

SUBJECT: Amendment of Adopted Permanent Rule Revisions to Board Order WT-33-07 relating to invasive species decontamination standards

FOR: JUNE 2008 **BOARD MEETING**

TO BE PRESENTED BY: Martin Griffin, Liesa Lehman Kerler

SUMMARY:

On January 22, 2008, The Natural Resources Board (NRB) voted to adopt board order WT-33-07 pertaining to permanent rule revisions to create new exemption and general permit standards for the de-contamination of equipment prior to use and after use for controlling the spread of invasive species and viruses for any project that is exempt or receiving a general permit under various NR 300 series rules. Following the public notice and public hearing process, some members of the regulated community identified some concerns with the adopted rule. At their request, the department met with members of the regulated community and environmental groups to determine what the issues were with the rule and ideas on how to solve them. This amendment addresses the issues raised by those regulated entities. The main issue of concern was clarifying the standards so they would be implementable in the field by the equipment operators. To address these concerns we decided to require a certain level of decontamination at all times, and give additional options for other decontamination procedures under varying environmental conditions. We feel that by still requiring decontamination we are protecting the resource, but by allowing flexibility in these practices they are easily implementable in the field.

Considering the existing, new, and yet to be determined threats of invasive species and viruses, the Department proposes to revise the NR 300 series to create new exemption and general permit standards to ensure that these invaders are not moving from one waterbody to another through equipment used in projects authorized by waterway (Chapter 30) permits. These new standards would ensure that entities exercising exemptions or general permits will take the necessary precautions to prevent the spread of invasive species and viruses by de-contaminating their equipment used during construction activities in and near waterways.

RECOMMENDATION: Request amendment of adopted exemption and general permit standards for the decontamination of equipment for controlling the spread of invasive species and virus

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/	6/11/08
_____	_____
Bureau Director,	Date
/s/	6/12/08
_____	_____
Administrator,	Date
/s/	6/16/08
_____	_____
Secretary, Matt Frank	Date

- | | |
|----------------------------|--------------------------------|
| cc: Laurie J. Ross - AD/5 | Martin Griffin- WT/4 |
| Mary Elen Vollbrecht- WT/4 | |
| Russell Rasmussen WT/2 | Edwina Kavanaugh- LS/5 |
| Bruce Baker WT/4 | Jeff Bode- WT/4 |
| Liesa Lehmann WT/4 | Dave Siebert- Office of Energy |

DATE: May 26, 2008

TO: Natural Resources Board

FROM: Matthew Frank, Secretary

SUBJECT: Amendment of Adopted Permanent Rule Revisions to NR 320, NR 323, NR 328, NR 329, NR 341, NR 343, and NR 345 Wisconsin Administrative Codes related to the creating of exemption and general permit standards for the decontamination of equipment to stop the spread of invasive species and viruses

1. Why is this adopted rule being amended?

On January 22, 2008, The Natural Resources Board (NRB) voted to adopt board order WT-33-07 pertaining to permanent rule revisions to create new exemption and general permit standards for the decontamination of equipment prior to use and after use for controlling the spread of invasive species and viruses for any project that is exempt or receiving a general permit under various NR 300 series rules. Following the public notice and public hearing process, some members of the regulated community identified some concerns with the adopted rule. At their request, the department met with members of the regulated community to determine what the issues were with the rule and ideas on how to solve them. The department also met with members of conservation groups. This amendment addresses the issues raised by those regulated entities and was acceptable to the conservations groups that were contacted.

The main issue of concern was clarifying the standards so they would be implementable in the field by the equipment operators. These concerns included additional clarification on when decontamination is required, how to handle decontamination in freezing conditions, and options to use already established decontamination best management practices already employed by some companies.

To address these concerns we modified the language that was adopted in January to clarify that a base level of decontamination is required for all equipment used for the project before moving from one waterway to another. We also modified the language to add an additional level of decontamination standards by allowing a choice of 5 decontamination options, one of which is required, if any part of the equipment is used in the waterway. A provision was added that only requires this additional level of decontamination when equipment is used in non-frozen waters when the air temperature at the time of decontamination is above 19 degrees Fahrenheit.

We feel that by still requiring decontamination we are protecting the resource, but by allowing flexibility in these practices they are easily implementable in the field. We are confident that due to these changes that these standards are more likely to be followed and our goal of stopping the spread of invasive species and viruses will be obtained.

On May 28, 2008, the NRB tabled the request for adoption of this amended rule pending more clarification and information on the changes that were made from the adopted version in January, and the new proposed amended version presented to them in May. The board specifically had 2 questions that they wanted answered before making a decision: 1) Why does the amended version separate washing requirements from the drying only requirement when the previously adopted version in January had a requirement to wash AND dry; 2) What is so special about the air temperature being above 19 degrees as a threshold for requiring the additional level of decontamination?

In response to question 1, drying, commonly referred to in the literature as 'desiccation' is a common way to kill most pathogens, larvae, aquatic invertebrates, etc. Exposure to warm, dry air or direct sunlight has been found to be effective for killing aquatic plants and animals. Drying boats, motors and trailers and other equipment for five days is recommended by the Voluntary Guidelines on Recreational Activities (US Coast Guard 2001). In addition, since most larval stages of aquatic species are transported not by direct attachment on equipment, but rather on macrophytes entangled on equipment, drying coupled with inspection and removal has been found to be an effective integrated approach to invasive species control (Gunderson and Kinnunen 2004; Johnson et al. 2001). The department website on aquatic invasive species also recommends drying as an option. Table 1 outlines a short summary of selected invasive species that are known to be in Wisconsin and the desiccation time necessary to effectively kill the organism or virus.

Table 1. Drying times for selected invasive species in Wisconsin

Species (Common Name)	Desiccation Time	Study Location	Reference
Zebra Mussel (larvae)	3-5 hours	Minnesota	Gunderson et al. 2004
Zebra Mussel (juvenile)	1-3 days	St Lawrence River	Ricciardi et al. 1995
	2 days	Minnesota	Gunderson et al. 2004
Zebra Mussel (adult)	≤ 3 days	Lake Erie	McMahon et al. 1993
	3-5 days	St Lawrence River	Ricciardi et al. 1995
Quagga Mussel (adult)	3-5 days	St Lawrence River	Ricciardi et al. 1995
	4 days	-	Amy Benson, USGS, pers. comm
New Zealand Mud Snail	1-3 days	Minnesota	Gunderson et al. 2004
Eurasian Water Milfoil	2 days	Michigan	MI-DEQ
Viral Hemorrhagic Septicemia virus (VHSV)	4-6 hours	-	Sue Marcquenski, WDNR and Gary Whelan, MI-DNR, pers. comm

In response to question 2, when the air temperature is 19 degrees Fahrenheit the temperature of most metals (including steel, aluminum) is below freezing (Dr. M. Herndon, UW- Madison, pers. comm.). When the temperature of the metal is below 32 degrees Fahrenheit, any element with a thermal conductivity below that of metal will freeze to the metal. Water is known to have a thermal conductivity lower than that of metal (i.e. thermal conductivity of water = 0.60 W/mK; thermal conductivity of metals (steel, sheet metal,) = 7.0-25.0 W/mK). This means when the metal temperature is below freezing and the water touches metal the water loses its heat faster than the cold metal and freezes. The colder the metal temperature, the faster the water will freeze.

