

MAKING A LIST

Prevention Strategies for Invasive Plants
in the Great Lakes States

April 2004



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Environmental Law Institute®

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MAKING A LIST: PREVENTION STRATEGIES FOR INVASIVE PLANTS IN THE GREAT LAKES STATES

EXECUTIVE SUMMARY

Prevention is the first line of defense against the introduction and spread of invasive species. Most states have the authority to establish and maintain lists of plant species that are considered a threat to the state's economy, public health, environment or agriculture. The lists then trigger a variety of regulatory requirements. This report surveys plant listing programs in the Great Lakes states—Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin—to assess the effectiveness of listing as a tool to prevent the proliferation and spread of invasive plant species. The lessons learned from this comparative study can assist state efforts to establish or improve invasive species programs, both within and beyond the Great Lakes region. The study revealed that lists in the Great Lakes states are often outdated and inconsistently enforced. Nevertheless, several states show that listing can be effective as a prevention mechanism. Effective programs delegate listing authority to a state agency under laws or regulations that define invasive species broadly enough to encompass species that threaten the environment. Successful listing programs also trigger substantive requirements that can be enforced by multiple levels of government. State regulators that contributed to this study identified the development of a systematic, science-based assessment process as a primary need for the future.

INTRODUCTION

The mounting economic and ecological harm caused by non-native invasive species (invasives) has led to a growing awareness of their impact. Although several fragmented federal laws and programs exist, the federal government has, as yet, failed to offer a comprehensive solution to the problem. This gap has prompted many states to adopt state programs on their own. State programs are varied. Authority is usually dispersed within and among multiple state agencies. Some states have created new programs specifically targeting invasive species that impair the natural environment. Others have relied on older laws designed to protect natural resource-based industries, particularly agriculture. Despite the diversity of state approaches, experience has proven that the most effective and cost-efficient measures are often those taken to pre-

vent the initial introduction and establishment of invasive species.

Prevention measures can take many forms. Some states have proactive programs that attempt to identify potential future invaders. Others have developed legal authorities allowing early detection and rapid response to new invasions. Strong public outreach and education campaigns are also important parts of an effective prevention strategy. This report focuses on one of the legal approaches to prevention available to states—the authority to maintain lists of invasive plant species that are considered a threat to the state's economy, public health, agriculture or environment.

The act of listing generally triggers state laws and regulations requiring the control or restricting the sale and movement of listed species. Listing is one of the most common prevention approaches. It does, however, have several limitations. Once a species is placed on a list, the effectiveness of the list is dependent on the presence of strong regulatory requirements and enforcement authorities, which vary widely between states. Staff and funding shortfalls affect states' abilities to implement the authorities they have. Inconsistent listing decisions in neighboring states also undercut the effectiveness of listing, as species often move freely across state borders.

This study was designed to demonstrate the characteristics of effective state listing programs. Listing authorities in the Great Lakes states of Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin have been collected and surveyed. Regulators from each state have contributed observations regarding their state's programs and their opinions on the effectiveness of listing in general. The report describes and compares the states' listing programs and discusses their approaches to program implementation and enforcement. The scope of this study was limited to plant listing programs, although some states also use lists to regulate invasive animal species. Additional information has been included in the Appendices, including a composite list of all plant species listed by Great Lakes states and a comprehensive summary of the listing authorities in each state. These resources allow for an "at-a-glance" comparison of the regulatory requirements applicable to invasive plants across the Great Lakes region.

Because listing is only one of many prevention tools available to states, this report does not attempt to evaluate

a state's overall level of commitment to stopping invasive species. Rather, the comparison of state listing programs is intended to reveal their strengths and weaknesses and suggest ways they can be improved. This study can be used along with ELI's report *Halting the Invasion: State Tools for Invasive Species Management* to help coordinate and improve overall efforts to prevent and control the establishment of invasive species within state borders and throughout entire regions.

A VARIETY OF STATE APPROACHES

Each Great Lakes state has at least one program that uses a listing approach to regulate undesirable plants:

- **State “noxious weed” laws.** These laws, typically adopted decades ago to control difficult agricultural weeds, are the basis of the majority of state programs. Generally administered by the state agriculture department, these laws are enforced at the local or county level and usually require the destruction or control of listed weeds on both public and private property within each respective local jurisdiction. Although noxious weed authorities exist in every Great Lakes state, implementation and enforcement at the local level has been inconsistent and, in many cases, ineffective.
- **Exotic species laws.** In addition to traditional noxious weed programs, Illinois, Minnesota, and Wisconsin have listing programs that specifically target invasive or exotic species. These programs differ from noxious weed programs in that they are typically administered by the state's department of natural resources, rather than the department of agriculture, and focus on aquatic weeds or species that pose a threat to natural areas rather than agricultural weeds. Illinois' Exotic Weed Act regulates 10 species of plants “not native to North America” that threaten natural communities such as fish and wildlife habitat or endangered species.¹ Minnesota's Harmful Exotic Species program establishes a four-tiered classification system for non-native animal and aquatic plant species.² Terrestrial plant species are not covered. Wisconsin prohibits the introduction of all nonnative aquatic plants into waters of the state and bans the sale or distribution of three listed invasive aquatic plant species.³
- **Other legal authority.** Other state authorities can help prevent the establishment of invasive plant species. State seed laws impose restrictions on the commercial sale of “prohibited” and “restricted” noxious weed seeds in each Great Lakes jurisdiction. Some states also restrict the sale, planting, or movement of individual species of invasive or “detrimental” plants such as purple loosestrife or multiflora rose. Others use their plant pest authorities to take action on a case-by-case basis against invasive species

TABLE 1 – PLANT LISTING PROGRAMS IN THE GREAT LAKES REGION

	Noxious weed list	Exotic weed list	Invasive aquatic plant list	Noxious weed seed list	Individual exotic plant species
Illinois	X	X		X	
Indiana	X			X	X
Michigan	X			X	X
Minnesota	X		X	X	
Ohio	X			X	X
Wisconsin	X		X	X	X

¹ 525 ILCS 10/.

² See Minn. Stat. Chapter 84D (Harmful Exotic Species).

³ Wis. Stat. § 23.24.

that threaten beneficial plants or “harbor” other injurious pests or disease.

STATE NOXIOUS WEED PROGRAMS

DESCRIPTION

All six Great Lakes states have legislation authorizing noxious weed programs.⁴ The laws have many similarities. They all require persons owning or controlling land to destroy or control listed noxious weeds and all rely on local implementation and enforcement mechanisms. However, there are also significant differences.

Jurisdiction is established through the states’ definitions of “noxious weed” and the procedures provided for adding new species to state lists. Minnesota is the only state that explicitly defines “noxious weed” with some reference to environmental injury, reaffirming the state’s power to list plant species that threaten not only agricultural lands, but natural areas as well.⁵ Minnesota, Illinois and Ohio allow noxious weeds to be listed through an administrative rulemaking process. In contrast, Indiana requires an act of the state legislature to amend its noxious weed list. In Michigan and Wisconsin, statewide noxious weeds are listed by statute, but municipal and county governments are given the authority to declare and regulate other undesirable plants within their jurisdictions.⁶

TABLE 2 - AMENDING NOXIOUS WEED LISTS

	By administrative rule	Only through legislation
Illinois	x	
Indiana		x
Michigan		x*
Minnesota	x	
Ohio	x	
Wisconsin		x*

* Michigan and Wisconsin authorize local regulation of other undesirable plants.

⁴ In Indiana, noxious weeds are referred to as “detrimental plants.” See Ind. Code § 15-3, Chap. 4 (Destruction of Detrimental Plants).

⁵ 505 ILCS 100/2(5) (“any plant which is determined by the Director, the Dean of the College of Agriculture of the University of Illinois and the Director of the Agricultural Experiment Station at the University of Illinois, to be injurious to public health, crops, livestock, land, or other property”); Minn. Stat. § 18.77(8) (“an annual, biennial, or perennial plant that the commissioner designates to be injurious to public health, the environment, public roads, crops, livestock, or other property”);

⁶ Mich. Comp. Laws § 247.62; Wis. Stat. § 66.0407(b).

TABLE 3 – NUMBER OF REGULATED NOXIOUS WEEDS

	Noxious weeds regulated
Illinois	8
Indiana	5
Michigan	10
Minnesota	> 130*
Ohio	14
Wisconsin	3

* 2 restricted noxious weeds, 11 prohibited noxious weeds, 51 secondary noxious weeds, and over 70 federal noxious weeds.

Five states regulate a modest number of noxious weeds, ranging from three species in Wisconsin to 14 in Ohio. Minnesota’s noxious weed program, however, is considerably larger. Minnesota’s list of prohibited noxious weeds includes all 75 of the parasitic and terrestrial plants listed on the Federal Noxious Weed List in addition to 11 state-designated species.⁷ Minnesota’s rules also include two additional classes of regulated weeds: a list of two “restricted” noxious weeds whose import, sale or transportation within the state is prohibited, and a list of 51 “secondary” noxious weeds that can be added to county prohibited or restricted weed lists in response to petitions from local town boards or city mayors.⁸

The primary enforcement authority at the core of many of these state noxious weed programs is the power of local authorities to enter property, destroy listed noxious weeds, and bill the expenses to the property owner.⁹ In Michigan and Illinois, unpaid expenses may result in a lien against the land.¹⁰ In other states, the costs can be added directly to a property owner’s local tax roll.¹¹ The lone exception is Ohio, where expenses incurred by the legislative authority in destroying a noncompliant landowner’s weeds must be paid out of the general funds of the township or municipal corporation.¹² Four states

⁷ Minn. Rule 1505.0730(2). The Federal Noxious Weed List is located at 7 C.F.R. § 360.200.

⁸ Minn. Rule 1505.0740.

⁹ See, e.g., 505 ILCS 100/10.

¹⁰ 505 ILCS 100/10; Mich. Comp. Laws § 247.64.

¹¹ Ind. Code § 15-3-4.6-5.4; Minn. Stat. § 18.83; Wis. Stat. § 66.0517(3)(b).

¹² Ohio Rev. Code Ann. §§ 5579.06 (townships), 731.53 (municipal corporations).

provide additional penalties for noncompliance, such as fines or misdemeanor charges.¹³

ANALYSIS

In general, state regulators responsible for noxious weed programs in the Great Lakes region agree that the programs in their states are outdated, underutilized, inconsistently enforced, and, for the most part, ineffective as a tool to prevent the introduction and establishment of invasive plant species.

