitate investing a \$2.8 million increase in the annual funding allocation. These changes seek to “scale-up” the grants commensurate with the increased size of the appropriation. The management of aquatic invasive species will be improved statewide through this revision by allowing larger, more efficient prevention and control projects, lowering local costs, and providing a greater diversity of sponsors and eligible activities. The proposal creates an incentive for projects that couple long-term prevention with control.

In March, the Bureau requested that the Board approve an emergency rule order to implement select revisions to the rule so that it could effectively and efficiently administer this increase until a permanent rule could be promulgated. This proposal seeks permanent rule promulgation for all the emergency rule revisions in addition to changes that broaden, clarify and improve the administration of these grants.

Wisconsin Administrative Codes NR 190, 191, 195 are all related grant programs that have similar general provisions, largely the same set of sponsors and managed by the same staff. For consistency, minor revisions to policies common in all these codes are proposed.

### **Summary**

To achieve the goals of larger, more efficient prevention and control projects, lower local costs, and a greater diversity of sponsors and eligible activities, the specifically proposed changes to NR 198 will:

- Change the maximum state cost share rate for all projects from 50% to 75% as allowed under recent changes in the enabling legislation.
- Create an incentive for sponsors who are implementing water quality and habitat improvements activities in addition to controlling AIS and who use a bidding process to develop proposed project costs. These sponsors can receive the full 75% state cost-share rate for an established population control project whereas those who are just active in controlling AIS or do not bid, are only eligible for 50% reimbursement.
- Increase the maximum amount of the state funds available per grant for all project types to allow larger grants.
- Expand sponsorship to include universities, colleges and technical schools, hydro-electric corporations and other branches of state and federal government that manage lands or natural resources. Broaden the definition of nonprofit conservation organizations that can apply for

grants.

- Allow for a cash advance for early detection and response projects.
- Create a new subchapter that allows the department to reimburse sponsors who are successfully and ecologically containing established infestations under a department approved plan for the costs of permit application and required monitoring and reporting.
- Create a new subchapter that allows the department to solicit and fund research and demonstration projects that will advance statewide knowledge and improve AIS management techniques.
- Add priorities that encourage sponsors to integrate watershed pollution control and habitat protection and restoration efforts into their projects.
- Change wording and language to improve clarity and understanding and other housekeeping items.

The proposed revisions to NR 198 and 190, 191 and 195 will:

- Increase the value of donated, non-professional labor that can be used as local match from either \$8 or the federal minimum wage to \$12.
- Require that application materials not part of a required form be submitted in an electronic format.

These changes will allow better expenditure of funds and control of aquatic invasive species by broadening the potential number of sponsors and reducing local costs. State and federal properties and other situations where the absence of a willing local sponsor prevents action will be more efficiently addressed. More sponsors and higher project maximum costs and cost share rates will increase the scope and scale of projects allowing more activity to be included in one grant and therefore reducing the number of grants to be managed. These changes will allow the department to support essential prevention activities such as boat landing inspections on regional scales rather than on a lake by lake basis, reducing the number of small grants being administered for the same activities. The addition of incentives, new priorities and reimbursement of aquatic plant management permit fees for AIS maintenance and containment will help encourage the integration of AIS control with other environmental protection activities and reward those that are managing AIS in an environmentally-sound manner.

### **Environmental Assessment**

The proposed rule is a type III action under ch. NR 150, Wis. Adm. Code, and will not require an environmental assessment.

### **Small business and regulatory analysis**

Small business is not directly affected by the rule because grants are issued only to governmental units or nonprofit organizations. Therefore, under s. 227.114, Stats., an initial regulatory flexibility analysis is not required.

Contacts for more information on the proposal are Carroll Schaal, Lake Partnership Team Leader (608) 261-6423 or [Carroll.Schaal@wisconsin.gov](mailto:Carroll.Schaal@wisconsin.gov).