In our discussions with the regulated community it was conveyed that heavy machinery operators have actions that they are required to take when ice forms on the equipment. When ice forms it is required to be taken off at the end of the day before the equipment can be used the next day and it was iterated to us that when the air temperature is around 20 degrees Fahrenheit, operators bring the necessary tools in anticipation of ice removal.

Our goal is to stop invasive species and viruses moving from one waterway to another through the construction equipment as a vector. Since at 19 degrees Fahrenheit, chemical decontamination is no longer required (because of the hazards of ice on forming on the equipment as a result of a disinfection wash), we are just requiring the inspection, and removal of plants and animals from the equipment when temperatures are below 19 degrees Fahrenheit (when the temperature of metal is below freezing). Since there are a few viruses, larvae, spores, etc. may survive freezing conditions and become trapped in the frozen water that forms on the equipment, it makes sense to make sure the equipment is free of ice under

these conditions, before being used in a different waterway. We are interpreting the requirement of "removal of excess mud debris, etc" to include chunks of ice. And to reiterate, our discussions with the equipment operators revealed that since ice is not allowed on the equipment before use on a subsequent day, any viruses, larvae, spores trapped in the ice would not be transferred to a different waterway.

Background Information and Rationale for the Rule

Aquatic invasive species are non-native fish and other aquatic animals, aquatic plants and viruses that have been introduced into Wisconsin's public waterways and threaten the ecological integrity and economic future of our water resources. The impacts from these invaders to the ecosystem and economy are real. Invasive mussel species clog water intake pipes costing millions of dollars annually in maintenance costs. Aquatic invasive species compete with native species for food and habitat. Aquatic invasive viruses can damage crucial fauna populations, including sport fishing populations. Because there are no natural predators to keep them in check, they have a distinct advantage over native species. In many cases, their population explodes after just a few short years and they can dramatically alter the ecosystem.

Once in the system, it is almost impossible to eliminate these invaders. The best strategy is to prevent the introduction of new invasive species to Wisconsin and at the same time prevent the spread of invasive species and viruses that are already in the state.

Many aquatic invasive species are capable of survival out of water for extended periods. One way to prevent the spread of invasive species and viruses is to ensure that these invaders are not moving from one waterbody to another through equipment used in projects authorized by waterway (Chapter 30) permits. In addition, because invasive species get the best foothold in disturbed sites (Hobbs and Huenneke 1992; OTA 1993; Grime 2001; among others), it is critically important to take all possible measures to reduce the risk of introducing invaders where existing vegetation and substrates are to be disturbed by construction.

References

- Hobbs R. J. and L. F. Huenneke. 1992. Disturbance, Diversity and Invasion: Implications for Conservation. *Conservation Biology*. 6(3): 324-337
- Grime, J.P. 2001. *Plant strategies, vegetation processes, and ecosystem properties*. 2nd ed. John Wiley & Sons Ltd, Chichester.
- OTA. 1993. *Harmful Non-Indigenous Species in the United States*. Washington, DC: Office of Technology Assessment, United States Congress
- United States Coast Guard Office of Operating and Environmental Standards. 2001. *Voluntary Guidelines on Recreational Activities To Control the Spread of Zebra Mussels and Other Aquatic Nuisance Species*. < <http://www.uscg.mil/hq/g-m/mso/vrag.htm> >
- Gunderson, J.L. and R.E. Kinnunen. 2004. *AIS-HACCP: A preventative system to control the spread of invasive species*. University of Minnesota Sea Grant.
- McMahon, R.F, Ussery, T.A., and M. Clarke. 1993. *Use of Emersion as a Zebra Mussel Control Method* United States Army Corps of Engineers Contract Report EL-93-1.
- Ricciardi, A, Serrouya, R and F.G. Whoriskey. 1995. Aerial exposure tolerance of zebra and quagga mussels (Bivalvia: Dreissenidae): implications for overland dispersal. *Canadian Journal of Fisheries and Aquatic Sciences* 52: 470-477
- Johnson, L.E., Ricciardi, A and J.T. Carlton. 2001. Overland Dispersal of Aquatic Invasive Species: A Risk Assessment of Transient Recreational Boating. *Ecological Applications* 11(6): 1789-1799.

2. Summary of Rule Proposal

Considering the existing, new, and yet to be determined threats of invasive species and viruses, the Department proposes to revise chapters NR 320, NR 323, NR 328, NR 329, NR 341, NR 343, and NR 345 to create new exemption and general permit standards. These new standards would ensure that waterfront property owners, as well as, builders and developers, public utility companies, and municipalities exercising exemptions or general permits will take the necessary precautions to prevent the spread of invasive species and viruses by de-contaminating their equipment used in construction activities in the water.

There are currently no requirements in the rules setting eligibility standards for waterway projects for de-contamination of equipment to remove invasive species and viruses. By promulgating new exemption and general permit standards for equipment decontamination, we will be able to help ensure that the spread of invasive species and virus are controlled to the fullest possible extent and that the resulting economic and ecological impacts of these invasive species and viruses to the resource are avoided. The new exemption and general permit standard proposed requires any person conducting an exempt or general permit activity to:

- Inspect and remove aquatic plants, animals, and mud from equipment.
- Drain all water from equipment, including but not limited to tracked vehicles, barges, boats, silt or turbidity curtain, hoses, sheet pile and pumps
- Dispose of aquatic plants, animals in the trash. Never release or transfer aquatic plants, animals or water from one waterbody to another.

Further, the standard proposed requires an additional disinfection step (the rule outlines 5 options, only one of which is required), if the equipment, or any part of the equipment, is operated in non-frozen navigable waters when the air temperature at the time of decontamination is above 19 degrees Fahrenheit.

3. How does this proposal affect existing policy?

The proposed amendment provides procedures and standards which are necessary to administer the regulation of activities in navigable waters under Chapter 30, Stats. The rule revision makes the required practices to avoid spread of invasive species consistent across all authorizations for construction work in waterways.

4. Has the Board dealt with these issues before?

Yes, emergency rules were put into effect April 8, 2007 by order FH-22-07(E) for the control and prevention of VHS in fish, and those rules were clarified and expanded by order FH-25-07(E). In addition an emergency rule was put into effect July 12, 2007 by order WT-32-07(E) requiring decontamination of equipment for invasive species and viruses as a new exemption and general permit standard. The board also voted to adopt order WT-33-07 on January 22, 2008. This is an amendment to that adopted board order

5. Who will be impacted by the proposed rules? How?

All types of waterfront property owners along the shores of public waters, from private landowners to business, as well as, builders and developers, public utility companies, and municipalities will benefit from the additional exemption and general permit standards provided in the emergency rules as they will become part of the solution and not inadvertently part of the problem. Aquatic plant managers, municipalities, NRCS, public utility companies, and other agencies or contractors who work along

navigable waters will also benefit from the additional exemption and general permit standard. The public who use and enjoy Wisconsin's navigable waters will certainly benefit from the new standard established to protect fisheries, water quality and similar public rights in lakes and streams.