Most state noxious weed programs are very old¹⁴ and, in the words of one state regulator, are “somewhat of an anachronism.” They include many species that were once threats to agriculture, but are now largely controlled by herbicides and other advances in agricultural technology. Listing is always a politically charged process, and few states have a systematic process for making listing decisions. Therefore, many species that do cause problems do not show up on the state weed lists. Over the years, this ad hoc listing process has resulted in weed lists that are short, outdated, and inconsistent, both internally and among neighboring states.¹⁵

Not surprisingly, noxious weed requirements are rarely enforced. All six Great Lakes states rely on local weed control boards or county weed commissioners to enforce their noxious weed lists. However, many communities have not hired officials to fill these positions. Even localities that are adequately equipped often have a sporadic record of enforcement. One state regulator explained that negative community sentiment discourages some County Weed Boards from active enforcement. Others are simply unaware of their responsibilities. Reports from state regulators about local implementation and enforcement were uniformly negative. One observed that the state’s noxious weed program was “misused at the local level,” and was often only enforced when landowners “want their neighbors to mow the lawn.” Another found the situation so bad he commented, “basically, we have no noxious weed program.”

Minnesota is the only state that reported a favorable impression of its noxious weed program. The state program, established in 1929, has evolved to achieve an 85

TABLE 4 – ESTIMATED FTES INVOLVED IN ENFORCING STATE NOXIOUS WEED LAWS

	State Level	County / Local level
Illinois	0	*
Indiana	0	*
Michigan	0	5
Minnesota	less than one	15-20 county; 50-100 state
Ohio	less than one	*
Wisconsin	0	*

* unable to estimate FTEs, but generally not enforced consistently or aggressively

percent compliance rate among landowners after just one notification from local weed inspectors. These results, however, are likely due to the strong role played by Minnesota’s state government in the implementation and enforcement of its noxious weed law. For many years, the program was based on a cooperative effort between state, county, and local governments. Local weed inspectors made contact with landowners to seek voluntary compliance. County personnel trained local governments and communicated with the state on potential compliance problems. The state provided support in weed identification and other technical issues, and would also get involved whenever a formal enforcement process appeared necessary. In 2003, however, state budget cuts forced the elimination of the state government’s role in implementing the noxious weed law. As a result, the former supervisor of the state’s noxious weed unit predicts that enforcement and consistency in local noxious weed program implementation will suffer.

Today there is less than one full-time equivalent (FTE) staff person working on implementing or enforcing noxious weed laws at the state level in each Great Lakes state. FTEs involved at the local level are very difficult to estimate, but a few state regulators ventured a rough guess. The Michigan representative estimated that around five FTE’s were involved at the local level because five local governmental units actively file enforcement reports with the state. Minnesota estimated around 15 to 20 FTEs at the county level and another 50 to 100 at the local level. Other state regulators were unable to estimate a local FTE figure, but they explained that there is very little consistent or aggressive noxious weed enforcement in their states. One remarked that “it’s not nothing, but it’s close.”

STATE INVASIVE SPECIES PROGRAMS

Illinois, Minnesota, and Wisconsin have additional listing programs that go beyond traditional noxious weed

¹³ Illinois, Indiana, Michigan, and Minnesota. See 505 ILCS 100/22; Ind. Code § 15-3-4-5; Mich. Comp. Laws § 247.64(3); Minn. Stat. § 18.87.

¹⁴ For example, Minnesota’s noxious weed program can be traced back to 1872.

¹⁵ See Appendix A for a tabular illustration of the inconsistency of state listing decisions.



Photo of Johnsongrass (*Sorghum halapense*) courtesy of James Henson @ USDA-NRCS PLANTS Database.

laws. These programs specifically target non-native or invasive species in order to protect the natural resources of the state. Not surprisingly, the state departments of natural resources administer these programs. The jurisdictional definitions in these statutes indicate a common focus on natural areas:

- *Illinois Exotic Weed Act*: “**Exotic weeds**” are plants not native to North America that, when planted either spread vegetatively or naturalize and degrade natural communities, reduce the value of fish and wildlife habitat, or threaten an Illinois endangered or threatened species.¹⁶
- *Minnesota Exotic Species Act*: “**Harmful exotic species**” are exotic species (non-native wild animal or aquatic plant species) that can naturalize and either: (1) causes or may cause the displacement of, or otherwise threaten, native species in their natural communities; or (2) threatens or may threaten natural resources or their use in the state.¹⁷
- *Wisconsin Aquatic Plants Law*: “**Invasive aquatic plants**” have the ability to cause significant adverse change to desirable aquatic habitat, to significantly displace desirable aquatic vegetation, or to reduce the yield of products produced by aquaculture.¹⁸

Despite this similarity in focus, however, the programs are quite different.

ILLINOIS

Illinois has a statutory list of 10 exotic weed species. Additions to this list require a legislative amendment because the law does not provide for additions by administrative rulemaking. Seven new species, including kudzu and several nonnative species of buckthorn, were added in

¹⁶ 525 ILCS 10/2.

¹⁷ Minn. Stat. § 84D.01(7).

¹⁸ Wis. Stat. § 23.24(2)(b).

this manner in 2003. The 10 listed species appear to be primarily terrestrial weeds, although nothing in the statute prohibits the listing of non-native aquatic plant species.

The act prohibits the purchase, sale, distribution or planting of listed exotic weeds without a permit issued by the Illinois Department of Natural Resources (IDNR).¹⁹ Violations are a misdemeanor, and exotic weeds offered for sale in violation of the act are subject to confiscation and destruction by agents of IDNR.²⁰ However, the law exempts the commercial propagation of listed exotic weeds from the requirements of the Act if they are to be sold outside the state of Illinois.²¹ In addition, Illinois is not actively enforcing the law at this point. It is, however, engaged in a wide-ranging education campaign to build awareness of the recent amendments and prepare for their eventual enforcement. The Exotic Weed Coordinator at IDNR estimates that the state will begin inspecting plant nurseries for compliance in April 2004. Around 40 of the department’s Conservation Police Officers will take part in the enforcement effort.²²

MINNESOTA

Minnesota’s program is the most extensive and ambitious among the Great Lakes states. The state’s exotic species law uses multiple lists to create a four-tiered classification system for exotic wildlife and aquatic plant species. These lists include 16 aquatic plant species along with separate lists of fish, invertebrates, and mammals. New species can be classified through a rulemaking process administered by the Minnesota Department of Natural Resources (MN DNR) that considers:

- (1) the likelihood of introduction of the species if it is allowed to enter or exist in the state;
- (2) the likelihood that the species would naturalize in the state were it introduced;

**TABLE 5 –
NUMBER OF REGULATED EXOTIC/
INVASIVE PLANT SPECIES**

Illinois	10
Minnesota	16 (12 prohibited, 4 regulated) (aquatic)
Wisconsin	3 (aquatic)

¹⁹ 525 ILCS 10/4.

²⁰ 525 ILCS 10/5.

²¹ *Id.*

²² Conservation Police Officers are employees of the DNR, but are vested with full statewide police authority.

TABLE 6 – MINNESOTA’S FOUR-TIERED CLASSIFICATION SYSTEM FOR EXOTIC SPECIES

Prohibited exotic species (Minn. Rule 6216.0250)	Unlawful to possess, import, purchase, transport, or introduce except under a permit for disposal, control, research, or education.
Regulated exotic species (Minn. Rule 6216.0260)	Legal to possess, sell, buy, and transport, but they may not be introduced into a free-living state.
Unregulated exotic species (Minn. Rule 6216.0270)	A list of exotic species that are not subject to regulation under the program (a “clean-list” approach).
Unlisted exotic species (Minn. Rule 6216.0290)	An application must be filed with DNR and the agency must classify the species before an exotic species that is not prohibited, regulated, or unregulated may be legally released into a free-living state.

- (3) the magnitude of potential adverse impacts of the species on native species and on outdoor recreation, commercial fishing, and other uses of natural resources in the state;
- (4) the ability to eradicate or control the spread of the species once it is introduced in the state; and
- (5) other criteria the commissioner deems appropriate.²³

The Exotic Species Program Coordinator at MN DNR explained that this is essentially a “mini-risk-assessment” done primarily within MN DNR. The public is also free to provide comments and request a hearing in the rulemaking process.

An interesting feature of Minnesota’s program is its blend of “dirty” and “clean” listing approaches. A dirty list imposes restrictions only on the listed species, leaving all unlisted species free from regulation. This approach assigns to regulators the burden of determining whether a species is harmful. Minnesota’s “prohibited” and “regulated” exotic species lists fit this description,²⁴ as do the state noxious weed lists described above. A clean list identifies species approved for import, introduction, or release—like Minnesota’s “unregulated” exotic species list.²⁵ This approach generally places the burden on the regulated community to prove that the new species will not pose an economic or environmental threat. In Minnesota, “unlisted” exotic species are legal to possess, sell, buy, and transport, but they may not be released into a “free-living state”²⁶ unless an application has been filed with MN DNR and the agency has classified the species on one of the state’s three lists.²⁷ This framework shares the burden between the regulators and the regulated community and

seeks to balance this burden with an appropriate and prudent level of environmental protection.²⁸

The law provides for civil and criminal penalties and allows enforcement by conservation or other licensed peace officers.²⁹ However, the state has not carried out many formal enforcement actions. Only one FTE works in the state as needed to enforce these provisions. The state does have an active education program that includes the inspection of boats for prohibited aquatic species at public water access points. Around 20,000 hours per year—or the equivalent of 10 FTEs—are budgeted for watercraft inspections. The statute also has an interesting liability provision. Section 84D.08 provides that a person who allows or causes the introduction of a prohibited exotic species “is liable for the actual costs incurred by the department in capturing or controlling, or attempting to capture or control, the animal and its progeny.”³⁰ This provision, however, is available only to recover the costs of controlling prohibited exotic animal species.

WISCONSIN

Wisconsin’s aquatic plant law³¹ regulates aquatics in two ways. First, the state requires an aquatic plant management permit to introduce any nonnative aquatic plants (whether listed or not) to waters of the state.³² In addition, the state prohibits the sale or distribution of *listed invasive* aquatic plants.³³ The statute itself lists three invasive aquatic plants³⁴ and empowers the department of natural resources to add more through a rulemaking process,³⁵ although the department has yet to list additional species.

²³ Minn. Stat. § 84D.04(2).