### Fiscal Estimate — 2007 Session

<input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated  <input type="checkbox"/> Corrected <input type="checkbox"/> Supplemental	LRB Number  Bill Number	Amendment Number if Applicable  Administrative Rule Number WT-09-08
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Subject  
 Aquatic Invasive Species Control Grants

**Fiscal Effect**

State:  No State Fiscal Effect  
 Indeterminate

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Existing Appropriation       Increase Existing Revenues  
 Decrease Existing Appropriation       Decrease Existing Revenues  
 Create New Appropriation

Increase Costs — May be possible to absorb within agency's budget.  
 Yes       No  
  
 Decrease Costs

Local:  No Local Government Costs  
 Indeterminate

1.  Increase Costs  
      Permissive       Mandatory  
 2.  Decrease Costs  
      Permissive       Mandatory

3.  Increase Revenues  
      Permissive       Mandatory  
 4.  Decrease Revenues  
      Permissive       Mandatory

5. Types of Local Governmental Units Affected:  
 Towns       Villages       Cities  
 Counties       Others Lake Districts  
 School Districts       WTCS Districts

**Fund Sources Affected**

GPR     FED     PRO     PRS     SEG     SEG-S

**Affected Chapter 20 Appropriations**

s. 20.370(6)(as)

**Assumptions Used in Arriving at Fiscal Estimate**

The proposed emergency rule package makes changes to the aquatic invasive species (AIS) grants program as a result of changes that were included in 2007 Act 20, the 2007-09 biennial budget act. The changes in the package include the following:

1. Increasing the cap on the state cost-share rate from 50% to 75%.
2. Deleting a requirement that grants be awarded to local government units.
3. Increasing maximum amount of dollars (i.e. grant cap) that can be awarded for a grant.
4. Increasing the value for volunteer labor that can be used as local match and require electronic applications. (These changes are proposed for NR 190 Lake Management Planning, NR 191 Lake Protection and Classification Grants, and NR 195 River Protection Grants too).
5. Establishing a new category of AIS grants that reimburses grantees for maintenance costs that are incurred while managing established infestations of aquatic invasive species and a new category describing how research and demonstration projects can be developed and proposed.
6. Allowing a cash advance for early detection and rapid response projects.
7. Expanding sponsorship to include universities, colleges and technical schools, hydro-electric corporations and other branches of state and federal government that manage lands or natural resources.
8. Broadening the definition of a nonprofit conservation organization (NCO).
9. Adding priorities and incentives for projects that integrate with pollution control, habitat protection and that use a bidding process to develop their budget.

**Long-Range Fiscal Implications**

Prepared By:	Telephone No.	Agency
Joe Polasek	266-2794	Department of Natural Resources
Authorized Signature	Telephone No.	Date (mm/dd/ccyy)
	266-2794	

## Fiscal Estimate — 2007 Session

### Page 2 Assumptions Narrative Continued

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number WT-09-08

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#### Assumptions Used in Arriving at Fiscal Estimate – Continued

##### State Fiscal Effect:

Although a rule change is required, item 1 above has already been implemented by the Department because the change has already been made in statute by Act 20. Items 2 through 8 above are expected to generate additional demand for AIS grants by an amount that cannot be specifically estimated. In addition, since Act 20 did not provide additional staff or funding for administering the AIS grant program, the costs associated with handling the additional demand for AIS grants will be absorbed with existing staff and within the existing budget.

##### Local Fiscal Effect:

The rule package makes it easier for local units of government to leverage grant funds and thus provides a greater financial incentive for local units to apply for grants.