6. Information on environmental analysis, if needed.

The Bureau of Environmental Analysis and Review has determined that these rule revisions are a Type III action under s. NR 150, Wis. Adm. Code, and no environmental analysis is required. [150.03 (6) (b)]

7. Recommendation.

Department staff recommends adoption of the revised rule revision to NR 320, NR 323, NR 328, NR 329, NR 341, NR 343, NR 345 as described in the attached Natural Resource Board Order WT-33-07

**Proposed Revisions to NR 320, NR 323, NR 328, NR 329, NR 341, NR 343, and NR 345, Wisconsin
Administrative Code
Small Business Analysis**

A. Describe the compliance and/or reporting requirements imposed on small business and whether they can be made less stringent.

State statute requires that any person engaged in activities in navigable waters under NR 320, NR 323, NR 328, NR 329, NR 341, NR 343, and NR 345 either qualify for an exemption or obtain a general or individual permit. Small businesses would need to do several activities to comply: (1) make a self-determination of exemption using web-based tools provided by the department or describe their activity on an exemption determination request form; (2) complete a general permit application; (3) complete an individual permit application. Permit applications are based on the business' construction plans and site features.

B. Describe the schedules or deadlines for compliance or reporting and whether these schedules/deadlines can be made less stringent for small business.

Any person engaged in activities in navigable waters under NR 320, NR 323, NR 328, NR 329, NR 341, NR 343, and NR 345 will either qualify for an exemption or need to obtain a general or individual permit. If a business seeks an exemption determination, the request must be made 20 days before the planned start date. Applications for general permits must be made 35 days prior to planned start date. For an individual permit, a public notice and 30-day comment period is required. Interested parties may request a public informational hearing, which could extend the permit review period another 45 days. Permit applicants are generally asked to return requested information within 30 days of receiving the department's request. Once a permit is received, a permittee must notify the department in advance of starting construction, and photographs of finished projects are required for some activities. These schedules and deadlines are very basic for all applicants. A separate schedule or requirements for small businesses would likely make the system more confusing for small businesses, rather than simplifying. With less information the department may not be able to make determinations, resulting in unanticipated follow-up and potential delays.

C. Can compliance or reporting requirements for small business be consolidated or simplified?

The compliance and reporting requirements are very basic for all applicants. Separate compliance and reporting requirements for small businesses would likely make the system more confusing for small businesses, rather than simplifying. With less information the department may not be able to make determinations, resulting in unanticipated follow-up and potential delays.

D. Can performance standards be established for small businesses in lieu of design or operational standards?

Small businesses can design to meet general permit standards, or the individual permit process allows more latitude.

E. Can small businesses be exempted from any or all requirements of the rule?

Other than the exemptions provided for all projects, small businesses cannot be exempted. A small business activity in a lake or stream has the same impact as the same activity conducted by a larger business or an individual. To preserve habitat, natural scenic beauty and water quality in our state's waterways, anyone conducting a project in public waters must meet the performance standards.

F. Initial Regulatory Flexibility Analysis

1. Describe the type of small business that will be affected by the rule.

Small businesses affected by this rule will include contractors, developers, consultants, builders public utility companies, and municipalities who provide plans, design or engage in projects along public navigable waterways which may include any of the activities listed in NR 320, NR 323, NR 328, NR 329, NR 341, NR 343, and NR 345

2. Briefly explain reporting, bookkeeping and other procedures required for compliance with the rule.

The person responsible for a project in or along a lake or stream must develop plans and occasionally conduct some analyses, submit an application, and observe the site and equipment during construction. For some activities, photographs of the completed project are required.

3. Describe the type of professional skills necessary for compliance with the rule.

Map reading, basic computer use, mathematics (to determine chemical concentrations), etc. are the skills needed to comply with these rules. While it may be helpful or efficient, hiring a consulting firm is not necessary to

comply with these requirements. Many projects are planned and conducted by individuals with no professional background. If the site has particularly challenging features, then professional ecological or engineering expertise may be helpful.

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-33-07
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Subject

Permanant rules package for controlling the spread of invasive species and viruses from construction projects on navigable waters

Fiscal Effect

State: No State Fiscal Effect
 Indeterminate

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

- | | |
|--|---|
| <input type="checkbox"/> Increase Existing Appropriation | <input type="checkbox"/> Increase Existing Revenues |
| <input type="checkbox"/> Decrease Existing Appropriation | <input type="checkbox"/> Decrease Existing Revenues |
| <input type="checkbox"/> 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 _____
 School Districts WTCS Districts

Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

Affected Chapter 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

This permanent rule package establishes a new exemption and general permit standard to ensure that waterfront property owners and others take precautions to prevent the spread of invasive species or viruses. These precautions primarily involve the decontamination of equipment that is used for construction activities in or near navigable waters. The standard requires individuals who are working on a project in a navigable water to do the following:

1. Inspect and remove aquatic plants, animals and mud from equipment.
2. Drain all water from equipment, including but not limited to tracked vehicles, barges, boats, silt or turbidity curtains, hoses, sheet piling and pumps.
3. Dispose aquatic plants and animals in the trash and refrain from releasing or transferring aquatic plants, animals or water from one waterbody to another.
4. Further, the standard proposed requires an additional disinfection step (the rule outlines 4 options, only one of which is required), if the equipment, or any part of the equipment, is operated in navigable waters under non-frozen conditions.

Fiscal effect: This rule package will increase operational costs for the state, for counties and municipalities, and for utilities, to the extent that these decontamination practices are not already being implemented by these entities or by contractors acting on their behalf. The costs will vary according to the type of entity affected, the frequency with which the entity works on projects in or near navigable waters as well as the scope and size of those projects, and the decontamination method or methods that the entity chooses to implement. Given this wide degree of variability, the Department is characterizing the state and local fiscal impact as "indeterminate".

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-32-07(E)

Assumptions Used in Arriving at Fiscal Estimate – Continued

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-33-07

Subject

Emergency rules package for controlling the spread of invasive species and viruses from construction projects on navigable waters

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
A. State Costs by Category			
State Operations — Salaries and Fringes		\$	\$ -
(FTE Position Changes)		(FTE)	(- FTE)
State Operations — Other Costs			-
Local Assistance			-
Aids to Individuals or Organizations			-
Total State Costs by Category		\$	\$ -
B. State Costs by Source of Funds		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			-
Total State Revenues		\$	\$ -

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 AND RECREATING AND CREATING RULES

The Wisconsin Natural Resources Board proposes an order to repeal and recreate NR 345.04(2)(c)9. and to create NR 320.06(1)(c)15 and (d)7. and (2)(c)10., 323.04(1)(c)11. and (2)(c)5., 328.04(3)(j) and 328.05(7)(i), 329.04(1)(c)5. and (2)(c)4., 341.08(3)(i), 343.07(3)(a)4. and 345.04(1)(c)6. and (d)9. relating to general permit criteria requiring decontamination of equipment for invasive species and viruses

WT-33-07

Summary Prepared by the Department of Natural Resources

Statutory Authority: ss. 30.12(1g) and (3), 30.123(6) and (7), 30.19(1m) and (3r), 30.20(1r) and (1t) and s. 30.206, Stats.