²⁴ Minn. Rule §§ 6216.0250; 6216.0260.

²⁵ Minn. Rule § 6216.070. Several exotic fish and bird species are unregulated in Minnesota, but no aquatic plant species have yet been added to Minnesota’s unregulated exotic species list.

²⁶ “Free-living state” is a complicated legal term generally meaning “to be unconfined or outside the control of a person.” It is defined at Minn. Rule § 6216.0200(3a).

²⁷ See Minn. Rule § 6216.0290.

²⁸ In addition to the requirements triggered by listing, the law prohibits the transportation of *all* aquatic macrophytes (basically any nonwoody plants that naturally grow in water) on any public road. Minn. Stat. § 84D.09.

²⁹ Minn. Stat. § 84D.13.

³⁰ Minn. Stat. § 84D.08.

³¹ Wis. Stat. § 23.24.

³² Wis. Stat. § 23.24(3)(a).

³³ Wis. Stat. § 23.24(5).

³⁴ Eurasian water milfoil, curly leaf pondweed, and purple loosestrife.

³⁵ Wis. Stat. § 23.24(2)(b).

TABLE 7 – ESTIMATED FTES INVOLVED IN ENFORCING STATE INVASIVE / EXOTIC SPECIES LAWS

Illinois Exotic Weed Act	none ; but state plans to begin formal enforcement in April, 2004
Minnesota Harmful Exotic Species Law	one ; but state has 10 FTE watercraft inspectors involved in education effort
Wisconsin Aquatic Plants Law	none ; but state involved in education effort to encourage compliance

The law provides for specific monetary penalties and even authorizes prison sentences for repeat offenders.³⁶ However, as in other states, Wisconsin is not actively engaged in formal enforcement efforts at this time. Instead, the state has focused on education efforts, such as informing boaters about the threat of invasive aquatic species that can spread via boating equipment and trailers.

Wisconsin also has a separate invasive species law³⁷ that directs the department to establish a statewide program to control invasive species, defined as “nonindigenous species whose introduction causes or is likely to cause economic or environmental harm or harm to human health.”³⁸ The statute instructs the department to promulgate rules to “classify” invasive species for purposes of the program.³⁹ It also provides for an invasive species council to make recommendations that contain criteria for each classification, the allowed activities associated with each classification, criteria for determining state pri-

orities for controlling invasive species under each classification, and criteria for determining the types of actions to be taken in response to the introduction or spread of a native species under each classification.⁴⁰

This scheme resembles a listing approach. It clearly contemplates invasive species “classifications” that have certain associated “allowed activities.”⁴¹ However, the statute does not provide substantive regulatory requirements, nor does it describe how such requirements could be enforced. The department has not yet taken steps to implement these somewhat vague directives.

OTHER STATE PROGRAMS RELATED TO PREVENTION AND LISTING

NOXIOUS WEED SEED LISTS

Each Great Lakes State regulates commercial trade in agricultural seeds. The states have fairly uniform provisions; each state authorizes a two-tier list of noxious weed seeds that are subject to special requirements in the commercial market. It is generally unlawful to advertise or sell blends of seed containing any seeds from the first, or “prohibited,” list.⁴² Seeds on the “restricted” list are allowable only up to specific statutory tolerances.⁴³ Some states also require the labeling of the number and kind of restricted noxious weed seeds present in commercial seed blends.⁴⁴ Illinois’ definitions of these classifications are characteristic of all states in the region:

- *Prohibited noxious weed seed*—seed of weeds which when established are highly destructive, competitive,

TABLE 8 – NUMBER AND LOCATION OF LISTED NOXIOUS WEED SEED SPECIES

	Prohibited	Restricted
Illinois	8 8 Ill. Admin. Code § 230.20	13 8 Ill. Admin. Code § 230.30
Indiana	9 360 Ind. Admin. Code § 1-1-5	13 360 Ind. Admin. Code § 1-1-6
Michigan	19 Mich. Rules § 285.715.7	18 Mich. Rules § 285.715.7
Minnesota	10 Minn. Rules § 1510.0280	10 Minn. Rules § 1510.0320
Ohio	14 Oh. Admin. Code § 901:5-31-01(A)	11 Oh. Admin. Code § 901:5-31-01(B)
Wisconsin	4 Wis. Stat. § 94.38(12)(a)	13 Wis. Stat. § 94.38(12)(b)

³⁶ Wis. Stat. § 23.24(6).

³⁷ Wis. Stat. § 23.22.

³⁸ Wis. Stat. § 23.22(c).

³⁹ Wis. Stat. § 23.22(2)(b)(6).

⁴⁰ Wis. Stat. § 23.22(3)(a).

⁴¹ See *id.*

⁴² See 505 ILCS 110/5; Ind. Code § 15-4-1-6; Mich. Comp. Laws § 286.709; Minn. Stat. § 21.86; Ohio Rev. Code § 907.07(D); Wis. Stat. § 94.41(1).

⁴³ *Id.*

⁴⁴ See, e.g., 505 ILCS 110/4.2.

⁴⁵ 505 ILCS 110/2.127.

or difficult to control by cultural or chemical practices.⁴⁵

- *Restricted noxious weed seed*—seed of weeds that are objectionable in fields, lawns, and gardens of this state, but which can be controlled by cultural or chemical practices.⁴⁶

Most states authorize the listing of new noxious weed seed species through a rulemaking process administered by their respective departments of agriculture. Wisconsin's seed lists, however, are defined by statute and can only be amended by an act of the state legislature.⁴⁷ Table 9 provides a numerical comparison of the state seed lists. A more detailed comparison that breaks down the state noxious weed lists by species is found at Appendix A.

It is important to remember that state noxious weed seed programs only regulate the commercial sale of listed weed seeds. They do not restrict the sale of mature plants. Nor do they provide any authority for controlling established populations of invasive plant species. Therefore, they must be used in combination with other regulatory tools in order to be effective in addressing the introduction and proliferation of invasive plant species. Noxious weed seed regulations have yet to be integrated into broader invasive species control efforts.

PLANT-SPECIFIC REGULATIONS

Several states regulate individual invasive or detrimental plants—typically multiflora rose or purple loosestrife. Indiana prohibits the planting of any variety of multiflora rose and bans the sale or distribution of any species of *Lythrum* (purple loosestrife).⁴⁸ Michigan prohibits the retail sale of any nonnative cultivars of *Lythrum*.⁴⁹ Ohio restricts the sale and planting of multiflora rose and one

TABLE 9 – NURSERY INSPECTORS INVOLVED IN ENFORCING PLANT-SPECIFIC REGULATIONS

	State inspectors	# of nurseries inspected annually
Indiana	8	600
Michigan	35	8,800
Ohio	12	1,500
Wisconsin	6	750 – 800

⁴⁶ 505 ILCS 110/2.129.

⁴⁷ See Wis. Stat. § 94.38(12).

⁴⁸ Ind. Code § 14-24-12. Another Indiana statute exhorts public bodies to “do anything possible to restrict the growth and seed production of all Johnsongrass,” but it is not clear what, if any, substantive requirements this provision carries with it. See Ind. Code § 15-3-5.

⁴⁹ Mich. Comp. Laws § 286.216a.



Photo of purple loosestrife (*Lythrum salicaria*) courtesy of Barry Rice, Wildland Invasive Species Team, The Nature Conservancy.

variety of *Lythrum*.⁵⁰ Wisconsin prohibits the sale, distribution, planting, or cultivation of multiflora rose⁵¹ and requires the development of a statewide plan to control purple loosestrife.⁵²

Unlike state noxious weed programs, these plant-specific rules are typically enforceable by the state. The most common method of enforcement is through nursery industry inspections. For example, Indiana's Department of Natural Resources employs eight field inspectors that inspect over 600 nurseries annually. If prohibited plants are found, these inspectors can order their confiscation or destruction. Further noncompliance can result in additional fines and penalties. In addition to inspections, the state may respond directly to reports of illegal sales of prohibited plants. Nursery inspectors in Michigan, Ohio, and Wisconsin⁵³ perform similar duties.

These state-enforceable requirements are more effective than the noxious weed laws, but they are not without flaws. Since they are statutory requirements, they can be inflexible and subject to loopholes. For example, Ohio's law bans only *Lythrum salicaria*, which leaves the department powerless to respond to *Lythrum virgatum* (often known as “wand” loosestrife). Michigan's law prohibits only the retail sale of *Lythrum*, which has allowed a few firms to avoid penalties by selling the banned invasive plant wholesale. Wisconsin's *Lythrum* program encourages, but does not require, private landowners to control stands of purple loosestrife on their lands.⁵⁴ Clearly, these laws are not an effective substitute for comprehensive state invasive species programs. However, if drafted carefully, plant-specific laws can be an effective way for states to devote additional resources to especially problematic species.

⁵⁰ Ohio Rev. Code §§ 927.681-682.

⁵¹ Wis. Stat. § 23.235(2).

⁵² Wis. Stat. §23.235(2m).

⁵³ Wisconsin nursery inspectors also enforce the ban on distribution of invasive aquatic plants (Eurasian water milfoil, curly leaf pondweed, and purple loosestrife) under Wis. Stat. § 23.24.

⁵⁴ See Wis. Stat. §23.235(2m).

TABLE 10 –STATE DEFINITIONS OF “PLANT PESTS”

		Specifically includes exotic or invasive plants	Includes some plants	Includes only insects or diseases
Illinois	505 ILCS §§ 90/2, 90/14.			X
Indiana	Ind. Code § 14-8-2-203.	X		
Michigan	Mich. Comp. Laws § 286.218.			X
Minnesota	Minn. Stat. § 18G.02.	X		
Ohio	Ohio Rev. Code § 927.51(K)		X	
Wisconsin	Wis. Stat §§ 93.01(10), 94.69(1)(a)		X	

PLANT PEST LAWS

Some states address invasive plant species through their general plant industry laws regulating plant pests or diseases. These laws typically allow the state to declare quarantines or destroy articles to control agricultural pests or diseases.⁵⁵ A state’s definition of “plant pest” is critical in determining whether the law can be used to directly control invasive plants. For example, Indiana’s definition of “pest or pathogen” specifically includes exotic weeds that can injure agricultural crops or other plants.⁵⁶ Minnesota’s definitions of “pest,” “plant pest,” and “harmful plant pest,” when read in combination, include any living agent (including invasive species) that may potentially cause harm to plants or other biotic organisms.⁵⁷ These broad definitions give the states great flexibility to identify and respond directly to new invasions of exotic plants. In contrast, the plant pest laws in Illinois and Michigan only authorize state action against plants that harbor insect pests or plant diseases.⁵⁸ These narrow definitions arguably do not provide the states with authority to address invasive plants. Ohio and Wisconsin’s definitions include some plants, although they do not specifically refer to exotic or invasive species.⁵⁹

⁵⁵ See, e.g., Minn. Stat. § 18G.03.