**Fiscal Estimate Worksheet — 2007 Session**  
 Detailed Estimate of Annual Fiscal Effect

Original       Updated  
 Corrected       Supplemental

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number WT-09-08

Subject  
 Aquatic Invasive Species Control Grants

One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

Annualized Costs:		Annualized Fiscal Impact on State Funds from:	
		Increased Costs	Decreased Costs
<b>A. State Costs by Category</b>			
State Operations — Salaries and Fringes		\$	\$ -
(FTE Position Changes)		( FTE )	(- FTE )
State Operations — Other Costs			-
Local Assistance			-
Aids to Individuals or Organizations			-
<b>Total State Costs by Category</b>		\$	\$ -
<b>B. State Costs by Source of Funds</b>		Increased Costs	Decreased Costs
GPR		\$	\$ -
FED			-
PRO/PRS			-
SEG/SEG-S			-
State Revenues	Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Revenue	Decreased Revenue
GPR Taxes		\$	\$ -
GPR Earned			-
FED			-
PRO/PRS			-
SEG/SEG-S			-
<b>Total State Revenues</b>		\$	\$ -

**Net Annualized Fiscal Impact**

	<u>State</u>	<u>Local</u>
Net Change in Costs	\$ _____	\$ _____
Net Change in Revenues	\$ _____	\$ _____

Prepared By: Joe Polasek	Telephone No. 266-2794	Agency Department of Natural Resources
Authorized Signature	Telephone No. 266-2794	Date (mm/dd/ccyy)

**ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD  
REPEALING, RENUMBERING, AMENDING, REPEALING AND RECREATING,  
AND CREATING RULES**

The State of Wisconsin Natural Resources Board proposes an order to **repeal** NR 198.15(2), 198.42(1)(d) and 198.43(1)(L); to **renumber** NR 190.05(2) and (3), 190.15(3) to (5), 191.05 (4) to (9), 195.07(2) and (3), 198.12(6) to (10), 198.15(3), 198.23(3) to (8), 198.43(1)(d) to (k) and 198.44(3) to (5); to **amend** NR 190.005(1)(e)2., 190.15(2)(g), 191.05(3)(g), 191.06(1)(h)2., 195.10(1)(f)2, ch. NR 198 (title), 198.10, 198.11, 198.13(3), 198.14(1)(e), (f)2. and (2)(d), 198.15(1)(b) to (d), 198.22(1)(a), 198.23(1)(note), (2)(a) and (f), NR 198, subch. III (title), 198.30, 198.31, 198.32(intro.), (1)(intro.), (2), (5) and (6), 198.33(1)(note), (4) and (5), NR 198, subch. IV (title), 198.42(1)(a) and (c), 198.44(1)(note), (2)(g) and (h); to **repeal and recreate** NR 198.33(2)(c); and to **create** NR 190.05(2), 190.15(3), 191.05(4), 195.07(2), 198.12(6) and (7), 198.15(1)(e) and (f) and (2)(j), 198.23(3), 198.33(6), 198.43(1)(d), 198.44(3) and NR 198 subchs. V and VI relating to aquatic invasive species prevention and control grants.

**WT-09-08**

Analysis Prepared by the Department of Natural Resources

**Statutes interpreted:** s. 23.22(2)(c), 23.24, 281.68, 281.69 and 281.70 Stats.

**Statutory authority:** ss. 23.22(2)(c), 281.68, 281.69, 281.70, 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 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 20 of 2007 increased the state cost-share rate from 50% to 75% and eliminated a priority for grants awarded to units of local government. The Act also increased the annual appropriation from \$1.5 million in FY06, to 3.3 \$million in FY07 to \$4.3 million in FY08 and each fiscal year thereafter. State Statutes 281.68, 281.69 and 281.70 direct the department to promulgate rules for lake management planning, lake protection and classification and river protection grants.

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

**Plain language analysis:** The objectives of the proposed rule changes for ch. NR 198 are to:

1. Implement changes in enabling legislation that increase the maximum state cost share rate from 50% to 75% and eliminate priority for local government sponsored projects.
2. Increase the maximum amount of the state funds available for projects.
3. Allow for a cash advance for early detection and rapid response projects
4. Expand sponsorship to include universities, colleges and technical schools, hydro-electric corporations and other branches of state and federal government that manage lands or natural resources.
5. Broaden the definition of the nonprofit conservation organization.