Statutes Interpreted: ss. 30.12(1g) and (3), 30.123(6) and (7), 30.19(1m) and (3r), 30.20(1r) and (1t) and s. 30.206, Stats.

Explanation of Agency Authority:

The Department has authority under ss. 30.20 and 30.206, Stats., to promulgate rules to establish general permits.

Related statute or rule:

These rules relate directly to regulation of activities in navigable waters under ch. 30, Stats., waters designations in ch. NR 1, and the NR 300 series of rules.

Plain Language Analysis:

The purpose of this rule revision is to modify the existing rules to establish a new exemption and general permit criteria requiring decontamination of equipment for invasive species and viruses (including but not limited to VHS). This rule revision establishes an additional exemption and general permit requirement regarding decontamination of equipment used on activities in navigable waters under ch. 30, Stats. to control the spread of invasive species and viruses. The proposed rule establishes exemption and general permit standards for activities that would otherwise require an individual permit containing the same condition.

Federal Regulatory Analysis:

Any activity that results in a discharge (including deposits and structures) into "waters of the United States" is regulated by the U.S. Army Corps of Engineers (Corps) under section 404 of the Clean Water Act. An Individual Permit from the Corps is required, unless Wisconsin regulates the project in its entirety under ch. 30, Stats., in which case the project is authorized by the Corps under general permits GP-01-WI or GP-LOP-WI.

Comparison with Adjacent States:

The four adjacent states have not yet adopted regulations addressing the VHS problem, but steps have been taken elsewhere, particularly in the lower Great Lakes where the Great Lakes form of the VHS virus was first discovered. In November of 2006 the New York State Department of Environmental Conservation announced emergency regulations prohibiting the commercial collection of bait fish from waters of the state where VHS has been detected, limiting the use of bait fish to the specific water from which they were collected, and prohibiting the placement of live fish into the waters of the State (including possessing, importing, and transporting live fish for purposes of placing them into the waters of the State) unless accompanied by a fish health inspection report issued within the previous 12 months. In January the Pennsylvania Fish and Boat Commission placed a temporary ban on the transportation of live fish from Lake Erie and its tributaries to inland waters, and permanent rule changes are expected. Michigan and other jurisdictions are also considering regulations to address this issue.

Summary of Factual Data and Analytical Methodologies: Substantial published scientific literature on the effects on fish, wildlife and water quality during and after physical alterations to lakes and streams is the basis for the rule parameters. In addition, data on actual field conditions during and after such alterations from department files is applied.

Analysis and Documents Supporting Determination of Small Business Effect: Any person placing a structure or making similar physical modifications to public navigable waters either qualifies for an exemption or must obtain a general or individual permit under state statute. To comply, small businesses follow the same requirements as other waterfront property owners: (1) make a self-determination of exemption using web-based tools provided by the department or describe their activity on an exemption determination request form; (2) complete a general permit application; or (3) complete an individual permit application. Schedules, application steps and compliance/reporting requirements are very basic for all applicants, and most projects can be planned and conducted by individuals with no specific professional background.

Anticipated Private Sector Costs: This rule package may increase operational costs to the extent that these decontamination practices are not already being implemented by these entities or by contractors acting on their behalf. The costs will vary according to the type of entity affected, the frequency with which the entity works on projects in or near navigable waters as well as the scope and size of those projects, and the decontamination method or methods that the entity chooses to implement. Given this wide degree of variability, the Department is characterizing the fiscal impact on the private sector as "indeterminate".

Effect on Small Business: Public utility companies, contractors, marinas and other waterfront businesses who wish to conduct Chap 30. regulated activities will be affected by the rule. Specific standards will provide clarity and consistency in the permitting process.

Agency Contact Person: Martin Griffin, MartinP.Griffin@wisconsin.gov, (608) 266-2997

SECTION 1. NR 320.06(1)(c)15., (1)(d)7. and (2)(c)10. are created to read:

NR 320.06(1)(c)15. To stop the spread of invasive species and viruses from one navigable waterway to another navigable waterway, all equipment or portions of equipment used for constructing, operating, or maintaining the project, including tracked vehicles, barges, boats, silt or turbidity curtains, hoses, sheet piles, and pumps, shall be decontaminated for invasive species and viruses before and after use or prior to use within another navigable waterway. Decontamination activities shall be performed by taking actions specified in this subd. a. to c. or h. Decontamination shall include either d., e., f., g., or h. for any equipment, or portions of equipment, that is used in non-frozen navigable waters when the air temperature is above 19 degrees Fahrenheit at the time the decontamination procedures take place.

- a. Inspect all equipment used for constructing, operating, or maintaining the project and remove all plants and animals, and other excess mud, debris, etc.
- b. Drain all water from equipment used in navigable waters.

Note: This does not apply to water in closed engine cooling systems or water tanks, or containers of potable drinking water or other beverages meant for human consumption. If a tanker truck discharges water collected from navigable waters in upland areas, the tank does not require disinfection.

- c. Dispose of plants and animals in the trash. An operator may not transfer plants or animals or water from one navigable waterway to another.
- d. Wash equipment at a temperature of not less than 212 degrees Fahrenheit water (steam clean).

e. Wash equipment with soap and water or high pressure water of not less than 2000 pounds per square inch.

f. Allow equipment to dry thoroughly for not less than 5 days.

Note: Additional drying techniques including drying through natural or mechanical means or changes in drying duration may be submitted to the department for review and approval.

g. Disinfect equipment with 200 parts per million (0.5 ounces per gallon) chlorine for not less than 10 minute contact time. Every effort should be made to keep the disinfection solution and rinse water out of surface waters.

Note: Chlorine refers to either household bleach solution (5.25% chlorine) or granular chlorine (70% calcium hypochlorite)

h. Follow the most recent department approved disinfection protocols or best management practices for infested waters. The department shall maintain on its website and make available at its offices a list of the most recent disinfection protocols or best management practices for invasive species and viruses.

Note: See the department's website at dnr.wi.gov under the topic "Waterway and Wetlands". Recommendations for additional disinfection or decontamination protocols or best management practices may be submitted to the department for review and approval to be added to this list.

(1)(d)7. To stop the spread of invasive species and viruses from one navigable waterway to another navigable waterway, all equipment or portions of equipment used for constructing, operating, or maintaining the project, including tracked vehicles, barges, boats, silt or turbidity curtains, hoses, sheet piles, and pumps, shall be decontaminated for invasive species and viruses before and after use or prior to use within another navigable waterway. Decontamination activities shall be performed by taking actions specified in this subd. a. to c. or h. Decontamination shall include either d., e., f., g., or h. for any equipment, or portions of equipment, that is used in non-frozen navigable waters when the air temperature is above 19 degrees Fahrenheit at the time the decontamination procedures take place.

a. Inspect all equipment used for constructing, operating, or maintaining the project and remove all plants and animals, and other excess mud, debris, etc.

b. Drain all water from equipment used in navigable waters.