⁵⁶ Ind. Code § 14-8-2-203.

⁵⁷ Minn. Stat. § 18G.02.

⁵⁸ See 505 ILCS § 90/14; Mich. Comp. Laws § 286.218.

⁵⁹ Ohio Rev. Code § 927.51(K) (“Pest” means any insect, mite, nematode, bacteria, fungus, virus, parasitic plant, or any other organism or any stage of any such organism which causes, or is capable of causing, injury, disease, or damage to any plant, plant part, or plant product.”); Wis. Stat §§ 93.01(10), 94.69(1)(a) (“The department may promulgate rules to declare as a pest any form of plant or animal life or virus which is injurious to plants, persons, animals or substances.”).

As currently conceived, these plant pest programs rely on ad hoc determinations, not lists. However, stakeholders in Indiana are considering the use of “clean” lists to clarify species subject to “pest or pathogen” designations. Similarly, Michigan is tentatively exploring revisions to its plant pest law that would establish a commission to recommend specific pest species to be regulated. These hybrid approaches could be greater than the sum of their parts. One of the weaknesses of listing is the delay between the identification of a new pest and its addition to a list of regulated species. The ad hoc response authority in typical plant pest programs can fill this gap. A hybrid approach would preserve the inherent flexibility and rapid response capability of traditional plant pest programs while adding the focus, clarity, and regulatory certainty of listing.

CONCLUSIONS

The diversity of programs highlighted in this report demonstrates that there are many ways to use invasive species listing authorities as a first line of defense against the introduction and spread of invasives. Minnesota is leading the way in the Great Lakes region with seven separate lists classifying noxious weeds and exotic species. This combination of lists, including both “dirty” and “clean” listing approaches, creates a nuanced framework and provides a good model for states interested in establishing their own comprehensive invasive species program.

Wisconsin may be the next Great Lakes state to follow suit. A high-level technical advisory committee has proposed major revisions to Wisconsin’s weed laws that would

create four categories of listed species in roughly the following sequence:⁶⁰

- “Prohibited noxious weeds” would be limited to species not yet established in Wisconsin or with only localized infestations. The most restrictive regulations would apply to this category with a view towards eventual eradication of the listed species.
- “Restricted noxious weeds” would be limited to taxa that are too widespread to mandate statewide eradication. Limitations on sale, distribution, planting, and transportation would be combined with state-funded control efforts to prevent these plants from spreading beyond current areas of infestation.
- A third list would target plants too widespread to realistically expect eradication or statewide control. This list would encourage voluntary removal, but would not trigger any legal restrictions. Emphasis would be placed on educational efforts to help the public learn to identify and control these species.
- The fourth category would consist of a “watch list” of plants known or suspected to be invasive in similar environments or in localized areas within Wisconsin. The species on this list would be closely studied and would be candidates for future regulation.

The lessons learned from this study can be used to guide future developments in invasive species law, both in the Great Lakes region and beyond. **An ideal prevention strategy based on listing will require focus in three areas: listing authority, strategic assessment, and regional coordination.** Here are some observations:

LISTING AUTHORITY

- Statutes that delegate listing responsibilities to a state agency are more effective than lists created directly by statute. Regulatory lists allow greater flexibility and responsiveness to changing circumstances. A transparent rulemaking process also provides all interested parties with a voice in listing decisions.
- Lists require regular review and revision. This should include “delisting” if listed species are no longer a problem. Sharply focused lists direct limited state resources toward their most effective uses. Multi-tiered lists (like those in Minnesota) can also have this effect by reserving the most stringent requirements for the most problematic species.

⁶⁰ See Draft Proposal for the Revision of Wisconsin’s Weed Laws (as submitted to the Governor’s Task Force on Invasive Species by the Weed Law Technical Advisory Committee), available at <http://www.dnr.state.wi.us/org/land/er/news/wlrc1.htm>.



Illustration of Nodding Thistle (Carduus nutans) courtesy of USDA-NRCS PLANTS Database / Britton, N.L., and A. Brown. 1913. Illustrated flora of the northern states and Canada. Vol. 3: 554.

- Broad jurisdictional definitions are preferred. The most effective listing authorities encompass species that threaten the environment as well as agriculture. A good example is the Illinois Exotic Weed Act’s definition of “exotic weed,” with its specific reference to weeds that can “degrade natural communities.”⁶¹
- Effective lists trigger enforceable requirements. Although this may seem obvious, some listing programs do not have legal consequences for species once they are listed. Education and voluntary compliance measures are important parts of a comprehensive prevention strategy, but they should be coupled with some affirmative obligations that carry real penalties for noncompliance.
- Effective prevention requires regional, state, and local participation. County and municipal governments should be encouraged to regulate and respond to problematic species or new infestations at the local level. The state should, however, maintain a strong role in program implementation and enforcement. Technical challenges and pressures from strong local interests can impede local enforcement efforts. A strong state role provides a backstop and helps to ensure consistent enforcement throughout the state and continuity across adjacent states.

⁶¹ See 525 ILCS 10/2.

STRATEGIC ASSESSMENT

Several state regulators that contributed to this report identified the *process* by which actual listing decisions are made as a critical issue. These invasive species veterans feel that their states would benefit greatly from a systematic, science-based assessment tool to evaluate potential candidates for regulation. The additional legitimacy and industry support that would result from the development of a transparent, scientific listing process could significantly strengthen state regulatory programs.

Several states are taking steps in this direction. For example, Indiana's Invasive Plant Species Assessment Working Group (IPSAWG) includes stakeholders from several affected agencies and industries working to develop an assessment tool for problem plant species. Wisconsin's proposed weed law amendments would establish a diverse noxious weed council to develop assessment criteria and evaluate public petitions for list revisions. Similar efforts are underway in Minnesota and Michigan.

REGIONAL COORDINATION

Strategic assessment and planning at the state level alone will not be enough. A truly effective prevention strategy will require regional coordination. Invasive species can move freely across state borders. Thus, one state's failure to regulate an invasive species will significantly undermine its neighbors' investments in prevention and control. Appendix A illustrates sweeping inconsistencies in current state lists in the Great Lakes. At this point, modest attempts to coordinate state invasive species lists on a regional basis would likely yield great benefits. Networks of invasive species regulators and scientists

throughout the region—several of which already exist—should be developed and strengthened with the objective of eventually meeting the invasive species challenge on a united regional front.

Several regulators identified current state budget crises as the biggest obstacle to effective change. It is difficult to think about new approaches when agencies are struggling to even maintain current programs. States may find, however, that a small investment in prevention programs today will pay great dividends down the road. Luckily, listing is a fairly easy step that should not require major commitments of new staff or funding and may only require shifting resources from older, less efficient programs. States can also seek to share responsibilities with local governments and non-governmental organizations. The costs associated with passively allowing new species to enter a state are simply too great to ignore. Listing can be an effective, relatively easy, and cost efficient front line tool that should be a part of every state's prevention strategy.

This study reveals that the Great Lakes states have at their disposal a wide array of listing authorities that can be used as a first line of defense against the introduction and spread of invasive species. In many states, interested parties should consider drawing upon other successful state approaches to reinvigorate their lists and improve their states' listing regulations through the passage of new laws and adoption of agency rules. However, this report also reinforces the potential of the laws and regulations that states already have at their disposal. By revisiting the existing state provisions outlined in this report, stakeholders can determine how additional funding, staffing, and internal and external oversight of provisions already in place can turn a weak state listing program into an aggressive and effective prevention strategy.

Appendix A

Table 1 - Listed Plant Species in the Great Lakes States

DP = Detrimental Plant (IN)	NW = Noxious Weed (IL, MI, OH, WI)	RN = Restricted Noxious Weed (MN)
EW = Exotic Weed (IL)	PE = Prohibited Exotic Species (MN)	SN = Secondary Noxious Weed (MN)
FN = Federal Noxious Weed (MN)	RE = Restricted Exotic Species (MN)	SP = special / individual regulation
IA = Invasive Aquatic Plant (WI)	PN = Prohibited Noxious Weed (MN)	

Species	Illinois	Indiana	Michigan	Minnesota	Ohio	Wisconsin
<i>Abutilon theophrasti</i> velvetleaf				SN		
<i>Aeginetia</i> spp.				FN		
<i>Ageratina adenophora</i> crofton weed				FN		
<i>Agropyron repens</i> / <i>Elytrigia repens</i> quackgrass				SN		
<i>Alectra</i> spp.				FN		
<i>Alliaria petiottata</i> garlic mustard				PN		
<i>Alternanthera sessilis</i> sessile joyweed				FN		
<i>Amaranthus blitoides</i> prostrate pigweed				SN		
<i>Amaranthus retroflexus</i> redroot pigweed				SN		
<i>Ambrosia artemisiifolia</i> common ragweed	NW			SN		
<i>Ambrosia elatior</i> ragweed			NW			
<i>Ambrosia tifida</i> L. giant ragweed	NW			SN		
<i>Arctium minus</i> burdock				SN		
<i>Artemisia absinthium</i> wormwood, absinthe				SN		
<i>Asclepias syriaca</i> common milkweed				SN		
<i>Asphodelus fistulosus</i> onionweed				FN		
<i>Avena fatua</i> wild oat				SN		
<i>Avena sterilis</i> animated oat, wild oat				FN		
<i>Azolla pinnata</i> mosquito fern, water velvet				FN		
<i>Barbarea vulgaris</i> yellow rocket				SN		
<i>Berteroa incana</i> hoary alyssum			NW	SN		
<i>Brassica</i> / <i>Sinapis</i> wild mustard			NW	SN	NW	
<i>Butomus umbellatus</i> flowering rush				PE		