6. Create an incentive for sponsors who are implementing water quality and habitat improvements activities in addition to controlling AIS and who use a bidding process to develop proposed project costs. These sponsors can receive the full 75% state cost-share rate for an established population control project whereas those who are just active in controlling AIS or do not bid, are only eligible for 50% reimbursement.
7. Create a new subch. V that allows the department to disburse funds to sponsors who are successfully and ecologically containing established infestations under a department approved plan to help offset the costs of permit application and required monitoring and reporting.
8. Create a new subchapter that allows the department to solicit and fund research and demonstration projects that will advance statewide knowledge and improve AIS management techniques.
9. Add priorities that encourage sponsors to integrate watershed pollution control and habitat protection and restoration efforts into their projects.
10. Change wording and language to improve clarity and understanding and other housekeeping items.

Proposed revisions to NR 198 and 190, 191 and 195 will:

11. Increase the value of donated, non-professional labor that can be used as local match from \$8 to \$12.
12. Require that application materials not part of a required form be submitted in an electronic format.

Increasing the cost share rate and maximum amount of a grant award will improve efficiency and allow the scope and scale of the projects to be commensurate with the scale at which aquatic invasive species prevention and control issues need to be approached.

Increasing the volunteer labor rate will encourage more voluntary citizen participation in projects, make projects more affordable for sponsors and allow more efficient use of local cash in projects.

Expanding sponsorship to state and federal agencies will allow better aquatic invasive species (AIS) control within state and federal properties and other critical situations in the absence of a willing sponsor. The inclusion of universities, colleges and technical schools will increase efficiency for AIS prevention through statewide support to watercraft inspection networks, public education campaigns, volunteer monitors, information management as well as research and demonstration of AIS control techniques. Redefining nonprofit corporations expands sponsorship to include groups that do not have land trust functions but do have strong interests in controlling aquatic invasive species.

The addition of incentives and new priorities will help encourage the integration of AIS control with other environmental protection activities and reward those that are managing AIS in an environmentally-sound manner.

New Subchapter V allows the department to reimburse community-based project sponsors who control and contain establish populations of AIS in an environmentally sound manner according to a department approved plan. Previously, these "maintenance" level activities did not qualify for grants. Under the revision, grant funds will help offset the costs of aquatic plant management permit application fees and the costs of monitoring and reporting compliance.

Wisconsin Administrative Codes NR 190, 191, 195 are all related grant programs that have similar general provisions, largely the same set of sponsors and managed by the same staff. For consistency, minor revisions to policies common in all these codes are proposed.

**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. The effects are believed to be positive, by providing state cost-sharing for activities that many local entities are 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, educational institutions, qualified non-profit organizations and FERC-licensed hydroelectric corporations. 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.

**Emergency rule:** The Department interprets the substantial increase in AIS grant funding as a strong message from the Legislature that concern over the welfare of our public waters is growing, along with the expectation that these additional funds be put to work as soon as possible. The timeline for permanent rule promulgation and the lack of staff to provide support to eligible sponsors may impede the Department’s ability to fully and responsibly invest the authorized spending by the end of the biennium because of the current rule’s limitations. Given that the appropriation from which these funds are spent is a biennial appropriation, meaning that any unspent funds at the end of the biennium automatically lapse back to the Water Resources Account of the Conservation Fund, an emergency rule will help to minimize or eliminate the amount of funds that are lapsed. At its March meeting, the Natural Resources Board will consider a request to enact an emergency rule to allow immediate implementation of the policies that will most aid in effective and efficient investment of these funds. This order, for consideration at its April meeting, seeks public hearings on a permanent rule that incorporates the changes proposed in the emergency order along with additional revisions.

**Agency contact:**

Carroll Schaal  
Phone: (608) 261-6423  
Email: [carroll.schaal@wisconsin.gov](mailto:carroll.schaal@wisconsin.gov).