Note: This does not apply to water in closed engine cooling systems or water tanks, or containers of potable drinking water or other beverages meant for human consumption. If a tanker truck discharges water collected from navigable waters in upland areas, the tank does not require disinfection.

c. Dispose of plants and animals in the trash. An operator may not transfer plants or animals or water from one navigable waterway to another.

d. Wash equipment at a temperature of not less than 212 degrees Fahrenheit water (steam clean).

e. Wash equipment with soap and water or high pressure water of not less than 2000 pounds per square inch.

f. Allow equipment to dry thoroughly for not less than 5 days.

Note: Additional drying techniques including drying through natural or mechanical means or changes in drying duration may be submitted to the department for review and approval.

g. Disinfect equipment with 200 parts per million (0.5 ounces per gallon) chlorine for not less than 10 minute contact time. Every effort should be made to keep the disinfection solution and rinse water out of surface waters.

Note: Chlorine refers to either household bleach solution (5.25% chlorine) or granular chlorine (70% calcium hypochlorite)

h. Follow the most recent department approved disinfection protocols or best management practices for infested waters. The department shall maintain on its website and make available at its offices a list of the most recent disinfection protocols or best management practices for invasive species and viruses.

Note: See the department's website at dnr.wi.gov under the topic "Waterway and Wetlands". Recommendations for additional disinfection or decontamination protocols or best management practices may be submitted to the department for review and approval to be added to this list.

(2)(c)10. To stop the spread of invasive species and viruses from one navigable waterway to another navigable waterway, all equipment or portions of equipment used for constructing, operating, or maintaining the project, including tracked vehicles, barges, boats, silt or turbidity curtains, hoses, sheet piles, and pumps, shall be decontaminated for invasive species and viruses before and after use or prior to use within another navigable waterway. Decontamination activities shall be performed by taking actions specified in this subd. a. to c. or h. Decontamination shall include either d., e., f., g., or h. for any equipment, or portions of equipment, that is used in non-frozen navigable waters when the air temperature is above 19 degrees Fahrenheit at the time the decontamination procedures take place.

a. Inspect all equipment used for constructing, operating, or maintaining the project and remove all plants and animals, and other excess mud, debris, etc.

b. Drain all water from equipment used in navigable waters.

Note: This does not apply to water in closed engine cooling systems or water tanks, or containers of potable drinking water or other beverages meant for human consumption. If a tanker truck discharges water collected from navigable waters in upland areas, the tank does not require disinfection.

c. Dispose of plants and animals in the trash. An operator may not transfer plants or animals or water from one navigable waterway to another.

d. Wash equipment at a temperature of not less than 212 degrees Fahrenheit water (steam clean).

e. Wash equipment with soap and water or high pressure water of not less than 2000 pounds per square inch.

f. Allow equipment to dry thoroughly for not less than 5 days.

Note: Additional drying techniques including drying through natural or mechanical means or changes in drying duration may be submitted to the department for review and approval.

g. Disinfect equipment with 200 parts per million (0.5 ounces per gallon) chlorine for not less than 10 minute contact time. Every effort should be made to keep the disinfection solution and rinse water out of surface waters.

Note: Chlorine refers to either household bleach solution (5.25% chlorine) or granular chlorine (70% calcium hypochlorite)

h. Follow the most recent department approved disinfection protocols or best management practices for infested waters. The department shall maintain on its website and make available at its offices a list of the most recent disinfection protocols or best management practices for invasive species and viruses.

Note: See the department's website at dnr.wi.gov under the topic "Waterway and Wetlands". Recommendations for additional disinfection or decontamination protocols or best management practices may be submitted to the department for review and approval to be added to this list.

SECTION 2. NR 323.04 (1)(c)11. and (2)(c)5. are created to read

NR 323.04(1)(c)11. To stop the spread of invasive species and viruses from one navigable waterway to another navigable waterway, all equipment or portions of equipment used for constructing, operating, or maintaining the project, including tracked vehicles, barges, boats, silt or turbidity curtains, hoses, sheet piles, and pumps, shall be decontaminated for invasive species and viruses before and after use or prior to use within another navigable waterway. Decontamination activities shall be performed by taking actions specified in this subd. a. to c. or h. Decontamination shall include either d., e., f., g., or h. for any equipment, or portions of equipment, that is used in non-frozen navigable waters when the air temperature is above 19 degrees Fahrenheit at the time the decontamination procedures take place.

a. Inspect all equipment used for constructing, operating, or maintaining the project and remove all plants and animals, and other excess mud, debris, etc.

b. Drain all water from equipment used in navigable waters.

Note: This does not apply to water in closed engine cooling systems or water tanks, or containers of potable drinking water or other beverages meant for human consumption. If a tanker truck discharges water collected from navigable waters in upland areas, the tank does not require disinfection.

c. Dispose of plants and animals in the trash. An operator may not transfer plants or animals or water from one navigable waterway to another.

d. Wash equipment at a temperature of not less than 212 degrees Fahrenheit water (steam clean).

e. Wash equipment with soap and water or high pressure water of not less than 2000 pounds per square inch.

f. Allow equipment to dry thoroughly for not less than 5 days.

Note: Additional drying techniques including drying through natural or mechanical means or changes in drying duration may be submitted to the department for review and approval.

g. Disinfect equipment with 200 parts per million (0.5 ounces per gallon) chlorine for not less than 10 minute contact time. Every effort should be made to keep the disinfection solution and rinse water out of surface waters.

Note: Chlorine refers to either household bleach solution (5.25% chlorine) or granular chlorine (70% calcium hypochlorite)

h. Follow the most recent department approved disinfection protocols or best management practices for infested waters. The department shall maintain on its website and make available at its

offices a list of the most recent disinfection protocols or best management practices for invasive species and viruses.

Note: See the department's website at dnr.wi.gov under the topic "Waterway and Wetlands". Recommendations for additional disinfection or decontamination protocols or best management practices may be submitted to the department for review and approval to be added to this list.

(2)(c)5. To stop the spread of invasive species and viruses from one navigable waterway to another navigable waterway, all equipment or portions of equipment used for constructing, operating, or maintaining the project, including tracked vehicles, barges, boats, silt or turbidity curtains, hoses, sheet piles, and pumps, shall be decontaminated for invasive species and viruses before and after use or prior to use within another navigable waterway. Decontamination activities shall be performed by taking actions specified in this subd. a. to c. or h. Decontamination shall include either d., e., f., g., or h. for any equipment, or portions of equipment, that is used in non-frozen navigable waters when the air temperature is above 19 degrees Fahrenheit at the time the decontamination procedures take place.

a. Inspect all equipment used for constructing, operating, or maintaining the project and remove all plants and animals, and other excess mud, debris, etc.

b. Drain all water from equipment used in navigable waters.

Note: This does not apply to water in closed engine cooling systems or water tanks, or containers of potable drinking water or other beverages meant for human consumption. If a tanker truck discharges water collected from navigable waters in upland areas, the tank does not require disinfection.

c. Dispose of plants and animals in the trash. An operator may not transfer plants or animals or water from one navigable waterway to another.

d. Wash equipment at a temperature of not less than 212 degrees Fahrenheit water (steam clean).

e. Wash equipment with soap and water or high pressure water of not less than 2000 pounds per square inch.

f. Allow equipment to dry thoroughly for not less than 5 days.