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Species		Illinois	Indiana	Michigan	Minnesota	Ohio	Wisconsin
<i>Cabomba caroliniana</i>	Carolina fanwort				RE		
<i>Cannabis sativa</i>	hemp / marijuana	NW	DP		PN		
<i>Carduus acanthoides</i>	plumeless thistle				PN		
<i>Carduus nutans</i>	nodding (musk) thistle	NW			PN	NW	
<i>Carthamus oxyacantha</i>	wild safflower				FN		
<i>Caulerpa taxifolia</i>	Mediterranean clone				FN		
<i>Cenchrus longispinus</i>	long spined sanbur				SN		
<i>Centaurea maculosa</i>	spotted knapweed				SN		
<i>Centaurea picris</i>	Russian knapweed				SN		
<i>Chenopodium album</i>	common lambsquarters				SN		
<i>Chrysopogon aciculatus</i>	pilipiliula				FN		
<i>Chysanthermum leucanthemum</i> var. <i>pinnatifidum</i>	oxeye daisy				SN	NW	
<i>Cirsium arvense</i>	Canada thistle	NW	DP	NW	PN	NW	NW
<i>Cirsium vulgare</i>	bull thistle				PN		
<i>Commelina benghalensis</i>	Benghal dayflower				FN		
<i>Conium maculatum</i>	poison hemlock					NW	
<i>Convolvulus arvensis</i>	bindweed			NW	PN		NW
<i>Crassula helmsii</i>	Australian stone crop				PE		
<i>Crepis capillaries</i>	smooth hawksbeard				SN		
<i>Crepis tectorum</i>	narrowleaf hawksbeard				SN		
<i>Crupina vulgaris</i>	common crupina				FN		
<i>Cuscuta</i> spp.	dodders			NW	FN		

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Species	Illinois	Indiana	Michigan	Minnesota	Ohio	Wisconsin
Datura stamonium jimsonweed				SN		
Daucus carota wild carrot			NW	SN	NW	
Descurainia Sophia Webb flixweed				SN		
Digitalis lanata Grecian foxglove				SN		
Digitaria scalarum African couchgrass, fingergrass				FN		
Digitaria velutina velvet fingergrass, annual conchgrass				FN		
Drymaria arenarioides lightning weed				FN		
Eichornia azurea anchored waterhyacinth, rooted waterhyacinth				FN		
Emex australis three-cornered jack				FN		
Emex spinosa devil's thorn				FN		
Eriochloa villosa woolly cupgrass				SN		
Euphorbia esula leafy spurge				PN		NW
Galega officinalis goatsrue				FN		
Grindelia squarrosa curlycup gumweed				SN		
Helianthus annuus common sunflower				SN		
Helianthus tuberosus Jerusalem artichoke				SN		
Heracleum mantegazzianum giant hogweed				FN		
Hibiscus trionum venice mallow				SN		
Hieracium aurantiacum orange hawkweed				SN		
Homeria spp.				FN		
Hydrilla verticillata hydrilla				PE, FN		
Hydrocharis morsus- ranae European frog-bit				PE		
Hygrophila polysperma Indian swampweed				PE		

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Species	Illinois	Indiana	Michigan	Minnesota	Ohio	Wisconsin
Hygrophila polysperma miramar weed				FN		
Imperata brasiliensis Brazilian satintail				FN		
Imperata cylindrica cogongrass				FN		
Ipomoea aquatica water-spinach, swamp morning-glory				FN		
Iris pseudacoris yellow iris, yellow flag				RE		
Ischaemum rugosum murainograss				FN		
Iva xanthifolia marsh elder				SN		
Kochia scoparia kochia				SN		
Lagarosiphon major African oxygen weed				PE, FN		
Leptochloa chinensis Asian sprangletop				FN		
Limnophila sessiliflora ambulia				FN		
Lonicera japonica Japanese honeysuckle	EW					
Lychnis alba white cockle				SN		
Lycium ferocissimum African boxthorn				FN		
Lythrum salicaria purple loosestrife	EW	SP	SP	PN, PE	NW	IA
Melaleuca quinquinervia broadleaf paper bark tree				FN		
Melastoma malabathricum				FN		
Mikania cordata mile-a-minute				FN		
Mikania micrantha				FN		
Mimosa invisa giant sensitive plant				FN		
Mimosa pigra catclaw mimosa				FN		
Monochoria hastata				FN		
Monochoria vaginalis				FN		

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Species	Illinois	Indiana	Michigan	Minnesota	Ohio	Wisconsin
Muhlenbergia frondosa wire stem muhly				SN		
Myriophyllum aquaticum parrot's feather				RE		
Myriophyllum spicatum Eurasian watermillfoil				PE		IA
Nassella trichotoma serrated tussock				FN		
Nymphaea spp. waterlilies (non-native)				RE		
Opuntia aurantiaca jointed prickly pear				FN		
Orobanche spp. broomrapes				FN		
Oryza var. red rice				FN		
Ottelia alismoides				FN		
Panicum dichotomiflorum fall panicum				SN		
panicum miliaceum proso millet panicum, wild				SN		
Paspalum scrobiculatum kodo-millet				FN		
Pastinace sativa wild parsnip					NW	
Pennisetum clandestinum kikuyugrass				FN		
Pennisetum macrourum African feathergrass				FN		
Pennisetum pedicellatum kyasumagrass				FN		
Pennisetum polystachion missiongrass, thin napiergrass				FN		
Polygonum convolvulus wild buckwheat				SN		
Polygonum pennsylvanicum Pennsylvania smartweed				SN		
Polygonum perfoliatum mile-a-minute weed					NW	
polygonum persicaria smartweed (lady's thumb)				SN		
Potamogeton crispus curly-leaf pondweed				PE		IA
Prosopis - (25 varieties)				FN		

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Species	Illinois	Indiana	Michigan	Minnesota	Ohio	Wisconsin
Pteridium aquilinum bracken				SN		
Pueraria labata kudzu	NW, EW					
Ranunculus acris tall buttercup				S		
Raphanus raphanistrum wild radish				S		
Rhamnus arguta saw-toothed buckthorn	EW					
Rhamnus cathartica common buckthorn	EW			RN		
Rhamnus davurica dahurian buckthorn	EW					
Rhamnus frangula glossy buckthorn	EW			RN		
Rhamnus japonica Japanese buckthorn	EW					
Rhamnus utilis Chinese buckthorn	EW					
Rosa multiflora multiflora rose	EW	SP			SP	SP
Rottboellia cochinchinensis				FN		
Rubus fruticosus wild blackberry				FN		
Rubus moluccanus wild raspberry				FN		
Rumex crispus curly dock				SN		
Saccharum spontaneum wild sugarcane				FN		
Sagittaria sagittifolia arrowhead				FN		
Salsola Kali var. tenuifolia Russian thistle				SN	NW	
Salsola vermiculata wormleaf salsola				FN		
Salvinia var. giant salvinia				FN, PE		
Senecio glabellus cressleaf groundsel					NW	
Setaria pallide-fusca cattail grass				FN		
Setaria faberii giant foxtail				SN		

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Species	Illinois	Indiana	Michigan	Minnesota	Ohio	Wisconsin
Sicyos angulatus bur cucumber		DP				
Silene noctiflora nightflowering catchfly				SN		
Solanum nigrum black Nightshade				SN		
Solanum rostratum buffalobur				SN		
Solanum tampicense Dunal wetland nightshade				FN		
Solanum torvum turkeyberry				FN		
Solanum viarum tropical soda apple				FN		
Sonchus arvensis perennial sowthistle	NW		NW	PN		
Sorghum bicolor shatter cane		DP			NW	
Sorghum halapense / almum Johnsongrass	NW	DP		SN	NW	
Sparganium erectum Linnaeus exotic bur-reed				FN		
Spermacoce alata				FN		
Stratiotes aloides water aloe/water soldiers				PE		
Striga spp. witchweeds				FN		
Tanacetum vulgare tansy				SN		
Toxicodendron radicans poison ivy			NW	PN		
Toxicodendron vernix poison sumac			NW			
Trapa natans water chestnut				RE		
Tridax procumbens coat buttons				FN		
Urochloa panicoides liverseed grass				FN		
Vitis spp. grapevines (unmaintained)					NW	
Xanthium pennsylvanicum common cocklebur				SN		

Appendix A

Table 2 - Listed Weed Seeds in the Great Lakes States

R = Restricted Weed Seed
P = Prohibited Weed Seed

Species	Illinois	Indiana	Michigan	Minnesota	Ohio	Wisconsin
<i>Abutilon theophrasti</i> velvetleaf			R			
<i>Acroptilon repens</i> Russian knapweed					P	
<i>Agropyron repens</i> quackgrass	R	P	P	R	P	P
<i>Agrostemma githago</i> corncockle		R			R	
<i>Allium canadense</i> wild onion	R	P	R		R	
<i>Allium vineale</i> wild garlic	R	P	R		R	
<i>Avena fatua</i> wild oat			R			R
<i>Barbarea vulgaris</i> yellow rocket, bitter wintercress		R	R			R
<i>Berteroa incana</i> hoary alyssum			R	R		R
<i>Brassica arvensis</i> wild mustard		R		R	R	
<i>Brassica campestris</i> bird rape	R					
<i>Brassica juncea</i> Indian mustard	R		R			R
<i>Brassica nigra</i> black mustard			R			
<i>Bromus tectorum</i> downy brome						R
<i>Calystegia sepium</i> Hedge bindweed					P	
<i>Cannabis sativa</i> Hemp				P		
<i>Cardaria draba</i> hoary cress, whitetop	P		P		P	
<i>Cardaria Pubescens</i> Hairy whitetop / ballcress					P	
<i>Carduus acanthoides</i> plumeless thistle			P	P		
<i>Carduus nutans</i> nodding (musk) thistle			P	P	P	
<i>Centaurea maculosa</i> spotted knapweed			P			
<i>Centaurea picris / repens</i> Russian knapweed	P	P	P	P		
<i>Chrysanthemum leucanthemum</i> Oxeye Daisy	R	R				
<i>Cirsium arvense</i> Canada Thistle	P	P	P	P	P	P

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R = Restricted Weed Seed
P = Prohibited Weed Seed