**Written comments:** The deadline for written comments is to be determined. Comments may also be electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov>

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SECTION 1. NR 190.005(1)(e)2. is amended to read:

NR 190.005(1)(e)2. The maximum value of donated labor requirements is ~~\$8~~ \$12 per hour.

SECTION 2. NR 190.05(2) and (3) are renumbered NR 190.05(3) and (4).

SECTION 3. NR 190.05(2) is created to read:

NR 190.05(2) All required application material that is not included on a department provided form shall be submitted in an electronic format specified by the department.

SECTION 4. NR 190.15(2)(g) is amended to read:

NR 190.15(2)(g) A description of the existing and proposed availability of public access to, and public use of, the lake or lakes including a map of the project lake or stream segment identifying boat landings, public parks, platted access sites and road ends or rights of way providing public access to the water.

SECTION 5. NR 190.15(3) to (5) are numbered (4) to (6).

SECTION 6. NR 190.05(3) is created to read:

NR 190.15(3) All required application material in sub. (2) that is not included on a department provided form shall be submitted in an electronic format specified by the department.

SECTION 7. NR 191.05(3)(g) is amended to read:

NR 191.05(3)(g) A description of the existing and proposed availability of public access to, and public use of, the lake or lakes including a map of the project lake or stream segment identifying boat landings, public parks, platted access sites and road ends or rights of way providing public access to the water.

SECTION 8. NR 191.05 (4) to (9) are renumbered (5) to (10).

SECTION 9. NR 191.05(4) is created to read:

NR 191.05 (4) All required application material in sub. (3) that is not included on a department provided form shall be submitted in an electronic format specified by the department.

SECTION 10. NR 191.06(1)(h)2. is amended to read:

NR 191.06(1)(h)2. The maximum value of donated, non-professional, labor shall be ~~\$8~~ \$12 per hour. For counties conducting projects requiring compliance with USDA natural resource conservation service standards, the donated labor rate established for that county by the Farm Service Agency may be used.

SECTION 11. NR 195.07(2) and (3) are renumbered (3) and (4).

SECTION 12. NR 195.07(2) is created to read:

NR 195.07(2) All required application material that is not included on a department provided form shall be submitted in an electronic format specified by the department.

SECTION 13. NR 195.10(1)(f)2. is amended to read:

NR 195.10(1)(f) 2. The maximum value of donated, non-professional, labor shall be ~~equal to the prevailing federal minimum wage requirements~~ \$12 per hour.

SECTION 14. Chapter NR 198 (title) is amended to read:

**Chapter NR 198**  
**AQUATIC INVASIVE SPECIES PREVENTION AND CONTROL GRANTS**

SECTION 15. NR 198.10 and 198.11 are amended to read:

**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 prevention and 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~~ chapter help eligible sponsors 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., private and public colleges, universities and technical schools, qualified nonprofit conservation organizations ~~as defined in s. 23.0955 (1), Stats. ,~~ and river management organizations, as defined in s. NR 195.02(2), state and federal natural resource or land management agencies and FERC-licensed hydroelectric corporations, applying for financial assistance under s. 23.22(2)(c), Stats., for an aquatic invasive species prevention or control project for any waters of the state including lakes, rivers, streams, wetlands and the Great Lakes.

SECTION 16. NR 198.12(6) to (10) are renumbered NR 198.12(8) to (12) and subs. (8) and (9), as renumbered, are amended to read:

NR 198.12(8) "~~Pioneer infestation population,~~" means a small ~~infestation 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~~ population has been present less than 5 years, or is a re-colonization following the completion of an established ~~infestation population~~ control project under subch. IV, and is less than 5 acres in size or less than 5% of ~~lake the littoral~~ area which ever is greater.