Note: Additional drying techniques including drying through natural or mechanical means or changes in drying duration may be submitted to the department for review and approval.

g. Disinfect equipment with 200 parts per million (0.5 ounces per gallon) chlorine for not less than 10 minute contact time. Every effort should be made to keep the disinfection solution and rinse water out of surface waters.

Note: Chlorine refers to either household bleach solution (5.25% chlorine) or granular chlorine (70% calcium hypochlorite)

h. Follow the most recent department approved disinfection protocols or best management practices for infested waters. The department shall maintain on its website and make available at its offices a list of the most recent disinfection protocols or best management practices for invasive species and viruses.

Note: See the department's website at dnr.wi.gov under the topic "Waterway and Wetlands". Recommendations for additional disinfection or decontamination protocols or best management practices may be submitted to the department for review and approval to be added to this list.

SECTION 3. NR 328.04 (3)(j) is created to read:

NR 328.04 (3)(j) To stop the spread of invasive species and viruses from one navigable waterway to another navigable waterway, all equipment or portions of equipment used for constructing, operating, or maintaining the project, including tracked vehicles, barges, boats, silt or turbidity curtains, hoses, sheet piles, and pumps, shall be decontaminated for invasive species and viruses before and after use or prior to use within another navigable waterway. Decontamination activities shall be performed by taking actions specified in this subd. a. to c. or h. Decontamination shall include either d., e., f., g., or h. for any equipment, or portions of equipment, that is used in non-frozen navigable waters when the air temperature is above 19 degrees Fahrenheit at the time the decontamination procedures take place.

a. Inspect all equipment used for constructing, operating, or maintaining the project and remove all plants and animals, and other excess mud, debris, etc.

b. Drain all water from equipment used in navigable waters.

Note: This does not apply to water in closed engine cooling systems or water tanks, or containers of potable drinking water or other beverages meant for human consumption. If a tanker truck discharges water collected from navigable waters in upland areas, the tank does not require disinfection.

c. Dispose of plants and animals in the trash. An operator may not transfer plants or animals or water from one navigable waterway to another.

d. Wash equipment at a temperature of not less than 212 degrees Fahrenheit water (steam clean).

e. Wash equipment with soap and water or high pressure water of not less than 2000 pounds per square inch.

f. Allow equipment to dry thoroughly for not less than 5 days.

Note: Additional drying techniques including drying through natural or mechanical means or changes in drying duration may be submitted to the department for review and approval.

g. Disinfect equipment with 200 parts per million (0.5 ounces per gallon) chlorine for not less than 10 minute contact time. Every effort should be made to keep the disinfection solution and rinse water out of surface waters.

Note: Chlorine refers to either household bleach solution (5.25% chlorine) or granular chlorine (70% calcium hypochlorite)

h. Follow the most recent department approved disinfection protocols or best management practices for infested waters. The department shall maintain on its website and make available at its offices a list of the most recent disinfection protocols or best management practices for invasive species and viruses.

Note: See the department's website at dnr.wi.gov under the topic "Waterway and Wetlands". Recommendations for additional disinfection or decontamination protocols or best management practices may be submitted to the department for review and approval to be added to this list.

SECTION 4. NR 328.05 (7)(i) is created to read:

NR 328.05 (7)(i) To stop the spread of invasive species and viruses from one navigable waterway to another navigable waterway, all equipment or portions of equipment used for constructing, operating, or maintaining the project, including tracked vehicles, barges, boats, silt or turbidity curtains, hoses, sheet piles, and pumps, shall be decontaminated for invasive species and viruses before and after

use or prior to use within another navigable waterway. Decontamination activities shall be performed by taking actions specified in this subd. a. to c. or h. Decontamination shall include either d., e., f., g., or h. for any equipment, or portions of equipment, that is used in non-frozen navigable waters when the air temperature is above 19 degrees Fahrenheit at the time the decontamination procedures take place.

a. Inspect all equipment used for constructing, operating, or maintaining the project and remove all plants and animals, and other excess mud, debris, etc.

b. Drain all water from equipment used in navigable waters.

Note: This does not apply to water in closed engine cooling systems or water tanks, or containers of potable drinking water or other beverages meant for human consumption. If a tanker truck discharges water collected from navigable waters in upland areas, the tank does not require disinfection.

c. Dispose of plants and animals in the trash. An operator may not transfer plants or animals or water from one navigable waterway to another.

d. Wash equipment at a temperature of not less than 212 degrees Fahrenheit water (steam clean).

e. Wash equipment with soap and water or high pressure water of not less than 2000 pounds per square inch.

f. Allow equipment to dry thoroughly for not less than 5 days.

Note: Additional drying techniques including drying through natural or mechanical means or changes in drying duration may be submitted to the department for review and approval.

g. Disinfect equipment with 200 parts per million (0.5 ounces per gallon) chlorine for not less than 10 minute contact time. Every effort should be made to keep the disinfection solution and rinse water out of surface waters.

Note: Chlorine refers to either household bleach solution (5.25% chlorine) or granular chlorine (70% calcium hypochlorite)

h. Follow the most recent department approved disinfection protocols or best management practices for infested waters. The department shall maintain on its website and make available at its offices a list of the most recent disinfection protocols or best management practices for invasive species and viruses.

Note: See the department's website at dnr.wi.gov under the topic "Waterway and Wetlands". Recommendations for additional disinfection or decontamination protocols or best management practices may be submitted to the department for review and approval to be added to this list.

SECTION 5. NR 329.04(1)(c)5., and (2)(c)4. are created to read:

NR 329.04(1)(c)5. To stop the spread of invasive species and viruses from one navigable waterway to another navigable waterway, all equipment or portions of equipment used for constructing, operating, or maintaining the project, including tracked vehicles, barges, boats, silt or turbidity curtains, hoses, sheet piles, and pumps, shall be decontaminated for invasive species and viruses before and after use or prior to use within another navigable waterway. Decontamination activities shall be performed by taking actions specified in this subd. a. to c. or h. Decontamination shall include either d., e., f., g., or h. for any equipment, or portions of equipment, that is used in non-frozen navigable waters when the air temperature is above 19 degrees Fahrenheit at the time the decontamination procedures take place.

a. Inspect all equipment used for constructing, operating, or maintaining the project and remove all plants and animals, and other excess mud, debris, etc.

b. Drain all water from equipment used in navigable waters.

Note: This does not apply to water in closed engine cooling systems or water tanks, or containers of potable drinking water or other beverages meant for human consumption. If a tanker truck discharges water collected from navigable waters in upland areas, the tank does not require disinfection.

c. Dispose of plants and animals in the trash. An operator may not transfer plants or animals or water from one navigable waterway to another.

d. Wash equipment at a temperature of not less than 212 degrees Fahrenheit water (steam clean).

e. Wash equipment with soap and water or high pressure water of not less than 2000 pounds per square inch.

f. Allow equipment to dry thoroughly for not less than 5 days.

Note: Additional drying techniques including drying through natural or mechanical means or changes in drying duration may be submitted to the department for review and approval.

g. Disinfect equipment with 200 parts per million (0.5 ounces per gallon) chlorine for not less than 10 minute contact time. Every effort should be made to keep the disinfection solution and rinse water out of surface waters.