Species	Illinois	Indiana	Michigan	Minnesota	Ohio	Wisconsin
Cirsium vulgare bull thistle			P	P		
Conium maculatum poison hemlock					R	
Convolvulus arvensis field bindweed	P	P	P	P	P	P
Convolvulus sepium hedge bindweed			P			
Cuscuta species dodders	R	R	P	R	R	R
Cyperus esculentus yellow nutsedge			P			
Datura stamonium jimsonweed			R			
Daucus carota wild carrot	R					
Euphorbia esula leafy spurge	P		P	P	P	P
Ipomea morning glory			P			
Lepidium campestre field peppergrass		R				
Lepidium draba perennial peppergrass		P		P		
Leucanthemum Vulgare oxeye daisy					R	R
Lythrum salicaria purple loosestrife					P	
Nasella trichoma serrated tussock	P		P		P	
Plantago lanceolata buckhorn	R	R	R	R	R	R
Raphanus raphanistrum wild radish			R	R		R
Rumex crispus curled dock	R	R	R		R	
Setaria faberii giant foxtail	R	R	R	R		R
Silene alba white cockle						R
Sinapis arvensis charlock, wild mustard			R			R
Solanum carolinense horsenettle	R	R	P	R	R	
Solanum ptycanthum Eastern black nightshade		R	R	R		
Sonchus arvensis perennial sowthistle	P	P	P	P	P	R

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Table 2 - Listed Weed Seeds in the Great Lakes States

R = Restricted Weed Seed
P = Prohibited Weed Seed

Species	Illinois	Indiana	Michigan	Minnesota	Ohio	Wisconsin
Sorghum halapense johnsongrass	P	P	P		P	
Sorghum Alnum columbus grass					P	
Thalspi arvense fanweed, pennycress		R	R			
Thlaspi arvense frenchweed				R	R	
Tribulus terrestris puncturevine			P			
Xanthium pensylvanicum cocklebur		R				
Xanthium strumarium cocklebur			R			

APPENDIX B

PLANT LISTING AUTHORITIES IN THE GREAT LAKES STATES

ILLINOIS

Overview

Illinois has a list of noxious weeds¹ administered by the Illinois Department of Agriculture and a statutory list of exotic weeds.² New noxious weeds can be added through a rulemaking process, but additions to the exotic weed list require an act of legislature. Although there is some degree of overlap between programs, the Noxious Weed Law has historically focused on agricultural weeds and the Exotic Weed Act targets plants that invade natural areas.³

Noxious Weeds

Noxious weeds are defined as “any plant which is determined by the Director, the Dean of the College of Agriculture of the University of Illinois and the Director of the Agricultural Experiment Station at the University of Illinois, to be injurious to public health, crops, livestock, land, or other property.”⁴ Eight species have been so designated and appear on the department’s Noxious Weed List in the Illinois Administrative Code.⁵

The Noxious Weed Law also authorizes the Director to publish a list of noxious weeds which may be disseminated through articles and a list of articles capable of disseminating such weeds, and designate treatment of such articles as, in his opinion, would prevent such dissemination.⁶ There are six species currently designated as Noxious Weeds capable of dissemination through articles.⁷

Exotic Weeds

Exotic weeds are plants not native to North America that either spread vegetatively or naturalize and degrade natural communities, reduce the value of fish and wildlife habitat or threaten an Illinois endangered or threatened species.⁸ There are 10 species on the legislatively designated Exotic Weeds list.⁹

Requirements

Noxious Weeds

Every person shall control the spread of and eradicate noxious weeds on lands owned or controlled by him and use such methods for that purpose and at such times as are approved and adopted by the director of the Department of Agriculture.¹⁰

¹ 8 IAC 220.60.

² 525 ILCS 10/3.

³ Ben Dolbeare, IDNR, personal correspondence (Feb. 10, 2004).

⁴ 505 ILCS 100/2(5).

⁵ 8 IAC 220.60.

⁶ 505 ILCS 100/14.

⁷ 8 IAC 220.210

⁸ 525 ILCS 10/2.

⁹ 525 ILCS 10/3.

¹⁰ 505 ILCS 100/3.

Articles listed as capable of disseminating noxious weeds and infested with noxious weeds, noxious weed seed, or other propagating part of a noxious weed shall not be moved from the premises where the infestation occurred without permission of the Control Authority, unless such article is properly treated in accordance with the applicable regulations.¹¹

Exotic Weeds

It shall be unlawful for any person, corporation, political subdivision, agency or department of the state to buy, sell, offer for sale, distribute or plant seeds, plants, or plant parts of exotic weeds without a permit issued by the Department of Natural Resources.¹² Such permits shall be issued only for experiments into controlling and eradicating exotic weeds or for research to demonstrate that a variety of a listed species does not meet the statutory definition of an exotic weed.¹³ These requirements, however, do not apply to the commercial propagation of exotic weeds for sale outside Illinois.¹⁴

Enforcement

Noxious Weed List

The Illinois Noxious Weed Law vests enforcement authority at the county government level. Each county governing body, or “control authority,”¹⁵ must establish a coordinated program for control and eradication of noxious weeds within the county.¹⁶ Each control authority must examine all land under its jurisdiction for compliance, compile data on infested areas and areas eradicated, advise persons responsible for controlling and eradicating noxious weeds of the best and most practical methods of noxious weed control and eradication, and publish notices for control and eradication of noxious weeds.¹⁷

Each control authority may enter all land under its jurisdiction to inspect or take specimens of weeds without the consent of the landowner.¹⁸ Whenever the owner of land on which noxious weeds are present has neglected or failed to control or eradicate them, the control authority will use proper control and eradication methods on the land.¹⁹ The cost of any such control or eradication shall be at the expense of the owner.²⁰ If unpaid for 6 months, the amount of such expense shall become a lien on the property.²¹ When it appears to a control authority that any tract of land under his jurisdiction has an infestation of noxious weeds beyond the ability of the owner of the land to eradicate, the control authority may quarantine the land and eradicate the noxious weeds.²² Any person violating any provision of the Act is guilty of a petty offense and is subject to fines of not more than \$100 for the first offense and not more than \$200 for each subsequent offense.²³

¹¹ 505 ILCS 100/14; 8 IAC 220.230.

¹² 525 ILCS 10/4.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ 505 ILCS 100/2(6) (definition of “control authority”).

¹⁶ 505 ILCS 100/7.

¹⁷ 8 IAC § 200.80.

¹⁸ 505 ILCS 100/20.

¹⁹ 505 ILCS 100/10.

²⁰ 505 ILCS 100/10.

²¹ 505 ILCS 100/10.

²² 505 ILCS 100/11.

Exotic Weed Act

Exotic weeds offered for sale in Illinois are subject to confiscation and destruction by the Illinois Department of Natural Resources.²⁴ A violation is a Class B misdemeanor.²⁵ When the violation is a continuing offense, each day shall be considered a separate violation.²⁶

Although the Act has not been aggressively enforced in the past, the department has completed an education campaign with Illinois nurseries and is preparing to begin a vigorous enforcement program in April 2004.²⁷ Under this program, Illinois Conservation Police Officers will inspect nurseries and retail establishments for violations of the Act.²⁸

²³ 505 ILCS 100/22.

²⁴ 525 ILCS 10/5.

²⁵ *Id.*

²⁶ *Id.*

²⁷ Ben Dolbeare, Ill. Dept. of Nat. Res., personal communication (Feb. 10, 2004).

²⁸ *Id.*

INDIANA

Overview

Indiana has a statutory list of “detrimental plants” and noxious weeds.²⁹ New species can only be designated by the Indiana legislature. Indiana’s weed control requirements are enforced at the local level by township trustees or by county weed control boards.³⁰ Indiana has separate regulatory provisions for the control of Johnsongrass,³¹ the planting of multiflora rose,³² and the sale or distribution of purple loosestrife.³³

Requirements

Detrimental Plants and Noxious Weeds

All real estate owners are required to destroy detrimental plants before they mature.³⁴ A person who knowingly allows detrimental plants to grow and mature on land owned or possessed by the person commits a Class C infraction.³⁵ Each day of violation constitutes a separate infraction.³⁶ County highway departments and railroad corporations are required to control detrimental plants on county roadsides³⁷ and railroad rights-of-way.³⁸ In addition, any corporation, organization, association, or individual that owns or has control of the management of a public cemetery must destroy detrimental plants and noxious weeds.³⁹

Multiflora rose, purple loosestrife, and Johnsongrass.

The planting of any variety of *rosa multiflora* in Indiana is prohibited.⁴⁰ In addition, a person may not sell, offer for sale, give away, plant, or otherwise distribute seeds, roots, or plants of any species of *lythrum* (purple loosestrife) in Indiana unless the person has a permit issued by the Department of Natural Resources.⁴¹ Also, Indiana public bodies are required, between July 1 and September 15, to do everything possible to restrict the growth and seed production of all Johnsongrass growing on lands for which they are responsible.⁴² A person who knowingly contaminates uninfested land with Johnsongrass or transports Johnsongrass in any form capable of germination, except with the prior written approval of the dean of agriculture of Purdue University or his designee, commits a Class C infraction.⁴³

²⁹ Ind. Code §§ 15-3-4-1, 15-3-4.6-2. Both lists contain the same five species of plants.

³⁰ See Ind. Code § 15-3, Chap. 4 (Destruction of Detrimental Plants) and Ind. Code § 15-3, Chap. 4.6 (Weed Control Board).

³¹ Ind. Code § 15-3-5

³² Ind. Code § 14-24-12-5.

³³ Ind. Code § 14-24-12-7.

³⁴ Ind. Code § 15-3-4-1.

³⁵ Ind. Code § 15-3-4-5.

³⁶ *Id.*

³⁷ Ind. Code § 36-2-18.

³⁸ Ind. Code § 8-3-7. However, the penalty for noncompliance is only \$25. *Id.*

³⁹ Ind. Code § 23-14-74-1.

⁴⁰ Ind. Code § 14-24-12-5. Exceptions are provided for persons holding a permit for the use of *rosa multiflora* in controlled experiments and nurserymen whose nursery has been inspected and certified under Ind. Code § 14-24-5 and who hold a dealer’s license under Ind. Code § 14-24-7. See Ind. Code § 14-24-12-6.

⁴¹ Ind. Code § 14-24-12-7.

⁴² Ind. Code § 15-3-5-1.

⁴³ Ind. Code § 15-3-5-4.