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

SECTION 17. NR 198.12(6) and (7) are created to read:

NR 198.12(6) "Natural resource agency" means a government agency that is charged with the responsibility for the management of lakes, rivers, streams, wetlands, forests, plants, soils or agricultural lands.

(7) "Nonprofit conservation organization" means a nonprofit corporation, a charitable trust or other nonprofit association whose purposes includes the acquisition or management of property for conservation purposes including the control of aquatic invasive species and that is described in section 501 (c) (3) of the internal revenue code and is exempt from federal income tax under section 501 (a) of the internal revenue code.

SECTION 18. NR 198.13(3) is amended to read:

NR 198.13 (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~~ end of the grant period.

SECTION 19. NR 198.14(1)(intro.), (e) and (f)2. and (2)(d) are amended to read:

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

(e) Reasonable costs necessary to complete an application and comply with a permit application required to implement a project, ~~awarded a grant if the costs are incurred within up to 12 months prior to the application deadline.~~ Costs incurred up to 12 months prior to the application deadline are eligible for reimbursement.

(f)2. The maximum value of donated non-professional labor shall be ~~\$8~~ \$12 per hour.

(2)(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~~ early response project in subch. III or recommended in a department approved plan under subch. IV.

SECTION 20. NR 198.15(1)(b) to (d) are amended to read:

NR 198.15(1)(b) Prevent the spread of aquatic invasive species ~~through education and planning and monitoring to waters where they are not currently present.~~

(c) Control pioneer ~~infestations~~ populations of aquatic invasive species.

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

SECTION 21. NR 198.15(1)(e) and (f) are created to read:

NR 198.15(1)(e) Provide research and demonstration that advances the state's knowledge and understanding of aquatic invasive species control.

(f) Integrate watershed pollution control and shoreland and shallow area protection and restoration.

SECTION 22. NR 198.15(2) is repealed.

SECTION 23. NR 198.15(3) is renumbered NR 198.15(2) and pars. (c), (d), (g) and (h), as renumbered, are amended to read:

NR 198.15(2) (c) The degree to which the project protects or improves the aquatic ecosystem's diversity, function, ecological stability or recreational uses.

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

(g) The degree to which the proposed project ~~complements~~ includes or is complemented by other management efforts including watershed pollution prevention and control, shoreland and shallow area protection and restoration.

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

SECTION 24. NR 198.15(2)(j) is created to read:

NR 198.15(2)(j) The degree to which the project will advance the knowledge and understanding of the prevention and control of aquatic invasive species.

SECTION 25. NR 198.22(1)(a) is amended to read:

NR 198.22(1)(a) The dissemination of information about aquatic invasive species consistent with the department's statewide education strategy for preventing and controlling invasive species including, but not limited to, attending or conducting workshops, training or coordinating volunteer monitors and other education programs.

SECTION 26. NR 198.23(1)(note) and (2)(a) and (f) are amended to read:

NR 198.23(1) Note: Forms may be obtained free of charge from the department's website, <http://dnr.wi.gov/org/caer/cfa/Grants/Lakes/invasivespecies.html>, or at 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) 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 prevention or control of aquatic invasive species.

(f) A description of the existing and proposed availability of public access to, and public use of, the waterbody including a map of the project lake or stream segment identifying boat landings, public parks, platted access sites and road ends or rights of way providing public access to the water.

SECTION 27. NR 198.23(3) to (8) are renumbered NR 198.223(4) to (9), and subs. (6), (7) and (8), as renumbered, are amended to read:

NR 198.23(6) ~~The~~ Except as limited in sub. (7), the total state share of the cost of an education, prevention and planning project may not exceed ~~50%~~ 75% of the total project cost.

(7) The maximum amount of a grant award shall be ~~\$75,000~~ \$200,000.

(8) State share of the costs of a watercraft inspection program is limited to ~~\$2,500~~ \$4,000 annually for each public boat launch facility not to exceed ~~50%~~ 75% of the total project cost up to the maximum grant amount.