Note: Chlorine refers to either household bleach solution (5.25% chlorine) or granular chlorine (70% calcium hypochlorite)

h. Follow the most recent department approved disinfection protocols or best management practices for infested waters. The department shall maintain on its website and make available at its offices a list of the most recent disinfection protocols or best management practices for invasive species and viruses.

Note: See the department's website at dnr.wi.gov under the topic "Waterway and Wetlands". Recommendations for additional disinfection or decontamination protocols or best management practices may be submitted to the department for review and approval to be added to this list.

(2)(c)4. To stop the spread of invasive species and viruses from one navigable waterway to another navigable waterway, all equipment or portions of equipment used for constructing, operating, or maintaining the project, including tracked vehicles, barges, boats, silt or turbidity curtains, hoses, sheet piles, and pumps, shall be decontaminated for invasive species and viruses before and after use or prior to use within another navigable waterway. Decontamination activities shall be performed by taking actions specified in this subd. a. to c. or h. Decontamination shall include either d., e., f., g., or h. for any equipment, or portions of equipment, that is used in non-frozen navigable waters when the air temperature is above 19 degrees Fahrenheit at the time the decontamination procedures take place.

a. Inspect all equipment used for constructing, operating, or maintaining the project and remove all plants and animals, and other excess mud, debris, etc.

b. Drain all water from equipment used in navigable waters.

Note: This does not apply to water in closed engine cooling systems or water tanks, or containers of potable drinking water or other beverages meant for human consumption. If a tanker truck discharges water collected from navigable waters in upland areas, the tank does not require disinfection.

- c. Dispose of plants and animals in the trash. An operator may not transfer plants or animals or water from one navigable waterway to another.
- d. Wash equipment at a temperature of not less than 212 degrees Fahrenheit water (steam clean).
- e. Wash equipment with soap and water or high pressure water of not less than 2000 pounds per square inch.
- f. Allow equipment to dry thoroughly for not less than 5 days.

Note: Additional drying techniques including drying through natural or mechanical means or changes in drying duration may be submitted to the department for review and approval.

g. Disinfect equipment with 200 parts per million (0.5 ounces per gallon) chlorine for not less than 10 minute contact time. Every effort should be made to keep the disinfection solution and rinse water out of surface waters.

Note: Chlorine refers to either household bleach solution (5.25% chlorine) or granular chlorine (70% calcium hypochlorite)

h. Follow the most recent department approved disinfection protocols or best management practices for infested waters. The department shall maintain on its website and make available at its offices a list of the most recent disinfection protocols or best management practices for invasive species and viruses.

Note: See the department's website at dnr.wi.gov under the topic "Waterway and Wetlands". Recommendations for additional disinfection or decontamination protocols or best management practices may be submitted to the department for review and approval to be added to this list.

SECTION 6. NR 341.08(3)(i) is created to read:

NR 341.08(3)(i) To stop the spread of invasive species and viruses from one navigable waterway to another navigable waterway, all equipment or portions of equipment used for constructing, operating, or maintaining the project, including tracked vehicles, barges, boats, silt or turbidity curtains, hoses, sheet piles, and pumps, shall be decontaminated for invasive species and viruses before and after use or prior to use within another navigable waterway. Decontamination activities shall be performed by taking actions specified in this subd. a. to c. or h. Decontamination shall include either d., e., f., g., or h. for any equipment, or portions of equipment, that is used in non-frozen navigable waters when the air temperature is above 19 degrees Fahrenheit at the time the decontamination procedures take place.

- a. Inspect all equipment used for constructing, operating, or maintaining the project and remove all plants and animals, and other excess mud, debris, etc.
- b. Drain all water from equipment used in navigable waters.

Note: This does not apply to water in closed engine cooling systems or water tanks, or containers of potable drinking water or other beverages meant for human consumption. If a tanker truck discharges water collected from navigable waters in upland areas, the tank does not require disinfection.

c. Dispose of plants and animals in the trash. An operator may not transfer plants or animals or water from one navigable waterway to another.

d. Wash equipment at a temperature of not less than 212 degrees Fahrenheit water (steam clean).

e. Wash equipment with soap and water or high pressure water of not less than 2000 pounds per square inch.

f. Allow equipment to dry thoroughly for not less than 5 days.

Note: Additional drying techniques including drying through natural or mechanical means or changes in drying duration may be submitted to the department for review and approval.

g. Disinfect equipment with 200 parts per million (0.5 ounces per gallon) chlorine for not less than 10 minute contact time. Every effort should be made to keep the disinfection solution and rinse water out of surface waters.

Note: Chlorine refers to either household bleach solution (5.25% chlorine) or granular chlorine (70% calcium hypochlorite)

h. Follow the most recent department approved disinfection protocols or best management practices for infested waters. The department shall maintain on its website and make available at its offices a list of the most recent disinfection protocols or best management practices for invasive species and viruses.

Note: See the department's website at dnr.wi.gov under the topic "Waterway and Wetlands". Recommendations for additional disinfection or decontamination protocols or best management practices may be submitted to the department for review and approval to be added to this list.

SECTION 7. NR 343.07(3)(a)4. is created to read:

NR 343.07(3)(a)4. To stop the spread of invasive species and viruses from one navigable waterway to another navigable waterway, all equipment or portions of equipment used for constructing, operating, or maintaining the project, including tracked vehicles, barges, boats, silt or turbidity curtains, hoses, sheet piles, and pumps, shall be decontaminated for invasive species and viruses before and after use or prior to use within another navigable waterway. Decontamination activities shall be performed by taking actions specified in this subd. a. to c. or h. Decontamination shall include either d., e., f., g., or h. for any equipment, or portions of equipment, that is used in non-frozen navigable waters when the air temperature is above 19 degrees Fahrenheit at the time the decontamination procedures take place.

a. Inspect all equipment used for constructing, operating, or maintaining the project and remove all plants and animals, and other excess mud, debris, etc.

b. Drain all water from equipment used in navigable waters.

Note: This does not apply to water in closed engine cooling systems or water tanks, or containers of potable drinking water or other beverages meant for human consumption. If a tanker truck discharges water collected from navigable waters in upland areas, the tank does not require disinfection.

c. Dispose of plants and animals in the trash. An operator may not transfer plants or animals or water from one navigable waterway to another.

d. Wash equipment at a temperature of not less than 212 degrees Fahrenheit water (steam clean).

e. Wash equipment with soap and water or high pressure water of not less than 2000 pounds per square inch.

f. Allow equipment to dry thoroughly for not less than 5 days.

Note: Additional drying techniques including drying through natural or mechanical means or changes in drying duration may be submitted to the department for review and approval.

g. Disinfect equipment with 200 parts per million (0.5 ounces per gallon) chlorine for not less than 10 minute contact time. Every effort should be made to keep the disinfection solution and rinse water out of surface waters.

Note: Chlorine refers to either household bleach solution (5.25% chlorine) or granular chlorine (70% calcium hypochlorite)

h. Follow the most recent department approved disinfection protocols or best management practices for infested waters. The department shall maintain on its website and make available at its offices a list of the most recent disinfection protocols or best management practices for invasive species and viruses.