Enforcement

A township trustee who has reason to believe that detrimental plants may be on real estate may, after giving 48 hours notice to the owner, enter the real estate to investigate.⁴⁴ If such plants are found, the trustee must notify the owner to destroy the detrimental plants within five days.⁴⁵ If necessary, the trustee may take action to control the weeds, bill the owner, and, if the bill is not paid, arrange for the amount due to be collected like real estate taxes.⁴⁶ The township trustee who falls to perform his or her duties under this law commits a Class C infraction.⁴⁷

A county may also set up a Weed Control Board (WCB) either on its own initiative or after receiving a petition signed by 5 percent of the registered voters of the county.⁴⁸ The WCB may take all the necessary and proper steps to control or contain listed noxious weeds, which includes the authority to: employ staff to assist with WCB enforcement activities, enter upon land after a 48-hour notice to inspect, hire custom operators to control weeds, and to bill the appropriate party for control costs.⁴⁹ The WCB may give five-day notice to remove noxious weeds to the landowner or to a person in possession of real estate if there is a failure to control the appropriate weeds.⁵⁰ When the WCB has incurred the weed control cost and the billed party does not pay the bill, the bill can be collected in a manner similar to property tax.⁵¹ Failure to begin a program recommended by a WCB within the prescribed time, is a Class C infraction.⁵² In a county with a WCB, a township trustee may defer to the WCB to take action where the trustee has identified real estate containing detrimental plants.⁵³ However, the WCB is not obliged to perform a task that is already a duty of a township trustee and may decline jurisdiction and refer a weed control problem back to a township trustee.⁵⁴

The legislative body of a municipality or county may also establish ordinances that require owners of property to cut or remove weeds.⁵⁵ If a property owner does not comply with a municipal or county ordinance regarding weeds, the municipality or county may enter the property to destroy the weeds.⁵⁶

⁴⁴ Ind. Code § 15-3-4-2.

⁴⁵ *Id.*

⁴⁶ Ind. Code §§ 15-3-4-2, 15-3-4-3.

⁴⁷ Ind. Code § 15-3-4-6.

⁴⁸ Ind. Code § 15-3-4.6-1.

⁴⁹ Ind. Code § 15-3-4.6-4.

⁵⁰ Ind. Code § 15-3-4.6-5.

⁵¹ Ind. Code § 15-3-4.6-5.4.

⁵² Ind. Code § 15-3-4.6-6.

⁵³ Ind. Code § 15-3-4-2.

⁵⁴ *Id.*

⁵⁵ Ind. Code § 36-7-10.1-3.

⁵⁶ Ind. Code §§ 36-7-10.1-3, 36-7-10.1-4.

MICHIGAN

Overview

Michigan has a statutory list of noxious weeds that must be destroyed by owners or occupants of land.⁵⁷ The Noxious Weed Act is enforced by weed commissioners at the local or county level. Noxious weeds include the 10 listed species or other plants that in the opinion of the governing body of any county, city, or village are regarded as a common nuisance.⁵⁸ New statewide noxious weeds can only be added by an act of the state legislature. Michigan also regulates the sale of purple loosestrife⁵⁹ and has various restrictions on plant species that may harbor specific insect pests or plant diseases.⁶⁰

Requirements

Noxious Weeds

The owner of land on which noxious weeds are found must destroy the weeds before they reach a seed bearing stage and prevent their regrowth, or prevent them from becoming a detriment to public health.⁶¹ An owner who refuses to destroy noxious weeds is subject to a fine of up to \$100.⁶² In addition, the township, city, or village may designate the violation of the act as a municipal civil infraction.⁶³

Railroad companies are required to exterminate noxious growing on their right of ways.⁶⁴ Violations may result in fines of \$50 to \$200.⁶⁵ In addition, state and county road commissions have a duty to prevent noxious weeds from growing in the right of way of any highways under their jurisdiction.⁶⁶

Purple loosestrife

Retail sales of purple loosestrife are prohibited except for cultivars developed and recognized to be sterile and approved by the director of the Michigan Department of Agriculture.⁶⁷ Violations may result in fines of \$25.00 to \$100.00 per offense.⁶⁸

Enforcement

Noxious weeds

The governing body of any city, village or township may appoint a commissioner of noxious weeds.⁶⁹ The commissioner must ensure that through proper treatment noxious weeds in his township do not go to

⁵⁷ Mich. Comp. Laws § 247.62.

⁵⁸ Mich. Comp. Laws § 247.62.

⁵⁹ Mich. Comp. Laws § 286.216a.

⁶⁰ See Mich. Comp. Laws §§ 286.219 (Barberry, mahonia, or mahoberberis bushes subject to black stem rust), 286.219a (chokeberry harmful to peach or cherry trees), 286.101 et al (plants subject to white pine blister rust).

⁶¹ Mich. Comp. Laws § 247.64(1).

⁶² Mich. Comp. Laws § 247.64(3).

⁶³ *Id.*

⁶⁴ Mich. Comp. Laws § 247.71.

⁶⁵ *Id.*

⁶⁶ Mich. Comp. Laws § 247.72.

⁶⁷ Mich. Comp. Laws § 286.216a.

⁶⁸ Mich. Comp. Laws § 286.226.

⁶⁹ Mich. Comp. Laws § 247.61.

seed or spread.⁷⁰ If landowners refuse to destroy noxious weeds on their property, the commissioner will destroy them.⁷¹ Expenses incurred in the destruction must be paid by the landowner and may result in a lien against the land for the amount of the expense.⁷²

The county board of commissioners may also assume control over the noxious weeds in all or part of the county.⁷³ The board may make an appropriation from the county treasury to aid in destroying the noxious weeds in a town.⁷⁴ In addition, the state Department of Agriculture has a duty to assist in the enforcement of the law.⁷⁵ The department shall cooperate with the various weed commissioners in carrying out the provisions of the act and shall advise them of effective methods for treating and eradicating noxious weeds.⁷⁶

Purple loosestrife

The Department of Agriculture is authorized to inspect all private premises and public places for violations of the Insect Pest and Plant Disease Act, which includes the prohibition on sales of purple loosestrife.⁷⁷

⁷⁰ Mich. Comp. Laws §247.63.

⁷¹ Mich. Comp. Laws § 247.64.

⁷² *Id.*

⁷³ Mich. Comp. Laws § 247.70.

⁷⁴ *Id.*

⁷⁵ Mich. Comp. Laws § 247.68.

⁷⁶ *Id.*

⁷⁷ See Mich. Comp. Laws § 286.203.

MINNESOTA

Overview

Minnesota has two regulatory programs that make use of invasive plant lists. The Minnesota Department of Natural Resources (MDNR) administers the state's harmful exotic species program, which has jurisdiction over invasive aquatic plants.⁷⁸ The Minnesota Noxious Weed Law addresses injurious upland weeds and falls under the jurisdiction of the Minnesota Department of Agriculture (MDA).⁷⁹ New species can be added to both lists through an administrative rulemaking process.

Exotic species

Minnesota's exotic species law attempts to minimize the introduction and spread of harmful exotic species of wild animal and aquatic plants in the state.⁸⁰ The commissioner of MDNR is authorized to adopt rules establishing a four-tiered classification system.⁸¹ Non-native wild animal and aquatic plant species are classified as either prohibited, regulated, unregulated or unlisted exotic species. These lists appear at Minnesota Rules, Chapter 6216.⁸² Minnesota also restricts certain activities on waters infested by invasive aquatic species.⁸³

Noxious weeds

The Commissioner of MDA designates noxious weeds that are injurious to public health, the environment, public roads, crops, livestock, or other property.⁸⁴ There is a list of prohibited noxious weeds⁸⁵ and a list of restricted noxious weeds.⁸⁶ In addition, the plants on the Federal Noxious Weed List (7 C.F.R. § 360.200) are also considered prohibited noxious weeds.⁸⁷ The commissioner of agriculture will appoint a committee to evaluate species for invasiveness, difficulty of control, cost of control, benefits, and amount of injury caused by them.⁸⁸ For each species evaluated, the committee will recommend to the commissioner on which noxious weed list, if any, the species should be placed.⁸⁹ Species currently designated as prohibited or restricted noxious weeds must be re-evaluated every five years.⁹⁰ There is a much larger list of secondary noxious weeds, which may be added to a county prohibited or restricted list.⁹¹ The commissioner may, without further hearing, take a weed from the secondary noxious weed list and add it to the prohibited or restricted noxious weed list on a county basis if a majority of the town boards and city mayors in a county petition the commissioner; the petition is approved by that

⁷⁸ See Minn. Stat. Chapter 84D (Harmful Exotic Species).

⁷⁹ See Minn. Stat. §§ 18.75 – 18.88 (Noxious Weeds).

⁸⁰ See Minn. Stat., Chap. 84D.

⁸¹ Minn. Stat. § 84D.12

⁸² See Minn. Rules §§ 6216.0250 (Prohibited Exotic Species), 6216.0260 (Regulated Exotic Species), 6216.0270 (Unregulated Exotic Species).

⁸³ See Minn. Rules § 6216.0350 (infested waters list) and §§ 6216.0400-0500 (restricted activities).

⁸⁴ Minn. Stat. § 18.77(8).

⁸⁵ Minn. Rules § 1505.0730.

⁸⁶ Minn. Rules § 1505.0732. Restricted noxious weeds are plants whose only feasible means of control is to prohibit the importation, sale, and transportation of them or their propagating parts in the state. *Id.*

⁸⁷ Minn. Rules § 1505.0730.

⁸⁸ Minn. Rules § 1505.0734.

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ See Minn. Rules § 1505.0740.

county's board of county commissioners; and the commissioner deems the weed to be injurious to public health, the environment, public roads, crops, livestock, or other property.⁹²

Requirements

Exotic species

A person may not possess, import, purchase, sell, propagate, transport or introduce a prohibited exotic species without a permit.⁹³ A person may not introduce a regulated exotic species without a permit.⁹⁴ If an exotic species is unlisted, a person may not introduce it unless the person has notified the commissioner and the commissioner has made a classification determination.⁹⁵ Violation of these requirements may result in civil citations and penalties or a misdemeanor conviction.⁹⁶

Noxious Weeds

A person occupying land or a person responsible for the maintenance of public land shall control or eradicate *all* noxious weeds on the land.⁹⁷ In addition, the importation, sale, and transportation of *restricted* noxious weeds, or their propagating parts, is illegal except as permitted by Minn. Stat. § 18.82.⁹⁸ A permit is needed to transport along a public highway materials containing the propagating parts of noxious weeds.⁹⁹ A violation of these requirements is a misdemeanor.¹⁰⁰

Enforcement

Exotic Species

Conservation officers and other licensed peace officers may enforce the Minnesota Exotic Species laws.¹⁰¹ Unless a different penalty is prescribed, a violation is a misdemeanor.¹⁰² Where a violation has occurred, the department may confiscate and destroy the prohibited, regulated or unlisted exotic species immediately upon discovery.¹⁰³ Any expense or loss shall be borne by the permittee or responsible person.¹⁰⁴

Noxious weeds

Enforcement of the Minnesota Noxious Weed Law is a cooperative effort between county and local governments. The county board will appoint county agricultural inspectors, and the supervisors of

⁹² Minn. Rules § 1505.0750.