SECTION 28. NR 198.23(3) is created to read:

NR 198.23(3) All required application material in sub. (2) that is not included on a department provided form shall be submitted in an electronic format specified by the department.

SECTION 29. Chapter NR 198, subch. III (title) is amended to read:

### **Subchapter III - Early Detection and ~~Rapid~~ Response Projects**

SECTION 30. NR 198.30 and 198.31 are amended to read:

**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~~ populations 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.

SECTION 31. NR 198.32(intro.), (1)(intro.), (2), (5) and (6) are amended to read:

**NR 198.32 Eligible projects.** (intro.) Early detection and ~~rapid~~ response projects provide a means for sponsors to ~~quickly~~ effectively control recently discovered aquatic invasive species ~~infestations~~ populations 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)(intro.) The sponsor shall immediately notify the department when a pioneer ~~infestation~~ population is suspected in a waterbody. The sponsor shall collect a specimen and submit it to the department using the following procedures:

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

(5) Following authorization, the sponsor shall complete a grant application for the project and may request an advance partial payment.

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

SECTION 32. NR 198.33(1)(note) is amended to read:

NR198.33(1) Note: Forms may be obtained free of charge from the department's website, <http://dnr.wi.gov/org/caer/cfa/Grants/Lakes/invasivespecies.html>, or at 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

SECTION 33. NR 198.33(2)(c) is repealed and recreated to read:

NR 198.33(2)(c) A signed and dated resolution from the sponsor authorizing the application and identifying a representative to act on its behalf.

SECTION 34. NR 198.33(4) and (5) are amended to read:

NR 198.33(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~~ detection and response project may not exceed ~~50%~~ 75% of the total project costs up to maximum of ~~\$40,000~~ \$20,000.

SECTION 35. NR 198.33(6) is created to read:

NR 198.33(6) 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.

SECTION 36. Chapter NR 198, subch. IV (title) is amended to read:

**Subchapter IV – Established ~~Infestation~~ Population Control Projects.**

SECTION 37. NR 198.42(1)(a) and (c) are amended to read:

NR 198.42(1)(a) A department-approved project recommendation included in a management plan adopted by the sponsor for the control of aquatic invasive species and the protection and improvement of aquatic resources.

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

SECTION 38. NR 198.42(1)(d) is repealed.

SECTION 39. NR 198.43(1)(L) is repealed.

SECTION 40. NR 198.43(1)(d) to (k) are renumbered NR 148.43(1)(e) to (L) and pars. (g) and (L), as renumbered, are amended to read:

NR 198.43(1)(g) Identification of the management objectives needed to maintain or restore the beneficial uses of the aquatic ecosystem including shoreland and shallow area protection and restoration.

(L) A prevention strategy to for effectively monitoring and preventing the re-introduction of the aquatic invasive species after the initial control and to reasonably assure that new introductions of aquatic invasive species will not ~~infest~~ populate the waterbody.

SECTION 41. NR 198.43(1)(d) is created to read:

NR 198.43(1)(d) An assessment of the sources of watershed pollution and a strategy for their prevention and control.

SECTION 42. NR 198.44(1)(note) is amended to read:

NR 198.44(1) Note: Forms may be obtained free of charge from the department's website, <http://dnr.wi.gov/org/caer/cfa/Grants/Lakes/invasivespecies.html>, or at 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

SECTION 43. NR 198.44(2)(g) and (h) are amended to read:

NR 198.44(2)(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. For multiple year projects, the provisions of this section only apply to the first year of permitted activity.

(h) A description of the existing and proposed availability of public access to, and public use of, the waterbody including a map of the project lake or stream segment identifying boat landings, public parks, platted access sites and road ends/rights of way providing public access to the water.