Note: See the department's website at dnr.wi.gov under the topic "Waterway and Wetlands". Recommendations for additional disinfection or decontamination protocols or best management practices may be submitted to the department for review and approval to be added to this list.

SECTION 8. NR 345.04(1)(c)6., and (1)(d)9. are created to read:

NR 345.04(1)(c)6. To stop the spread of invasive species and viruses from one navigable waterway to another navigable waterway, all equipment or portions of equipment used for constructing, operating, or maintaining the project, including tracked vehicles, barges, boats, silt or turbidity curtains, hoses, sheet piles, and pumps, shall be decontaminated for invasive species and viruses before and after use or prior to use within another navigable waterway. Decontamination activities shall be performed by taking actions specified in this subd. a. to c. or h. Decontamination shall include either d., e., f., g., or h. for any equipment, or portions of equipment, that is used in non-frozen navigable waters when the air temperature is above 19 degrees Fahrenheit at the time the decontamination procedures take place.

a. Inspect all equipment used for constructing, operating, or maintaining the project and remove all plants and animals, and other excess mud, debris, etc.

b. Drain all water from equipment used in navigable waters.

Note: This does not apply to water in closed engine cooling systems or water tanks, or containers of potable drinking water or other beverages meant for human consumption. If a tanker truck discharges water collected from navigable waters in upland areas, the tank does not require disinfection.

c. Dispose of plants and animals in the trash. An operator may not transfer plants or animals or water from one navigable waterway to another.

d. Wash equipment at a temperature of not less than 212 degrees Fahrenheit water (steam clean).

e. Wash equipment with soap and water or high pressure water of not less than 2000 pounds per square inch.

f. Allow equipment to dry thoroughly for not less than 5 days.

Note: Additional drying techniques including drying through natural or mechanical means or changes in drying duration may be submitted to the department for review and approval.

g. Disinfect equipment with 200 parts per million (0.5 ounces per gallon) chlorine for not less than 10 minute contact time. Every effort should be made to keep the disinfection solution and rinse water out of surface waters.

Note: Chlorine refers to either household bleach solution (5.25% chlorine) or granular chlorine (70% calcium hypochlorite)

h. Follow the most recent department approved disinfection protocols or best management practices for infested waters. The department shall maintain on its website and make available at its offices a list of the most recent disinfection protocols or best management practices for invasive species and viruses.

Note: See the department's website at dnr.wi.gov under the topic "Waterway and Wetlands". Recommendations for additional disinfection or decontamination protocols or best management practices may be submitted to the department for review and approval to be added to this list.

(1)(d)9. To stop the spread of invasive species and viruses from one navigable waterway to another navigable waterway, all equipment or portions of equipment used for constructing, operating, or maintaining the project, including tracked vehicles, barges, boats, silt or turbidity curtains, hoses, sheet piles, and pumps, shall be decontaminated for invasive species and viruses before and after use or prior to use within another navigable waterway. Decontamination activities shall be performed by taking actions specified in this subd. a. to c. or h. Decontamination shall include either d., e., f., g., or h. for any equipment, or portions of equipment, that is used in non-frozen navigable waters when the air temperature is above 19 degrees Fahrenheit at the time the decontamination procedures take place.

a. Inspect all equipment used for constructing, operating, or maintaining the project and remove all plants and animals, and other excess mud, debris, etc.

b. Drain all water from equipment used in navigable waters.

Note: This does not apply to water in closed engine cooling systems or water tanks, or containers of potable drinking water or other beverages meant for human consumption. If a tanker truck discharges water collected from navigable waters in upland areas, the tank does not require disinfection.

c. Dispose of plants and animals in the trash. An operator may not transfer plants or animals or water from one navigable waterway to another.

d. Wash equipment at a temperature of not less than 212 degrees Fahrenheit water (steam clean).

e. Wash equipment with soap and water or high pressure water of not less than 2000 pounds per square inch.

f. Allow equipment to dry thoroughly for not less than 5 days.

Note: Additional drying techniques including drying through natural or mechanical means or changes in drying duration may be submitted to the department for review and approval.

g. Disinfect equipment with 200 parts per million (0.5 ounces per gallon) chlorine for not less than 10 minute contact time. Every effort should be made to keep the disinfection solution and rinse water out of surface waters.

Note: Chlorine refers to either household bleach solution (5.25% chlorine) or granular chlorine (70% calcium hypochlorite)

h. Follow the most recent department approved disinfection protocols or best management practices for infested waters. The department shall maintain on its website and make available at its offices a list of the most recent disinfection protocols or best management practices for invasive species and viruses.

Note: See the department's website at dnr.wi.gov under the topic "Waterway and Wetlands". Recommendations for additional disinfection or decontamination protocols or best management practices may be submitted to the department for review and approval to be added to this list.

SECTION 9. NR 345.04(2)(c)9. is repealed and recreated to read:

NR 345.04(2)(c)9. To stop the spread of invasive species and viruses from one navigable waterway to another navigable waterway, all equipment or portions of equipment used for constructing, operating, or maintaining the project, including tracked vehicles, barges, boats, silt or turbidity curtains, hoses, sheet piles, and pumps, shall be decontaminated for invasive species and viruses before and after use or prior to use within another navigable waterway. Decontamination activities shall be performed by taking actions specified in this subd. a. to c. or h. Decontamination shall include either d., e., f., g., or h. for any equipment, or portions of equipment, that is used in non-frozen navigable waters when the air temperature is above 19 degrees Fahrenheit at the time the decontamination procedures take place.

a. Inspect all equipment used for constructing, operating, or maintaining the project and remove all plants and animals, and other excess mud, debris, etc.

b. Drain all water from equipment used in navigable waters.

Note: This does not apply to water in closed engine cooling systems or water tanks, or containers of potable drinking water or other beverages meant for human consumption. If a tanker truck discharges water collected from navigable waters in upland areas, the tank does not require disinfection.

c. Dispose of plants and animals in the trash. An operator may not transfer plants or animals or water from one navigable waterway to another.

d. Wash equipment at a temperature of not less than 212 degrees Fahrenheit water (steam clean).

e. Wash equipment with soap and water or high pressure water of not less than 2000 pounds per square inch.

f. Allow equipment to dry thoroughly for not less than 5 days.

Note: Additional drying techniques including drying through natural or mechanical means or changes in drying duration may be submitted to the department for review and approval.

g. Disinfect equipment with 200 parts per million (0.5 ounces per gallon) chlorine for not less than 10 minute contact time. Every effort should be made to keep the disinfection solution and rinse water out of surface waters.

Note: Chlorine refers to either household bleach solution (5.25% chlorine) or granular chlorine (70% calcium hypochlorite)

h. Follow the most recent department approved disinfection protocols or best management practices for infested waters. The department shall maintain on its website and make available at its offices a list of the most recent disinfection protocols or best management practices for invasive species and viruses.

Note: See the department's website at dnr.wi.gov under the topic "Waterway and Wetlands".
Recommendations for additional disinfection or decontamination protocols or best management practices may be submitted to the department for review and approval to be added to this list.

SECTION 10. EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats..

SECTION 11. BOARD ADOPTION. This 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

(SEAL)

By _____
Mathew J. Frank, Secretary