⁹³ Minn. Stat. § 84D.05.

⁹⁴ Minn. Stat. § 84D.07. "Introduction" means the release or escape of an exotic species into a free-living state. Minn. Stat. § 84D.01(9).

⁹⁵ Minn. Stat. § 84D.06.

⁹⁶ Minn Stat. § 84D.13.

⁹⁷ Minn Stat. § 18.78(1); Minn. Rules § 1505.0730.

⁹⁸ Minn. Rules § 1505.0732.

⁹⁹ Minn. Stat. § 18.82.

¹⁰⁰ Minn. Stat. § 18.87.

¹⁰¹ Minn. Stat. § 84D.13.

¹⁰² Minn. Rules § 6216.0600.

¹⁰³ *Id.*

¹⁰⁴ *Id.*

each town board and the mayor of each city will act as local weed inspectors within their respective municipalities.¹⁰⁵ The commissioner, county agricultural inspectors, and local weed inspectors may enter land without the consent of the owner and order the control or eradication of noxious weeds on any land within Minnesota.¹⁰⁶ If a person does not comply, the weed inspector may control or eradicate the weeds himself and cause any expenses to be charged on the property's tax roll.¹⁰⁷ The county agricultural inspector may also start court proceedings in the locality in which the violation occurred and may apply to the court for an injunction to restrain continued violations.¹⁰⁸ If a local weed inspector refuses to do their duty to enforce the noxious weed law, the county agricultural inspector can act for them and bill the municipality for the actual cost of the enforcement.¹⁰⁹

¹⁰⁵ Minn. Stat. § 18.80.

¹⁰⁶ Minn. Stat. § 18.79.

¹⁰⁷ Minn. Stat. § 18.83.

¹⁰⁸ Minn. Stat. § 18.79.

¹⁰⁹ Minn. Stat. § 18.81(3).

OHIO

Overview

Ohio has a list of prohibited noxious weeds.¹¹⁰ The director of the Ohio Department of Agriculture can add new species through a rulemaking process.¹¹¹ The state also has specific restrictions on the sale and planting of multiflora rose¹¹² and one variety of purple loosestrife.¹¹³

Requirements

Noxious weeds

Persons receiving notice from their local governing body that noxious weeds are growing on their land must cut or destroy the weeds within five days or show why there is no need for doing so.¹¹⁴ Upon receiving information that noxious weeds are growing in a township on land owned by the department or on park land owned by the state or a political subdivision, the board of township trustees must notify the county extension agent; within five days the extension agent must meet to consider ways to deal with the problem and report to the board of township trustees.¹¹⁵ The county or township government must also destroy all noxious weeds growing within the limits of public roads in their jurisdiction.¹¹⁶

Multiflora rose and purple loosestrife

No person and no political subdivision, agency, department, or instrumentality of the state may sell, offer for sale or plant any variety of multiflora rose or *Lythrum salicaria* (purple loosestrife) without a permit.¹¹⁷ Permits may be granted to plant such species in controlled experiments.¹¹⁸ In addition, the director shall exempt by rule any variety of *Lythrum salicaria* that has been determined to the director's satisfaction not to be a threat to the environment.¹¹⁹

Enforcement

Noxious weeds

Upon receiving written information that noxious weeds are growing on private lands in a township or municipality, the board of township trustees or municipal authority must notify the owner of the land.¹²⁰ If the owner of the land fails to destroy the weeds, the legislative authority may employ the necessary labor to perform the task.¹²¹ All expenses incurred shall be paid out of the general funds of the township or municipal corporation.¹²²

¹¹⁰ Ohio Admin. Code § 901:5-31-01.

¹¹¹ Ohio Rev. Code Ann. § 5579.04.

¹¹² Ohio Rev. Code Ann. § 927.681.

¹¹³ Ohio Rev. Code Ann. § 927.682.

¹¹⁴ Ohio Rev. Code Ann. §§ 5579.05 (townships), 731.51 (municipal corporations).

¹¹⁵ Ohio Rev. Code Ann. § 5579.05(B).

¹¹⁶ Ohio Rev. Code Ann. § 5579.04(B).

¹¹⁷ Ohio Rev. Code Ann. § 927.681-682.

¹¹⁸ *Id.*

¹¹⁹ Ohio Rev. Code Ann. § 927.682.

¹²⁰ Ohio Rev. Code Ann. §§ 5579.05 (townships), 731.51 (municipal corporations).

¹²¹ Ohio Rev. Code Ann. §§ 5579.06 (townships), 731.53 (municipal corporations).

¹²² *Id.*

Multiflora rose and purple loosestrife

The director of agriculture or his authorized representative is authorized to make reasonable inspection of any premises or property in the state or any means of conveyance moving in the state.¹²³ Persons violating these provisions are guilty of a misdemeanor of the third degree on a first offense and a misdemeanor of the second degree on each subsequent offense.¹²⁴ The director or his representative may prosecute any violation in any court of competent jurisdiction.¹²⁵ Upon request of the director, the prosecuting attorney of the county shall aid in any investigation, prosecution, hearing or trial.¹²⁶

¹²³ Ohio Rev. Code Ann. § 927.69.

¹²⁴ Ohio Rev. Code Ann. § 927.99.

¹²⁵ Ohio Rev. Code Ann. § 927.73.

¹²⁶ *Id.*

WISCONSIN

Overview

Wisconsin has statutory statewide lists of three noxious weeds¹²⁷ and three invasive aquatic plants.¹²⁸ Municipalities and county governments can declare new noxious weeds within their respective boundaries.¹²⁹ The Department of Natural Resources (DNR) may designate new invasive aquatic plants through a rulemaking process.¹³⁰ Wisconsin has separate regulatory provisions for the control of purple loosestrife and multiflora rose.¹³¹ Wisconsin has been considering changes to its weed program for more than four years. Proposed revisions would amend the weed laws to create four categories or “lists” of weeds subject to different levels of regulation.¹³² The draft proposal, influenced by the laws of Minnesota and Washington, would also create new mechanisms for enforcement.¹³³ The proposal recommends funding and staffing for the Department of Natural Resources, the Department of Agriculture, Trade, and Consumer Protection, and University of Wisconsin Cooperative Extension Service.¹³⁴

Requirements

Noxious weeds

All persons owning, occupying or controlling public or private land shall destroy all noxious weeds on the land.¹³⁵ Highway patrols on all federal, state or county highways must destroy all noxious weed on the portions of the highway that they patrol.¹³⁶ In addition, Wisconsin requires town boards to destroy all noxious weeds on the town highways.¹³⁷

Aquatic plants

A person may not introduce non-native aquatic plants into water of the state without a permit issued by the DNR.¹³⁸ In addition, no person may distribute a listed invasive aquatic plant.¹³⁹

Purple loosestrife and multiflora rose

No person may sell, offer for sale, distribute, plant or cultivate any multiflora rose or seeds except as authorized for the purposes of controlled experimentation.¹⁴⁰ The DNR shall make a reasonable effort to develop a statewide plan to control purple loosestrife on both public and private lands.¹⁴¹

¹²⁷ Wis. Stat. § 66.0407.

¹²⁸ Wis. Stat. § 23.24(2)(b).

¹²⁹ Wis. Stat. § 66.0407.

¹³⁰ Wis. Stat. § 23.24(2)(b).

¹³¹ Wis. Stat. § 23.235.

¹³² See Draft Proposal for the Revision of Wisconsin’s Noxious Weed Law, as submitted to the Governor’s Task Force on Invasive Taxa by the Weed Law Technical Advisory Committee, available at <http://www.dnr.state.wi.us/org/land/er/news/wltc1.htm>.

¹³³ *Id.*

¹³⁴ *Id.*

¹³⁵ Wis. Stat. § 66.0407(3).

¹³⁶ *Id.*

¹³⁷ *Id.*

¹³⁸ Wis. Stat. § 23.24(3)(a).

¹³⁹ Wis. Stat. § 23.24(5).

¹⁴⁰ Wis. Stat. § 23.235(2)

¹⁴¹ Wis. Stat. § 23.235(2m).

¹⁴² Wis. Stat. § 66.0517(2).

Enforcement

Noxious weeds

Towns, villages, cities, and counties may appoint one or more commissioners of noxious weeds.¹⁴² The weed commissioner is responsible for investigating the existence of noxious weeds in his or her district.¹⁴³ If a person neglects to destroy noxious weeds as required, the commissioner may enter the property and destroy the weeds in the most economical manner.¹⁴⁴ The expenses for such action are chargeable to each tract of land in the next tax roll.¹⁴⁵

Aquatic plants

Any person who introduces aquatic plants without a permit shall forfeit not more than \$200 for the first violation. If previously convicted within five years for the same violation, the person shall forfeit \$700 to \$2,000 or shall be imprisoned for six to nine months or both.¹⁴⁶ The court may order a person to abate any nuisance caused by the violation, restore any natural resource damaged by the violation, or take any other appropriate action to minimize any environmental damage caused by the violation.¹⁴⁷ A person who distributes an invasive aquatic plant shall forfeit up to \$100.¹⁴⁸

Purple loosestrife and multiflora rose

Any person who knowingly violates the prohibition on sale and distribution of multiflora rose shall forfeit up to \$100.¹⁴⁹ The department shall request permission from private landowners to enter onto the land to control stands of purple loosestrife that significantly threaten environmental resources or that threaten to invade a nearby watershed.¹⁵⁰ If the landowner denies permission, the department may not enter but shall make a reasonable effort to educate private landowners on methods to identify and control purple loosestrife.¹⁵¹

¹⁴³ Wis. Stat. § 66.0517(3)(a).

¹⁴⁴ *Id.*

¹⁴⁵ Wis. Stat. § 66.0517(3)(b).

¹⁴⁶ Wis. Stat. § 23.24(6).

¹⁴⁷ Wis. Stat. § 23.24(6)(c).

¹⁴⁸ Wis. Stat. § 23.24(6)(d).

¹⁴⁹ Wis. Stat. § 23.235(5).

¹⁵⁰ Wis. Stat. § 23.235(2m)(d).

¹⁵¹ Wis. Stat. §§ 23.235(2m)(d), 23.235(4)(c).

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