SECTION 44. NR 198.44(3) to (5) are renumbered NR 198.44(4) to (6), and sub. (6), as renumbered, is amended to read:

NR 198.44(6) 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~~ \$200,000. The state share of the cost of the project may not exceed 75% of the total project costs up to a maximum of \$200,000 if the project is conducted under a comprehensive plan which also controls watershed pollution, restores fish and aquatic life habitat and native aquatic communities and employs other actions necessary to resist future colonization of invasive species and where the project includes herbicide treatments, the sponsor has used a competitive bidding process to contract with an herbicide applicator.

**Note:** The department suggests the following bidding procedures:

1. The sponsor provides the project specifications to all prospective bidders on the same day and at the same time.
2. There are at least 3 qualified bidders.
3. All bids are sealed and delivered by a bid deadline to a location specified by the sponsor.
4. Bids are opened within 2 weeks after the bid deadline.
5. The amount of the state share requested for the grant is based on the lowest qualified bid.
6. The sponsor selects a higher bidding contractor only if the sponsor agrees to pay the difference.
7. The sponsor may not select a contractor who did not bid.

SECTION 45. NR 198.44(3) is created to read:

NR 198.44(3) All required application material in sub. (2) that is not included on a department provided form shall be submitted in an electronic format specified by the department.

SECTION 46. Chapter NR 198, subch. V is created to read:

### **Subchapter V - Maintenance and Containment Projects**

**NR 198.50 Purpose.** Grants awarded under this subchapter are intended to provide sponsors limited financial assistance for the ongoing control of a suppressed established aquatic invasive species population. These projects are generally intended for waters where management activity has achieved a desired level of control but complete eradication is not an achievable or reasonable goal. Ongoing maintenance is needed to contain these populations so they do not re-establish throughout the waterbody, spread to other waters, and impair navigation or other beneficial uses of the waterbody.

**NR 198.51 Applicability.** This subchapter applies to all sponsors applying for a grant for a maintenance and containment project that is in compliance with an approved plan under subch. IV.

**NR 198.52 Eligible activities. (1)** Activities eligible for funding under this subchapter may include any of the following:

- (a) Application fees for aquatic plant management permits issued by the department.
- (b) Surveying, monitoring, reporting and record-keeping required by the department.
- (c) Other activities determined necessary by the department.

**NR 198.53 Applications and grant awards. (1)** Claim forms will be provided to eligible sponsors with the department approved ch. NR 107 or 109 permit. Claims may be submitted any time after the

permitted activities are completed and the necessary compliance reports are submitted to the department.

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

(a) The name of the waterbody on which the project took place and a statement by the sponsor that to the best of their knowledge the project was completed in compliance with their permit conditions and according to their department approved plan.

(b) The amount of the claim for reimbursement or the actual cost incurred if the request is greater than the standard reimbursement.

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

(d) A completed compliance check list to be signed by region staff.

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

(4) The standard state share of the cost for a maintenance and control project will be determined by the department based on the application fee and specified monitoring and reporting in the permit or the department approved plan. The maximum state share of a grant awarded under this subchapter shall not exceed the cost of the permit application fee.

SECTION 47. Chapter NR 198, subch. VI is created to read:

#### **Subchapter VI Research and Demonstration Projects.**

**NR 198.60 Research and demonstration projects.** Research and demonstration projects may be undertaken as a cooperative activity between sponsors and the department. The projects shall be designed to assess experimental and innovative techniques of aquatic invasive species prevention and control. Proposals for research projects may be submitted to the department at anytime and should include the goals and objectives of the project, a brief description of the methods, costs and a time line for completion. Alternatively, the department may solicit research proposals through a request for proposal process. The department has sole discretion to choose to support the project and will work with the sponsor to develop a study design and complete a grant application under the appropriate subchapter.

SECTION 48. EFFECTIVE DATE. The 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 49. BOARD ADOPTION. The rule was approved and adopted by the State of Wisconsin Natural Resources Board on \_\_\_\_\_.

Dated at Madison, Wisconsin \_\_\_\_\_

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By \_\_\_\_\_  
Matthew J. Frank, Secretary

(SEAL)